

**RESOLUTION OF THE GOVERNING BODY OF
THE THREE AFFILIATED TRIBES OF THE
FORT BERTHOLD RESERVATION**

WHEREAS, This Nation having accepted the Indian Reorganization Act of June 18, 1934, and the authority under said Act; and

WHEREAS, The Constitution of the Three Affiliated Tribes generally authorizes and empowers the Tribal Business Council to engage in activities on behalf of and in the interest of the welfare and benefit of the Tribes and of the enrolled members thereof; and

WHEREAS, The Tribal Business Council adopted Resolution No. 96-169-DSB on July 23, 1996; and

WHEREAS, It was the intent of the Tribal Business Council in adopting Resolution No. 96-169-DSB to prohibit the harvesting of traditional medicinal herbs grown in the wild for other than traditional medicinal purposes; and

WHEREAS, The Tribal Business Council now desires to amend Resolution No. 96-169-DSB to read as per the attached to more precisely reflect the intention of Resolution No. 96-169-DSB;

NOW, THEREFORE, BE IT RESOLVED, That the Tribal Business Council of the Three Affiliated Tribes hereby amends Resolution No. 96-169-DSB to read as per the attached resolution, effective Sep tember 12, 1996.

C E R T I F I C A T I O N

I, the undersigned, as Secretary of the Tribal Business Council of the Three Affiliated Tribes of the Fort Berthold Reservation, hereby certify that the Tribal Business Council is composed of 7 members of whom 5 constitute a quorum, 5 were present at a Regular Meeting thereof duly called, noticed, convened, and held on the 12th day of September, 1996; that the foregoing Resolution was duly adopted at such Meeting by the affirmative vote of 4 members, 1 members opposed, 0 members abstained, 0 not voting, and that said Resolution has not been rescinded or amended in any way.

Dated this 12th day of September, 1996.

Daylon Spotted Bear
Secretary, Tribal Business Council

ATTEST:

Eden Hall
Vice Chairman, Tribal Business Council

**RESOLUTION OF THE GOVERNING BODY OF
THE THREE AFFILIATED TRIBES OF THE
FORT BERTHOLD RESERVATION**

- WHEREAS,** This Nation having accepted the Indian Reorganization Act of June 18, 1934, and the authority under said Act; and
- WHEREAS,** The Constitution of the Three Affiliated Tribes generally authorizes and empowers the Tribal Business Council to engage in activities on behalf of and in the interest of the welfare and benefit of the Tribes and of the enrolled members thereof; and
- WHEREAS,** Article VI, Section 5(j) of the Constitution specifically authorizes and empowers the Tribal Business Council to protect and preserve the natural resources of the Tribes, including the preservation of traditional medicinal herbs grown in the wild; and
- WHEREAS,** It has come to the attention of the Tribal Business Council that traditional medicinal herbs grown in the wild are being taken by non-Indians from within the exterior boundaries of the Fort Berthold Reservation and, in some instances, tribal members are selling the wild medicinal herbs to non-Indians; and
- WHEREAS,** It is the considered judgment of the Tribal Business Council to protect and preserve the wild medicinal herbs for cultural and traditional usage by tribal members, and that said wild medicinal herbs shall not be sold or commercially sold by Indians or non-Indians; and
- WHEREAS,** No person shall excavate, remove, damage or otherwise alter, deface or adversely affect the traditional medicinal herbs grown in the wild of the Three Affiliated Tribes unless such activity is pursuant to traditional medicinal purposes; and
- WHEREAS,** No person shall sell, purchase, exchange, transfer, transport, receive, possess or offer to sell, purchase or exchange any wild medicinal herbs if such resource is excavated or removed from the exterior boundaries of the Fort Berthold Reservation in violation of traditional medicinal purposes; and
- WHEREAS,** The criminal penalties for any activity found to be in violation of this Resolution shall result in a Class I misdemeanor, including the forfeiture of any traditional medicinal herbs collected from a natural, or wild, setting, including, but not limited to, *Echinacea Angustifolia*, which is a purple coneflower plant that is sold to pharmaceutical and botanical companies for usage as a herbal or homeopathic medicine; and
- WHEREAS,** The Office of the Prosecution may bring an action for civil penalties, including forfeiture and damages, against any person who is alleged to have engaged in an activity which is violative of this Resolution, including any person who is not subject to the criminal jurisdiction of the Three Affiliated Tribes; and

