

**CONSTITUTION  
OF THE TE-MOAK TRIBE OF  
WESTERN SHOSHONE INDIANS  
OF NEVADA**

**PREAMBLE**

We, the Western Shoshone Indians of Nevada, located at Elko, Battle Mountain and South Fork; in order to improve the governing structure initially established by the Constitution and Bylaws adopted by the adult Indians residing on the reservation at Elko, Nevada, on May 3, 1938, pursuant to the Indian Reorganization Act of 1934 (48 Stat. 984), and approved on August 24, 1938; to provide an opportunity for other Te-Moak Communities of Western Shoshone Indians of Nevada to become part of this Tribe; to conserve our Tribal property; to develop our resources; to administer justice; to promote the welfare of ourselves and our descendants, and to otherwise govern the affairs of this Tribe, do ordain and establish this Constitution pursuant to the Indian Reorganization Act of 1934, as amended.

**ARTICLE I - MEMBERSHIP**

Section 1. Tribal Membership shall include:

(a) All persons of at least one-quarter (1/4) degree Shoshone Indian blood whose names appear on the official census roll of the Elko Indian Colony as of January 1, 1937, hereafter called Base Roll 1.

(b) All persons of at least one-quarter (1/4) degree Shoshone Indian blood whose names appear on the "Census of Non-Reservation Shoshone Area, Northeastern Nevada Reservation of the Carson Agency Jurisdiction as of January 1, 1937, taken by Alida C. Bowler," hereafter called Base Roll 2.

(c) All persons of at least one-quarter (1/4) degree Indian blood born to a member or descendant of a member of the Tribe before the effective date of this Constitution.

(d) All descendants of members of the Tribe born after the effective date of this Constitution; provided, such descendants possess at least one-quarter (1/4) degree Te-Moak Shoshone Indian blood.

(e) Any person who does not appear on either Base Roll 1 or 2, who has at least one-quarter (1/4) degree Shoshone Indian blood and who can establish residency for himself or his ancestry in the Te-Moak census area as of January 1, 1937.

Sec. 2. Loss of Membership

(a) The Tribal Council shall cancel the membership of any adult person who relinquishes in writing his membership in the Tribe. The legal guardian of any non compos mentis adult may act in his stead.

(b) No person who is or becomes enrolled as a member of another Tribe shall be enrolled as a member of this Tribe. Any member of this Tribe who becomes enrolled as a member of any other Tribe or Band of Indians and refuses to relinquish his or her membership in such other Tribe or Band shall be subject to dis-enrollment action by the Tribal Council.

Sec. 3. Appeal of refusal of membership. Any person refused membership by the Tribal Council shall have the right to appeal in accordance with tribal ordinances.

Sec. 4. Future membership. The Tribal Council shall have power to enact ordinances governing adoption, loss of membership, and future membership in accordance with the standards stated herein; and shall maintain a current membership roll of the Tribe listed by constituent Band.

## **ARTICLE 2 - TERRITORY AND JURISDICTION**

The territory and jurisdiction of the Tribe shall extend to all reservation lands which include all lands within the exterior boundaries of the Elko Colony, Battle Mountain Colony, South Fork Reservation (including Odgers Ranch and Ruby Valley Reservation), and all other sites held in trust for or owned by the Tribe or any of its constituent Bands, or other trust lands occupied by members of the Tribe which may be made subject to the jurisdiction of the Tribe by majority vote of the Indians residing thereon and any other lands heretofore or hereafter acquired by the United States, the Tribe or any of its constituent Bands and held by the United States as trustee. In line with applicable Federal Law, persons and property within the the territory of the Tribe shall be subject to Tribal jurisdiction.

## **ARTICLE 3 - CONSTITUENT BANDS**

Section 1. Present Bands. Those groups of tribal members affiliated with Battle Mountain Colony, Elko Colony and South Fork Reservation (including Odgers Ranch and Ruby Valley) shall be constituent Bands of the Tribe.

### Sec. 2. Additional Bands.

(a) Each group of at least fifty (50) Indians, who are members of the Tribe, may be recognized as a distinct Band of the Tribe with all the powers granted to Tribal Bands by this Constitution upon organization of itself for local self-government and approval of the Tribal Council.

(b) To be eligible for status as a constituent Band, a group must be associated with a land base which is held by the United States in trust for an individual, the Band or the Tribe; provided, that such group is not part of an existing Band.

## **ARTICLE 4 - EXECUTIVE AND LEGISLATIVE BRANCH OF GOVERNMENT**

Section 1. Governing Bodies. The executive and legislative powers of the Tribe shall be vested in a Tribal Council known as the Tribal Council of the Te-Moak Tribe of Western Shoshone Indians of Nevada, and in Band Councils, one Band Council for each constituent Band of the Tribe and identified by the name of the Band.

### Sec. 2. Composition of Tribal Council.

(a) The initial composition of the Tribal Council shall consist of eight (8) members; four (4) from Elko, two (2) from Battle Mountain and two (2) from South Fork selected from and by the membership of each of the respective Band Councils.

