

**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,** Art. III, Section 1 and Art. VI, Section 3 of the Constitution of the Mandan, Hidatsa and Arikara Nation vests all necessary sovereign, legislative and judicial authority in the Tribal Business Council, subject only to the limitations contained in Art. VI, Section 3(b); and
- WHEREAS,** on November 6, 1998, the Tribal Business Council newly elected as a result of the November, 1998 general election, convened a meeting as required pursuant to Art. III, Section 5, of the Constitution in order to organize by electing a Vice-Chairman, Secretary and a Treasurer, and by appointing such other committees and officers as it deemed necessary; and
- WHEREAS,** due to a walk-out by three councilmen, the Tribal Business Council has not adjourned its organizational meeting, and has been unable to complete a smooth transition to the new administration under Chairman Tex Hall and the newly elected officers; and
- WHEREAS,** Art. III, Section 5 of the Constitution mandates that, following a general election, a newly elected Tribal Business Council must meet within three days of the election and "organize by electing a Vice-Chairman, a Secretary, and a Treasurer from its own members; and from within or outside its own members, it may elect or appoint a Sergeant at Arms and such other officers and committees as it may find necessary" (emphasis added); and
- WHEREAS,** by orders dated November 6 and 8, 1998, Judge Vance Gillette of the Fort Berthold District Court, without lawful authority or jurisdiction, purported to refrain certain members of the Business Council from carrying out their constitutionally mandated duties, and from participating as duly elected members of the Tribal Business Council; and

- WHEREAS,** Judge Gillette has a clear and direct conflict of interest which disqualifies him from making or entering any such orders pertaining to the business meetings of the Tribal Business Council as a result of the fact that he is a brother of Austin Gillette, a member of the Tribal Business Council; and
- WHEREAS,** Judge Gillette's actions in issuing an ex parte TRO and his subsequent actions interfering with the Tribal Business Council's constitutionally mandated organizational meeting constitute an abuse of his office of Chief Judge, have undermined the integrity of the Tribal Court, and have created and prolonged a constitutional crisis which threatens the Nation's ability to govern effectively, and has created an emergency which requires immediate action; and
- WHEREAS,** the Tribal Business Council finds that Judge Gillette's orders are contrary to the authority and jurisdiction of his office according to the Constitution and laws of this Nation, and his actions since then constitute violations of Rules 1, 2, 3, and 6 of the Tribal Rules of Judicial Conduct, and constitute grounds for emergency action, and immediate termination of his employment as Chief Judge.
- WHEREAS,** the Tribal Chairman has the authority under the Constitution and By-Laws to oversee the institutions of tribal government and to direct the work of its officers, and the Tribal Business Council has the duty to act in those cases where they determine that immediate action is necessary to protect the best interests of the Tribe and its government institutions; and
- NOW THEREFORE, BE IT RESOLVED,** that the Tribal Business Council hereby declares Judge Gillette's orders dated November 6 and 8, 1998, and any other orders he has issued pertaining to the Tribal Business Council's organizational meeting of November 6, 1998 to be void ab initio and of no legal force and effect.
- BE IT FURTHER RESOLVED,** that Judge Vance Gillette is hereby terminated from his employment as Chief Judge, and is hereby prohibited from entering the Tribal Court chambers and is prohibited from removing any files, documents, papers or other records from the Tribal Court without the permission of the Tribal Chairman, and then only if accompanied by a duly authorized officer of the Court.

**BE IT FURTHER RESOLVED**, That if necessary this Resolution shall be presented for Ratification at the next Tribal Council Meeting at which a quorum is present, but shall remain effective and legally binding until then.

**BE IT FINALLY RESOLVED**, That the Tribal Chairman is hereby authorized and directed to take such action as is necessary to carry out the terms and intent of this Resolution

### 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 (seven) members of whom 5 (five) constitute a quorum, 7 members were present at a Regular Meeting thereof duly called, noticed, convened, and held on the 11<sup>th</sup> day of February, 1999; that the foregoing Resolution was duly adopted at such Meeting by the affirmative vote of 4 members, 1 members opposed, 2 members abstained, 0 members not voting, and that said Resolution has not been rescinded or amended in any way.

Dated this 11<sup>th</sup> day of February, 1999.

Daylon Spotted Bear  
Secretary, Tribal Business Council

ATTEST:

[Signature]  
Chairman, Tribal Business Council