WHEREAS, The District Court of the Three Affiliated Tribes may consider as factors the commercial value of the medicinal herbs collected from a natural, or wild, setting (native plant flora) involved, or the cost of restoration and repair of the wild medicinal herbs; and

WHEREAS, The District Court of the Three Affiliated Tribes pursuant to its jurisdictional authority may exclude any person from within the boundaries of the Fort Berthold Reservation found to be in violation of this Resolution; and

WHEREAS, The exclusion from the exterior boundaries of the Fort Berthold Reservation shall be intended to be remedial in nature and not punitive, such relief shall also be intended to compel individuals to obey and respect the laws of the Three Affiliated Tribes; and

NOW, THEREFORE, BE IT RESOLVED, The Tribal Business Council of the Three Affiliated Tribes hereby amends the traditional and cultural medicinal herbs resolution, identified as Resolution No. #96-169-DSB; and

BE IT FURTHER RESOLVED, That the Natural Resources Department, Department of Fish and Wildlife, shall assist the Cultural Preservation Officer in developing Code provisions for the protection and preservation of the native plant flora, which shall be specifically identified, including the drafting of provisions for an application and permit process; and

BE IT FURTHER RESOLVED, That this Resolution shall go into effect immediately on this 12th day of September, 1996.

CERTIFICATION

I, the undersigned, as Secretary of the Tribal Business Council of the Three Affiliated Tribes of the Fort Berthold Reservation, hereby certify that the Tribal Business Council is composed of 7 members of whom 5 constitute a quorum, 5 were present at a Regular Meeting thereof duly called, noticed, convened, and held on the 12th day of September, 1996; that the foregoing Resolution was duly adopted at such Meeting by the affirmative vote of 4 members, 1 members opposed, 0 members abstained, 0 not voting, and that said Resolution has not been rescinded or amended in any way.

Dated this 12th day of September, 1996.

Daylon Spotted Bear
Secretary, Tribal Business Council

ATTEST:


Chairman, Tribal Business Council

**THREE AFFILIATED TRIBES
FORT BERTHOLD RESERVATION**

"PUBLIC NOTICE"

IT HAS COME TO THE ATTENTION OF THE TRIBAL BUSINESS COUNCIL THAT TRADITIONAL MEDICINAL HERBS SPECIFICALLY PRAIRIE CONE FLOWER ALSO CALLED "BLACK MEDICINE" OR "BLACK SAMPSON" ARE BEING TAKEN BY NON-INDIANS FROM WITHIN THE EXTERIOR BOUNDARIES OF THE FORT BERTHOLD RESERVATION AND, IN SOME INSTANCES, TRIBAL MEMBERS ARE SELLING THE MEDICINAL HERBS TO NON-INDIANS. THIS TYPE OF ACTIVITY IS NOW PROHIBITED PURSUANT TO RESOLUTION NO. 96-169-DSB, WHICH WAS PASSED BY THE FULL COUNCIL ON JULY 23 1996.

NO PERSON SHALL EXCAVATE, REMOVE, DAMAGE, OR OTHERWISE ALTER, DEFACE OR ADVERSELY AFFECT THE TRADITIONAL MEDICINAL HERBS OF THE THREE AFFILIATED TRIBES UNLESS SUCH ACTIVITY IS PURSUANT TO TRADITIONAL MEDICINAL PURPOSES.

NO PERSON SHALL SELL, PURCHASE, EXCHANGE, TRANSFER, TRANSPORT, RECEIVE, POSSESS OR OFFER TO SELL, PURCHASE OR EXCHANGE ANY MEDICINAL HERBS IF SUCH RESOURCE IS EXCAVATED OR REMOVED FROM THE EXTERIOR BOUNDARIES OF THE FORT BERTHOLD RESERVATION IN VIOLATION OF TRADITIONAL MEDICINAL PURPOSES.

THE CRIMINAL PENALTIES FOR ANY ACTIVITY FOUND TO BE IN VIOLATION OF RESOLUTION NO. 96-169-DSB, SHALL RESULT IN A CLASS I MISDEMEANOR, INCLUDING THE FORFEITURE OF ANY TRADITIONAL MEDICINAL HERBS SUCH AS, BUT NOT LIMITED TO, "ECHINACEA ANGUSTIFOLIA" WHICH IS A PURPLE CONE-FLOWER PLANT SOLD TO PHARMACEUTICAL AND BOTANICAL COMPANIES FOR USAGE AS A HERBAL OR HOMEOPATHIC MEDICINE.