(b) Tribal Council members shall be apportioned among the several Bands according to the respective number of members in each Band. Apportionment shall be reviewed every five (5) years, and when a new Band is added pursuant to Article 3, Section 2. Necessary adjustments shall be made in order to maintain the principle of one (1) person, one (1) vote.

(c) A subsequent election for Tribal Chairperson shall be held from among those elected to the Tribal Council. The Tribal Chairperson shall be elected at large by the registered voters of the Tribe who cast ballots in a tribal election. The Chairperson shall be the representative who receives the highest number of votes in the Tribal election for Chairperson. The representative receiving the next highest number of votes shall be the Vice- Chairperson.

(d) Each member of the Band Council who is elected as a representative to the Tribal Council shall serve on both councils for the duration of his/her three (3) year term of office on the Band Council.

(e) The Tribal Council shall select, either from within its membership or outside of its membership, a Secretary and a Finance Officer. In the event such officials are selected from outside the Tribal Council, they shall have no power to vote in Tribal Council proceedings.

Sec. 3. Powers of the Tribal Council. The Tribal Council shall exercise, in addition to all other powers lawfully granted to it, the powers listed in this Section; provided, that the exercise of such powers shall not conflict with Federal Law or terms of this Constitution:

(a) To negotiate, consult, and contract with Federal, State, local and Tribal Governments, private enterprises, individuals and other organizations;

(b) To employ legal counsel. The choice of counsel and the fixing of fees to be subject to the approval of the Secretary of the Interior as long as such approval is required by Federal Law;

(c) To prevent the sale, disposition, lease, or encumbrance of Tribal lands, interests in lands, or other Tribal assets;

(d) To sell, dispose of, lease, encumber, assign or otherwise regulate Tribal lands, interests in lands, or other Tribal assets, upon concurrence of the Band Council or Band Councils concerned, subject to the approval of the Secretary of the Interior;

(e) To charter and regulate independent organizations, subordinate organizations, committees, and boards of officials of the Tribe; and to delegate powers as appropriate, retaining the right to supervise and to rescind delegated powers;

(f) To plan and manage all economic affairs and enterprises of the Tribe;

(g) To establish agencies for and otherwise to provide for, law enforcement within the territory and jurisdiction of the Tribe;

(h) To levy assessments for the use of Tribal privileges and property;

(i) To spend Tribal funds in accordance with an annual budget approved by the Tribal Council; provided, that when required by Federal Law, such budget shall also be approved by the Secretary of the Interior or his authorized representative;

(j) To promote and protect the health, peace, morals, education, safety and welfare of the Tribe, its members and all other persons within its jurisdiction, and govern the conduct of Tribal members;

(k) To regulate all administrative and legislative bodies of the Tribe, Tribal agencies, officers and organizations;

(l) To recognize as constituent Bands of the Tribe, additional groups of Western Shoshone Indians pursuant to Section 2(a) of Article 3. Each newly recognized Band shall have the same power and authority as exists in the Bands mentioned in Section I of Article 3;

(m) To provide for the exclusion of non-members from the territory of the Tribe for good cause;

(n) To enact all ordinances and resolutions which shall be necessary and proper for carrying into effect the foregoing powers; and

(o) To exercise all powers vested in it by existing law, and such further powers as may in the future be granted to the Tribal Council by members of the Tribe or by the United States or the State of Nevada.

Sec. 4. Powers Reserved to Tribal Members. Any powers, not delegated to the Tribal Council by this

Constitution or the Secretary of the Interior are retained by the members of the Tribe and may be exercised through appropriate constitutional amendments.

Sec. 5. Duties of Tribal Officers.

(a) Tribal Chairperson. The Tribal Chairperson shall have the following duties, powers, and restrictions:

- (1) Shall be the primary representative of the Tribe;
- (2) Shall call and preside over meetings of the Tribal Council;
- (3) Shall sign all negotiable instruments, contracts, applications for Federal, or other funds, and all other obligations of the Bands, all as designated by the Tribal Council;
- (4) Shall not vote except in case of a tie;
- (5) Shall make written and oral reports at all Tribal Council meetings of all of his or her activities;
- (6) Shall not obligate the Tribe without the prior written approval of the Tribal Council; and
- (7) Such other duties, powers and restrictions as designated by the Tribal Council.

(b) Tribal Vice Chairperson. The Tribal Vice Chairperson shall assist the Chairperson and in the absence of the Chairperson shall assume the duties and powers of the Chairperson.

(c) Tribal Secretary. The Tribal Secretary shall preserve all ordinances, resolutions and minutes of the Tribal Council and make the same available to all Tribal members during regular business hours.

(d) Tribal Finance Officer. The Tribal Finance Officer:

- (1) Shall be responsible for the funds of the Tribe;
- (2) Shall accept, receive, receipt for, preserve, and safeguard all funds for which the Tribal Council is acting as trustee or custodian;
- (3) Shall deposit all such funds in a bank or elsewhere, as directed by the Tribal Council;
- (4) Shall report all receipts and expenditures and accounts and the nature of all funds in his/her custody, once every six (6) months to the Tribal Council in writing, or at any time requested to do so by the Tribal Council; and
- (5) Shall be bonded as required by law or by the Tribal Council. All Tribal financial records shall be audited annually. Copies of such audit report shall be submitted to the Tribal Council and to the Superintendent.

