**SHIVWITS BAND OF PAIUTES**
**RESOLUTION NUMBER SBP08—2019**

**Re: Request for Secretarial Election re: Applicability of IRA to Shivwits Reservation**

**WHEREAS,** the Shivwits Band of Paiutes of the Paiute Indian Tribe of Utah ("Shivwits Band" or the "Band") is an independent, sovereign Indian tribe recognized by the United States as such in 1891 by 26 Stat. 1005, and in 1980 by P.L.96-227, 94. Stat. 317, 25 U.S.C. § 761 et seq.; and,

**WHEREAS,** the Shivwits Band of Paiutes is one of five constituent Bands of the Paiute Indian Tribe of Utah, previously organized pursuant to the Indian Reorganization Act of June 18, 1934, 48 Stat. 984, and under the Constitution of the Paiute Indian Tribe of Utah, approved on June 11, 1991; and,

**WHEREAS,** both the Constitution, and the Bylaws, Article II, Section 1, provide that the governing body of the Shivwits Band of Paiutes is the Shivwits Band Council; and,

**WHEREAS,** the Shivwits Band Council may take official action by Resolution, pursuant to Article XII, Section 2 of the Bylaws; and,

**WHEREAS,** the Indian Reorganization Act of 1934 (P.L. 73-383) provides that "any Indian tribe, or tribes, residing on the same reservation, shall have the right to organize for its common welfare, and may adopt an appropriate constitution and bylaws," and further provides that "such constitution and bylaws when ratified as aforesaid and approved by the Secretary of the Interior shall be revocable by an election open to the same voters and conducted in the same manner as hereinabove provided," (§ 16) and,

**WHEREAS,** 25 USC 5125 states: "This Act shall not apply to any reservation wherein a majority of the adult Indians, voting at a special election duly called by the Secretary of the Interior, shall vote against its application; and,

**WHEREAS,** 25 USC 5123(2)(b) provides that, "any constitution or bylaws ratified and approved by the Secretary shall be revocable by an election,"

**WHEREAS,** 25 USC 5123(2)(c)(1)(A) provides that, "The Secretary shall call and hold an election [] within one hundred and eighty days after the receipt of a tribal request for an election to [] revoke such constitution and bylaws."

**WHEREAS,** the Shivwits Band was formally recognized by the United States as a tribe in 1980 by the Paiute Restoration Act, P.L. 96-227, 94 Stat. 317, and Congress declared in that Act that "the Federal trust relationship is restored to the Shivwits Band." 94 Stat. 317, Section 3(a). And, in Section 2(l) Congress further stated that "the term 'tribe' means the Shivwits Band" and unequivocally declared by the Paiute Restoration Act that that Shivwits Band is a federally-recognized tribe; and,

**WHEREAS,** when the BIA conducted a Secretarial election regarding initial approval of the Constitution of the Paiute Indian Tribe of Utah, it erred by failing to conduct an election for each restored Band, on each reservation, as required by the Indian Reorganization Act; and,

**WHEREAS,** due to the flawed IRA PITU Constitution, the Shivwits Band of Paiutes has suffered:

- Years of political in-fighting caused by a flawed IRA Constitutional structure and, recently, poor leadership by the Chairperson;
- Minimal growth over four decades;
- Election disputes between the PITU and the Band caused by conflicting IRA Constitutional provisions;
- No effective input over enrollment of Shivwits members;
- Inherent tensions in Tribal / Band governance;
- Confusion and limited coordination by federal agencies in dealing with the Shivwits Band interests;
- Restricted access to P.L. 93-638 Indian Self-Determination & Education Assistance Act participation, frustrating Congress' purpose in the Paiute Restoration Act to restore federal services and benefits to the Shivwits Band;
- Inhibited participation in Small Business Administration, Section 8(a) contracting opportunities for tribally-owned businesses;
- Diminished government-to-government relationship with state and local authorities;
- Complications for cultural identity for the Shivwits Band;
- Limits on grant opportunities;
- Prohibited access to a Tribal judicial forum;
- Limited ability of Band to provide effective health care to its members;
- Decreased and ineffective trust relationship and communication between BIA and Band;
- Confusion regarding property ownership;
- Inability to exercise full breadth of sovereignty available to other tribes;
- PITU Tribal Council has denied available BIA funding to clean up hazardous waste on the Shivwits Reservation; and,
- No recourse against PITU Tribal Council for violations of the Constitution and Tribal Council Rules of Procedure.

**WHEREAS,** in order to preserve and strengthen the sovereignty of the Shivwits Band, and to provide for the safety, health, and welfare of its members, the Band Council has determined it is

in the best interests of the Shivwits Band to conduct an election to revoke its organization under P.L. 73-383; now,

**THEREFORE, BE IT RESOLVED:** that the Band Council hereby requests, pursuant to 25 USC 5125 and 5123(2)(c)(1)(A), that the Secretary of the Interior call and conduct a Secretarial Election for the members of the Shivwits Band of Paiutes to revoke the application of the Constitution of the Paiute Indian Tribe of Utah to the Shivwits Band of Paiutes, its members, and the Shivwits Band Reservation; and,

**BE IT FURTHER RESOLVED** the Band Council hereby approves this, or similar language for the Secretarial Election:

DO YOU WANT TO REVOKE THE APPLICATION OF THE INDIAN REORGANIZATION ACT TO THE SHIVWITS RESERVATION?

☐ YES (The Shivwits Band of Paiutes will still be a federally-recognized Tribe, with all benefits and rights available to all tribes, but will no longer be subject to the Constitution of the Paiute Indian Tribe of Utah or the Tribal Council of PITU. The Shivwits Band may adopt its own Constitution. The Shivwits Band of Paiutes will be an independent Tribe from PITU.)

☐ NO (The Shivwits Band of Paiutes will remain subject to the Constitution of the Paiute Indian Tribe of Utah and Tribal Council of PITU. The Shivwits Band cannot adopt its own Constitution.)

**BE IT FURTHER RESOLVED** the Band Council hereby authorizes the Chairman to sign all documents and take any necessary and proper action to execute, implement, and enforce this Resolution and request for the Secretary of the Interior to call the referenced election, and further requests that this important process be expedited and comport with the time frames set by 25 C.F.R. § 81; and,

**BE IT FURTHER RESOLVED** that the BIA is authorized to work with the Shivwits Band Attorney, Mark Echo Hawk, to approve final language for the Election, finalize the voter list, and prepare the Secretarial Election Notice Packet, and any other matter contemplated by 25 CFR 81.

**Authority for the foregoing Resolution is based on the Band's inherent sovereign authority, the Indian Reorganization Act of June 18, 1984 (48 Stat. 984), as amended and implemented by the Constitution of the Paiute Tribe of Utah, including Article VIII, Sections 2(a)(b)(c)(d) and (j), and the Bylaws of the Shivwits Band of Paiutes of the Paiute Indian Tribe of Utah, including Articles II, VII, Section 4, and XII, Sections 1 and 2.**

Phillip Bushhead, Chairperson

**C-E-R-T-I-F-I-C-A-T-I-O-N**
**SBP08—2019**

**It is hereby certified that the foregoing, "Resolution SBP08—2019" was adopted by the affirmative vote of 5 for and 0 against, at a duly-called meeting of the Shivwits Band Council, composed of five (5) members of whom 5 members constituting a quorum were present, and 0 absent, held on May 16, 2019.**

Sabrina Redfoot
**Council Member**

**Attested By:** Norine Coutts
**Shivwits Secretary**