THE OFFICE OF THE PROSECUTION MAY BRING AN ACTION FOR CIVIL PENALTIES, INCLUDING FORFEITURE AND DAMAGES, AGAINST ANY PERSON WHO IS ALLEGED TO HAVE ENGAGED IN AN ACTIVITY WHICH VIOLATES RESOLUTION NO. 96-169, DSB, INCLUDING ANY PERSON WHO IS NOT SUBJECT TO THE CRIMINAL JURISDICTION OF THE THREE AFFILIATED TRIBES.

RESOLUTION NO. 96-169-DSB, PERTAINS TO ALL LANDS INCLUDING TRIBAL AND ALLOTTED LANDS WITHIN THE EXTERIOR BOUNDARIES OF THE FORT BERTHOLD RESERVATION. PLEASE CONTACT THE THREE AFFILIATED TRIBES' GAME AND WILDLIFE DIVISION, AT (701) 627-4760; OR, THE NATURAL RESOURCES DEPARTMENT, AT (701) 627-3627, IF YOU HAVE ANY FURTHER QUESTIONS REGARDING THIS MATTER.

**STATEMENT OF RUSSELL D. MASON, CHAIRMAN
OF THE THREE AFFILIATED TRIBES REGARDING
"THE PRESERVATION OF MEDICINAL HERBS"**

It has come to the attention of the Tribal Business Council that sacred plants are being taken by non-Indians from within the boundaries of the Fort Berthold Reservation. In addition, some of our own tribal members are digging the medicinal herbs and, in turn, selling them to non-Indians. The Tribal Business Council has the responsibility and duty to protect and preserve the natural resources of the Tribe, which includes the preservation of sacred medicinal herbs. The Tribal Business Council must take a stance to preserve these medicinal herbs for our traditional and cultural needs.

The Echinacea plant is referred to as "Black Medicine" within the cultural heritage of the Three Affiliated Tribes. The recognized spiritual leaders, within our reservation, recognize that only certain individuals have the "right" to use Black Medicine. The "right" referred to means that this privilege was given to them or passed down to them by other spiritual leaders who, in turn, had the "right" to use this type of medicine. The Tribal Business Council can protect the selling or commercial sale of traditional medicinal herbs, including the preventing of the excavation, (meaning the actual digging) of the plant. Resolution No. 96-169-DSB, provides that "No person shall sell, purchase, exchange, transfer, transport, receive, possess or offer to sell, purchase or exchange any medicinal herbs if such resource is excavated or removed from within the boundaries of the Fort Berthold Reservation in violation of traditional medicinal purposes".

The Native American Graves Protection and Repatriation Act, commonly referred to as "NAGPRA,"

provides for the protection of sacred medicinal plants. The protection of these sacred medicinal plants extends to "all lands within the Fort Berthold Reservation," including privately owned land by individuals. "Cultural items" as defined in NAGPRA include the definition of "sacred objects." Pursuant to NAGPRA, sacred objects are defined as items that are specific ceremonial objects needed by traditional Native American religious leaders for the practice of religious and traditional ceremonies; including, such objects that are devoted to a traditional religious ceremony or ritual, which has religious significance or function in the continued observance of such ceremony. In addition, the cultural medicinal herbs, specifically Echinacea, which is referred to as "Black Medicine", (identified as a purple coneflower plant) has traditional and cultural importance central to the Three Affiliated Tribes. Therefore, this sacred medicinal plant falls within the protection of NAGPRA, which prohibits the alienation, appropriation, or conveyance by any individual tribal member, whether on their privately owned land or not. The definition of "person", pursuant to NAGPRA, means an individual, partnership, corporation, trust, institution, association or any other private entity, or any official, employee, agent, department, or instrumentality of the United States, or of any Indian tribe or organization, or of any State or political subdivision thereof.

Therefore, based upon the foregoing, the Tribal Business Council enacted Resolution No. 96-169-DSB, which states, in part, that "No person shall sell, purchase, exchange, transfer, transport, receive, possess or offer to sell, purchase or exchange medicinal herbs if such resource is excavated or removed from within the boundaries of the Fort Berthold Reservation in violation of traditional medicinal purposes."