Sec. 6. Vacancies in Tribal Council. Each Band Council shall fill any vacancy which may occur in its representation on the Tribal Council by vote of the members of the Band Council. Selection shall be from within the Band Council.

Sec. 7. Removal and Recall from Tribal Council.

(a) Removal by Tribal Council. Any Tribal Council member, other than the Tribal Chairperson, may be removed from the Tribal Council for improper conduct or gross neglect of duty by a two-thirds (2/3) vote of all Tribal Council members except the one being considered for removal. The number of Tribal Council members shall be reduced by one (1) in determining whether there is a two-thirds (2/3) vote for this purpose and the member charged shall not vote on the question of his/her removal. No vote for removal shall be taken until after the member has had a fair hearing at which to reply to all charges. No such hearing shall be held unless the member has been given, at least fifteen (15) days in advance, a written

notice of the time and place of the hearing and a written statement of the alleged acts of improper conduct or gross neglect.

(b) Removal by a Band Council. A Band representative to the Tribal Council may be removed from such position by his or her Band Council for any good cause by the -majority vote of all members of that Band Council except when such Band representative is also serving as Tribal Chairperson.

(c) Recall of Band Representative to the Tribal Council. Except when the Band representative is also serving as the Tribal Chairperson, Bands may recall their representatives to the Tribal Council in the manner set forth in this Subsection.

(1) Upon the Band Council's receipt of a valid petition signed by at least one-half (1/2) of the registered voters of the Band to recall its representative to the Tribal Council, it shall be the duty of the Band Council to direct the Band Election Committee to call and conduct a special election in the Band to determine whether such representative should be recalled from the Tribal Council.

(2) The Tribal Council office shall be considered vacant if a majority of those voting in the election favor such recall. Recall from the Tribal Council shall not affect that person's membership on the Band Council pursuant to Section 10 of this Article.

#### Sec. 8. Recall of Tribal Chairperson.

(a) The Tribal Chairperson shall be recalled from the office of Tribal Chairperson only in the manner set forth in this Section. Recall from the office of Tribal Chairperson does not affect that individual's membership on the Tribal Council.

(b) Upon receipt of a valid petition signed of the registered voters of the Tribe or by at least two-thirds (2/3) of the registered voters of any Band to recall the Tribal Chairperson, it shall be the duty of the Tribal Council to direct the Tribal Election Board to call and conduct a special election to determine whether the Chairperson should be recalled from that office.

(c) If at least fifty percent (50%) of all the registered voters of the Tribe cast a vote and more than fifty percent (50%) of those voting in the election favor such a recall, the Tribal Council shall declare the office vacant. If the vacancy occurs more than six (6) months prior to the date of the next regular election, the Tribal Council shall direct the Tribal Election Board to conduct a general election open to the Tribe's registered voters. Except for the recalled Chairperson, the Tribal Council members who indicate their interest shall be candidates for the election to choose a successor for the remainder of that term of office; provided, that if the vacancy occurs six (6) months or less from the next regular election, the Tribal Council shall appoint from such candidates to fill the unexpired term of the recalled Chairperson.

#### Sec. 9. Action on Petitions For Recall.

(a) Recall petitions under Sections 7, 8, and 17 of this Article shall be presented to the appropriate Chairperson or, in the absence of the Chairperson or in the event the Chairperson is the subject of the petition, to the appropriate Vice Chairperson.

(b) The officer receiving the petition shall call a meeting of the appropriate council within ten (10) days to establish the validity of the petition in accordance with an ordinance for determining such validity and, if valid, establish the election which shall be conducted by the Election Board or Committee no more than ten (10) days after the meeting.

(c) It shall be an act of gross neglect on the part of any Chairperson, Vice Chairperson or Council member to purposely fail or avoid participation in calling the meeting and establishing the election.

Sec. 10. Resignation or Recall From Tribal Council. A member of the Tribal Council may resign from the Tribal Council without resigning from the Band Council. Recall from the Tribal Council under Sections 7 or 8 above shall not affect a person's membership on the Band Council.

#### Sec. 11. Composition of Band Councils.

(a) The voters of each recognized Band shall elect seven (7) of its members who shall constitute a Band Council;

(b) The regular term of office shall be three (3) years in length and until successors are duly elected and installed.

(c) The Chairperson of the Band Council shall be the person receiving the highest number of votes in the regular election, and who is willing to accept the position;

(d) The Vice Chairperson shall be the person receiving the next highest number of votes who is willing to accept the position; and

(e) The Secretary and/or Treasurer shall be appointed by the Band Council from its own members. A Recording Secretary may be appointed from within or without the Band Council; provided, that, if appointed from without the Band Council he/she shall have no vote in Council proceedings.

Sec. 12. Powers of Band Councils. Consistent with this Constitution, Federal and Tribal law, the Band Councils shall have the power to:

(a) Consult with representatives of Federal, State and local Governments, business, and all other persons on matters of Band interest;

(b) Conduct business affairs concerning all matters that relate solely to the Band;

(c) Manage local enterprises, own and operate businesses, charter local associations and corporations;

(d) Issue grazing permits and leases of Tribal lands located within the Community, make assignments, and apply for Bureau of Land Management grazing permits, all subject to the approval of the Secretary of the Interior. Leases longer than twelve (12) months require the consent of the Tribal Council;

(e) Apply for Federal grants under its own name;

(f) Make contracts under its own name;

(g) Exercise such further powers as may be delegated by the Tribal Council or this Constitution;

(h) Recommend any changes in the Constitution; and

(i) Select its representatives to the Tribal Council and remove them for any good cause by majority vote, except as provided in Article 4, Sections 7 and 17.

Sec. 13. Kinds of Band Enactments. Band Councils shall have no authority to enact ordinances, but shall conduct all business by resolutions or motions.

Sec. 14. Band Council Actions Consistent With Law. No action of any Band Council shall be inconsistent with Federal Law, this Constitution, or ordinances and resolutions of the Tribe.

Sec. 15. Duties of Band Officers.

(a) Band Chairperson. The Chairperson of each Band Council:

(1) Shall call and preside over meetings of the Band Council and Band membership;

(2) May consult with representatives of all Federal or local Governments on all matters of local interest;

(3) Shall be co-signer of Band Council checks;

(4) Shall sign all other -negotiable instruments, -contracts, applications Federal or other funds, and all other obligations relating to the Band;

(5) Shall be a voting member of the Band Council;

(6) Shall make written or oral reports at all Band Council meetings of all his or her Band activities;

(7) Shall not obligate the Band without the prior written approval of the Band Council.

(b) Band Vice Chairperson The Band Vice Chairperson shall assist the Chairperson and in the absence of the Chairperson shall assume the duties and powers of the Chairperson.

(c) Band Secretary. The Band Secretary shall preserve all resolutions and minutes of the Band Council and shall make the same available to all Band members during regular business hours.

(d) Band Treasurer. The Band Treasurer:

(1) Shall be responsible for all funds of the Band;

(2) Shall accept, receive, receipt for, preserve, and safeguard all funds for which the Band Council is acting as trustee or custodian;

(3) Shall deposit all such funds in a bank or elsewhere, as directed by the Band Council;

(4) Shall report all receipts and expenditures and accounts, and the nature of all funds in his or her custody, once every six (6) months to the Band Council in writing, or at any time requested to do so by the Band Council; and

(5) Shall be bonded as required by law or by the Band Council. All Band financial records shall be audited annually. Copies of the audit report shall be submitted to the Tribal Council and to the Superintendent.

Sec. 16. Vacancies in Band Council. If any position on the Band Council shall become vacant for any reason other than the expiration of the term of office, the Band Council shall call a special election to fill the vacancy; provided, that in the event the vacancy occurs less than six (6) months from the next regular election, the Band Council shall appoint, by vote of its membership, a person who meets the qualifications of a candidate for that office to fill the unexpired portion of the term.

Sec. 17. Removal and Recall From Band Council. Except when the Band Council member is also serving as the -Tribal Chairperson, Band Council members may be removed or recalled in the manner set forth in this Section.

(a) Removal. A Band Council member may be removed from the Band Council for improper conduct or gross neglect of duty when at least four (4) Band Council members vote in favor of removal. The member charged shall not vote. No such vote shall be taken until after the member has had a fair hearing at which to reply to all charges. No such hearing shall be held unless the member has been given, at least fifteen (15) days in advance, a written notice of the time and place of the hearing and a written statement of the alleged acts of improper conduct or gross neglect.

(b) Recall.

(1) Upon receipt of a valid petition by at least one-half (1/2) of the registered voters of the Band to recall a Band Council member, it shall be the duty of the Band Council to call a special election in the Band to determine whether such representative should be recalled from the Band Council.

(2) The office shall be considered vacant if a majority of those voting in the election favor such recall.

Sec. 18. Refusal of Band Council to Act on Recall. If any Band Council shall fail or refuse to act within thirty (30) days of its receipt of a: valid petition for recall, the petitioner's may bring the matter to the Tribal Council which shall act in place of the Band Council in the manner outlined in Section 17 of this Article.

Sec. 19. Manner of Conducting Business. Both the Tribal Council and the Band Councils shall follow these provisions:

(a) Regular Meetings. Regular public meetings of each Council shall be held monthly on a date set by resolution and at such other times as the Council shall provide.

(b) Special Meetings. Special meetings of the Council may be called on written or oral notice by the Chairperson and shall be called by him/her upon a written request by a majority of the Council and, when so called and convened, the Council shall have the power to transact business; provided, that notice of the special meeting has been given to all members. Notice will be considered sufficient when given orally or in writing no less than two (2) days before the special meeting; provided, that written notice shall be delivered to the residence of the Council member. If notice is made by certified mail, properly addressed to the last known address of the Council member, it shall be mailed no less than three (3) days before the special meeting.

(c) Quorum No meeting shall commence until a quorum is present. A quorum shall consist of a majority of the membership of the Council including the presiding officer. Once a quorum has been established, the Council is authorized to conduct business until adjournment, regardless of whether some Council members leave the meeting. All decisions shall be made by majority vote of Council members present, unless a greater number is otherwise provided for in this Constitution.

(d) Items of Business. The meetings of the Council shall cover the following items in appropriate fashion:

(1) Call to order;

(2) Roll Call;

(3) Reading of the minutes of the last meeting;

(4) Unfinished business;

(5) Reports;

(6) New Business;

(7) Adjournment.

(e) Procedures. This Constitution and any ordinance, resolution or motion consistent with it shall govern the procedures of the meeting.

(f) Copies of Minutes Furnished. The Band Council shall provide a copy of the minutes of each of its meetings and all official documents of the Band to the Tribal Council and to the Superintendent. The Tribal Council shall provide a copy of the minutes of each of its meetings and all official documents of the Tribe to each Band Council and to the Superintendent.

(1) The Tribal Chairperson or the Band Council Chairperson shall be an exofficio non-voting member of every committee or delegate agency of their respective councils.



(2) No committee or delegate agency of the Council shall have more than one (1) voting member who is a member of the Council.

Sec. 20. Legislative Actions.

(a) Ordinances. Tribal Ordinances are the laws of the Tribe and shall govern matters of general applicability. Ordinances shall be collected and published from time to time for the information of interested persons and an official copy of every ordinance shall at all regular business hours be available for inspection at the Tribal office and the Band offices.

(b) Proposed Ordinances. The Tribal Council shall deliver, by personal service or return receipt mail, all proposed ordinances to each Band office for review and comment by the Band, at least ten (10) days but not more than forty-five (45) days, before a vote is taken on such proposals by the Tribal Council.

(c) Resolutions. Resolutions are the decisions of the Councils on matters of temporary interest (such as action on the budget or petitions to public officials), or relating especially to particular individuals or officials (such as enrollment of members or rules of order for the Council). An official copy of every resolution of the Tribe shall at all regular business hours be available for inspection by Tribal members at offices of the Tribe and Band. The resolutions of each Band Council shall be available, to Band and/or Tribal members at its office and the office of the Tribal Council.

(d) Motions. Legislative actions, other than ordinances and resolutions, shall be set forth in motions recorded in the minutes.

Sec. 21. Enactment Clause. Every ordinance shall begin with the words: "Be it enacted by the Tribal Council ... " Every resolution shall begin with the words: "Be it resolved by the \_\_\_\_\_ Council ..."

## **ARTICLE 5 - REGISTRATION AND VOTING**

Section 1. Registration.

(a) All enrolled members of the Tribe who have reached the age of eighteen (18) years may register to vote at the Band where the person resides or the nearest Band if the person resides off trust lands; provided, that persons who are seventeen (17) years of age shall be permitted to register for the forthcoming election if they will be eighteen (18) years old by the date of the election. If a Band shall refuse to register- a person, the person may apply to the Tribal Council for registration. If found eligible, the Tribal Council shall thereupon register the applicant and assign him/her to the appropriate Band.

(b) In all elections of the Band or Tribe, a registered voter may vote only in the Band where the voter is registered.

(c) In order to vote a person must be registered with his/her Band at least thirty (30) days prior to the election. Registration shall be considered active as long as the registered voter continues to cast ballots in Tribal and/or Band elections. if a person fails to vote in two (2) consecutive regular elections, his/her name shall be removed from the voter registration list. Re-registration shall be required to again qualify to vote.

Sec. 2. Registration List. The Band Election Committee shall keep a current list of registered voters and shall provide complete records of the same to the Tribal Council at least seven (7) days before the Band election. The lists shall be available for inspection by all persons.

Sec. 3. Absentee Voting. Absentee Voting shall be provided for under the Tribal Election Ordinance.

## **ARTICLE 6 - CANDIDATES FOR OFFICE**

Section 1. Eligibility of Candidates. To be a candidate for any elective office, a person must:

- (a) Be enrolled as a member of the Te-Moak Tribe;
- (b) Be at least twenty-one (21) years of age;
- (c) Have had physical residence within the trust lands of a constituent Band for a period of at least one (1) year immediately preceding the nomination;
- (d) Submit his/her name for candidacy in writing to the Band Election Committee at least twenty (20) days prior to the election.

Sec. 2. Ruling on Candidacy. It shall be the duty of the Band Election Committee to inform prospective candidates at least fifteen (15) days prior to the election whether they qualify as candidates and to post in a public place the names of all candidates at least ten (10) days before the election.

Sec. 3. Appeal Rights of Rejected Candidates.

Any person who is refused candidacy by the Band Election Committee may petition the Tribal Council to certify the person as a candidate. The Tribal Council shall immediately consider such a petition and shall render a decision at least ten (10) days before the election.

## **ARTICLE 7 - ELECTIONS**

Section 1. Band Council Elections. The first election of Band Council members under this Constitution shall be called by the governing body existing under the 1938 Constitution within sixty (60) days after the effective date of this Constitution, pursuant to Section 2 of Article 12. An election shall be held during the same month each third year thereafter. Members of the Council shall officially take office on the day following certification of the election results.

Sec. 2. Tribal Council Elections. Each Band Council shall select its representatives to the Tribal Council and certify their names to the Tribal Council within fourteen (14) days after the Band Council elections.

Sec. 3. Tribal Chairperson Election. The election for Tribal Chairperson shall be held within twenty-one (21) days after the Band Council elections.

Sec. 4. Day of Election.

- (a) The election for Band Council members shall be held on the same day in each Band.
- (b) The election for Tribal Chairperson shall be conducted in each Band on the same day.

Sec. 5. Officially Take Office. The Tribal Chairperson and the members of the Tribal Council shall officially take office on the next work day following certification of the Tribal Chairperson election results.

Sec. 6. Oath of Office. Each member of the Tribal or Band Council and each officer or subordinate officer, elected or appointed here under, shall take the following oath of office as administered by the Chief Judge of the Tribal Court, or in his/her absence, the Chairman of the Tribal Election Board, prior to assuming the duties thereof:

"I \_\_\_\_\_ do solemnly swear that I will support and defend the Constitution of the United States and the Constitution of the Te-Moak Tribe of Western Shoshone Indians of Nevada; that I

will carry out, faithfully and impartially, the duties of my office to the best of my ability; that I will promote and protect -the best interests of the Te-Moak Tribe of Western Shoshone Indians of Nevada."

**Sec. 7. Salaries and Expenses.** The Tribal or Band Councils may pay such salaries and expenses of officers or members of the Councils or their delegate bodies as is deemed advisable from such funds as may be available.

**Sec. 8. Election Ordinance.** The Tribal Council shall enact an ordinance, consistent with this Constitution, setting forth the procedures to be followed in conducting each of the various types of Tribal and Band elections called for in this Constitution. The ordinance shall at least include provisions for:

(a) conducting all elections by secret ballot;

(b) absentee voting;

(c) maintenance of a current list of registered voters;

(d) screening of prospective candidates;

(e) settling election disputes;

(f) the establishment of Band Election Committees and a Tribal Election Board having responsibility to ensure that the respective Band and Tribal elections are conducted objectively and fairly.

**Sec. 9. Election Committees.** Each Band Council shall appoint an impartial Election Committee composed of three (3) or more persons to conduct all Band elections in accordance with this Constitution and the Tribal Election Ordinance, and shall certify the results of such elections to the Band Council within five (5) days after an election.

**Sec. 10.** The Tribal Election Board shall be composed of one (1) of the members from each of the several Band Election Committees.

## **ARTICLE 8 - JUDICIAL BRANCH OF GOVERNMENT**

**Section 1. Tribal Courts.** There shall be a court of general jurisdiction and a Supreme Court of appellate jurisdiction.

**Sec. 2. Powers of the Courts.** All judicial powers of the Tribe shall be vested in the Judicial Branch of Government, including such powers as may in the future be granted to the Tribe by any law of the United States, or other authority.

**Sec. 3. Jurisdiction.** The judicial power shall extend to all cases in law or equity arising under this Constitution or Tribal enactments. Decisions of the Tribal Courts shall be binding upon all persons and property within the jurisdiction of the Tribe as referenced in Article 2. Jurisdiction of suits against the Tribe or any constituent Band is limited to suits brought by a member, or members, of the Tribe or by one of the Bands- or by the Tribe. The appellate court of the Tribe shall be the final interpreter of this Constitution and tribal laws.

**Sec. 4. Term of Office and Qualifications.**

(a) **Term of Office.** The judges of both Tribal Courts shall be appointed by the Tribal Council for six (6) years terms, except for the initial appointments to fill those positions. At the time of the initial appointments, the length of the term for approximately half of the judges on each court shall be for three (3) years in order to establish a system of staggered terms of office.

(b) **Qualifications.** A judge shall be at least thirty (30) years of age and of good moral character.

Sec. 5. Compensation. Tribal judges shall receive for their services, compensation which shall not be diminished during their term of office.

Sec. 6. Recall of Judges and Filling of Vacancies.

(a) A judge shall be unseated from office only in the manner set forth in Section 8 of Article 4.

(b) If the position of a judge is declared vacant, the Tribal Council shall immediately appoint a qualified person to fill the vacancy for the remainder of the unexpired term.

**ARTICLE 9 - BILL OF RIGHTS**

Section 1. Rights of Tribal Members. The Tribe, in exercising powers of self-government, shall not:

(a) Make or enforce any law prohibiting the free exercise of religion, or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble and to petition for a redress of grievances;

(b) Violate the right of the people to be secure in their persons, houses, papers and effects against unreasonable search and seizure, nor issue warrants, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the person or thing to be seized;

(c) Subject any person for the same offense to be twice put in jeopardy;

(d) Compel any person in any criminal case to be a witness against himself /herself;

(e) Take any private property for a public use without just compensation;

(f) Deny to any person in a criminal proceeding the right to a speedy and public trial, to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him/her, to have compulsory process for obtaining witnesses in his/her favor, and, at his/her own expense, to have the assistance of counsel for his/her defense;

(g) Require excessive bail, impose excessive fines, inflict cruel and unusual punishments, and in no event impose for conviction of any one (1) offense any penalty or punishment greater than imprisonment for a term of six (6) months or a fine or five hundred dollars (\$500) or both;

(h) Deny to any person within its jurisdiction the equal protection of its laws or deprive any person of liberty or property without due process of laws;

(i) Pass any bill of attainder or ex post facto law; or

(j) Deny to any person accused of an offense punishable by imprisonment the right, upon request, to a trial by jury of not less than six (6) persons.

**ARTICLE 10 - TRIBAL LANDS**

Section 1. Use of Tribal Lands. Tribal lands may be used by Tribal members and nonmembers by lease, permit, assignment, or other appropriate contract, subject to the following rules:

(a) Leases. Tribal lands may be leased by the Tribal Council with the consent of the Band Council concerned. Tribal lands within a Band area may be leased by the Band Council of that Band for periods of twelve (12) -months or less.

(b) Grazing Permits. Band Councils shall have the authority to issue grazing permits for lands within their Band area. Grazing permits shall be for one season only, but may be renewed.

(c) Preference for Leases and Grazing Permits. First preference shall be given to Tribal organizations, enterprises, etc. Second preference shall be given to Tribal members, individually or in groups. Third preference shall be given to non Tribal members.

(d) Assignments. Band Councils shall have the authority to issue assignments within their Band areas, subject to the following rules:

(1) Purpose. The head of each member family is entitled to an assignment of sufficient agricultural Tribal land for a home and to sustain a reasonable economic livelihood for his or her family.

(2) Preference First preference shall be given to families which have no land for a home. Second preference shall be given to families which have a home but do not have sufficient agricultural land to sustain an economic livelihood for the family.

(3) Notice of Availability. The Band Council shall make reasonable effort to notify all Band members of all lands within the Band area that are suitable and available for assignments.

(4) Cancellation of Assignment. The Band Council may cancel any assignment, when the person holding the assignment violates any significant rule in a tribal ordinance providing for cancellation; or fails without good cause to use the land for a period of one (1) year or more, as established by Tribal ordinance, without approval of the Band Council. Prior to cancellation, the Band Council must give reasonable notice of intent to cancel to the member who has the assignment and give him/her an opportunity for a hearing. A canceled assignment thereby becomes available for assignment to another.

(5) Death of Member Holding Assignment. Upon the death of any Tribal member holding an assignment the Band Council will reassign his/her interests to an heir, at law or by will, or to some other appropriate Tribal member designated by him/her and who is eligible to receive the same, unless it would clearly be in the best interest of his/her heirs to do otherwise. Reassignment to a Tribal member or entity shall be done in such a manner, either by use of a trustee, legal guardian or otherwise, so as to avoid unnecessary hardship on any family member who is not eligible to hold the assignment and so as to be in the best interest of all members of the family of the deceased.

(6) Application for Assignments. Applications for assignments shall be filed with the Secretary of the Band Council and shall be in writing, setting forth the name of the person or persons applying for the land and as accurate a description of the land desired as the circumstances will permit. Notices of all applications received by the Secretary of the Band Council shall be posted by him or her in the Bureau of Indian Affairs Agency office and in at least two (2) conspicuous places in the Community in which the land is located, for not less than twenty (21) days before action is taken by the Band Council. Any member of the Band wishing to oppose the granting of an assignment shall do so in writing, setting forth his or her objections, and file the same with the Secretary of the Band Council, and may, if he or she so desires, appear before the Band Council and present evidence.

(7) Assignments, Available for Inspection. The Secretary of the Band Council shall furnish the Superintendent of the Bureau of Indian Affairs Agency and Tribal Council a complete record of all actions taken by the Band Council on applications for assignment. A complete record of assignments shall be kept in the Agency office, the office of the Tribal Council and the office of the Band Council and shall be open for inspection to all members of the Tribe during regular working hours.

Sec. 2. Ordinances. The Tribal Council may enact additional regulations which are in harmony with this Constitution governing and use of Tribal lands.

Sec. 3. Fees. Fees, if any, for leases, permits, assignments and other contracts dealing with the use of Tribal lands shall be as determined by the Tribal Council, by resolution or ordinances, and shall be paid to the Tribe or Band whichever is the granting party.

Sec. 4. Approval of Secretary of Interior Necessary. All leases, permits, assignments or contracts of any kind pertaining to Tribal land or Tribal real property are subject to the approval of the Secretary of the Interior, or his authorized representative.

## **ARTICLE 11 - POPULAR PARTICIPATION IN GOVERNMENT**

Section 1. Tribal Initiative. The registered voters of the Tribe shall have the right to propose legislation and vote by secret ballot to determine whether it will be adopted or rejected. Upon receipt of a valid petition signed by at least thirty percent (30%) of the registered voters, the Secretary of the Tribal Council shall direct the Tribal Election Board to call an election to be conducted pursuant to the election ordinance no later than thirty (30) days after receipt of the valid petition; provided, that if the next regular election is six (6) months or less from the date the petition is filed, the balloting on the initiative shall take place at that election. An affirmative vote by a majority of those who cast ballots shall determine whether the proposal is adopted; provided, that at least thirty percent (30%) of the registered voters cast ballots in such election.

Sec. 2. Tribal Referendum. Upon the request of the majority of the members of the Tribal Council, any enacted or proposed ordinance or resolution of the Tribal Council shall be submitted by the Election Board to a popular referendum of registered voters. The registered voters shall by majority vote, in such referendum, decide whether the ordinance or resolution shall thereafter be in effect; provided, that at least thirty percent (30%) of the registered voters shall vote in such referendum.

Sec. 3. Band Initiative. The registered voters of each Band shall have the right to propose legislation within the scope of Band authorities and vote by secret ballot to determine whether it will be adopted or rejected. Upon receipt of a valid petition by at least thirty percent (30%) of the Band's registered voters, the Band Secretary shall direct the Band Election Committee to call an election to be conducted pursuant to the Tribal election ordinance. The election shall be conducted in the manner set forth in Section I of this Article and the same time periods shall apply.

Sec. 4. Band Referendum. Upon the request of the majority of the members of the Band Council, any enacted or proposed resolution of the Band Council shall be submitted by the Band Election Committee to a popular referendum of the registered voters. The registered voters shall, by majority vote, in such referendum, decide whether the resolution shall thereafter be in effect; provided, that at least thirty percent (30%) of the registered voters shall vote in such referendum.

## **ARTICLE 12 - ADOPTION OF CONSTITUTION**

Section 1. Adoption. This Constitution shall become effective when adopted by a majority vote of the qualified voters who cast ballots at an election called and conducted pursuant to regulations of the Secretary of the Interior for the purpose of adopting this Constitution; provided, that at least thirty percent (30%) of those registered to vote, cast their ballots and the Secretary of the Interior shall have approved the same. This Constitution shall become effective on the date of such approval.

### Sec. 2. First Election.

(a) Incumbent members of the governing body on the effective date of this Constitution shall continue to serve until replaced in accordance with this Section.

(b) Within sixty (60) days following the effective date of this Constitution, a special election shall be called and conducted by the incumbent governing body to choose persons for Band Councils. A subsequent election shall be held within thirty (30) days, thereafter, to elect a Tribal Chairperson.

(c) The first election shall be conducted pursuant to regulations of the existing governing body which shall comply with provisions of this Constitution as much as possible.

Sec. 3. Savings Clause. All ordinances, resolutions and other expressions of policy of the Tribe or the Band Councils of whatever nature predating the effective date of this Constitution are ratified and continued in full force and effect if such are consistent with this Constitution.

Sec. 4. Prior Disharmonious Actions Nullified. All ordinances, resolutions and other expressions of policy of the Tribe or the Band Councils of whatever nature predating the effective date of this Constitution that are not consistent with this Constitution are superseded to the extent they are inconsistent with this Constitution.

Sec. 5. Former Constitution and Bylaws. The Constitution and Bylaws of the Te-Moak Bands of- Western Shoshone Indians, Nevada, approved August 24, 1938, is hereby superseded.

### **ARTICLE 13 - AMENDMENTS**

Section 1. Amendments to the Constitution. This Constitution may be amended by a majority vote of the qualified voters of the Tribe who cast ballots in an election called for that purpose by the Secretary of the Interior and conducted pursuant to his/her regulations; provided, that at least thirty percent (30%) of those duly registered to vote shall cast ballots in such election; but no amendment shall become effective until it is approved by the Secretary of the Interior or his authorized representative.

Sec. 2. Election for Amendments. It shall be the duty, of the Secretary of the Interior to call an election on any proposed amendment upon receipt of a resolution adopted by twothirds (2/3) of the entire Tribal Council or upon receipt of a petition signed by at least twenty-five percent (25%) of the registered voters of the Tribe.

### **ARTICLE 14 - CERTIFICATION OF RESULTS OF ELECTION**

Pursuant to an order issued on April 30th, 1982, by John W. Fritz, Deputy Assistant Secretary - Indian Affairs (Operations), this constitution of the Te-Moak Tribe of Western Shoshone Indians of Nevada, was submitted for adoption to the qualified voters of the Tribe and was on August 17th, 1982, duly adopted by a vote of 64 for and 43 against, in an election in which at least thirty percent (30%) of the 193 entitled to vote, cast their ballots in accordance with Section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984) as amended by the Act of June 15, 1935 (49 Stat.378).

William Woods  
Chairman, Election Board

*Rosalie E. Brady*  
*Election Board Member*

*Dale S. Malotte*  
*Election Board Member*

*Date: August 18, 1982*

*Davis Gonzales, Election Board Member*

### **ARTICLE 15 - APPROVAL**

In that this Constitution was duly adopted as evidenced by Article 14, I, John W. Fritz, Deputy Assistant Secretary - Indian Affairs Operations, by virtue of the authority granted to the Secretary of the Interior by the Act of June 18, 1934 (48 Stat. 984), as amended, and delegated to me by 209 DM 8.3, do hereby approve this Constitution of the Te-Moak Tribe of Western Shoshone Indians of Nevada. It is effective as of this date; provided, that nothing in this approval shall be construed as authorizing any action under this document that would be contrary to Federal Law.

John W. Fritz, Deputy Assistant Secretary - Indian Affairs (Operations)  
Washington, D.C.

Date 26 August 1982