

UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF INDIAN AFFAIRS



CONSTITUTION AND BY-LAWS
OF THE
TE-MOAK BANDS
OF WESTERN SHOSHONE INDIANS
NEVADA

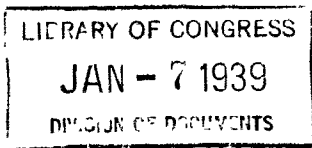


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CONSTITUTION AND BY-LAWS OF THE TE-MOAK BANDS OF WESTERN SHOSHONE INDIANS OF NEVADA

PREAMBLE

We, the Western Shoshone Indians residing on the Indian Reservation at Elko, Nevada, known as the Elko Colony, in order to establish a tribal organization for ourselves and for the other groups and members of the Te-Moak Bands of Western Shoshone Indians in north-eastern Nevada, to conserve our tribal property, to develop our resources, to administer justice, and to promote the welfare of ourselves and our descendents, do hereby ordain and establish this constitution and by-laws of the Te-Moak Bands of Western Shoshone Indians as a guide for the deliberations of our tribal council in its administration of tribal affairs.

ARTICLE I—TERRITORY

The territory of the Te-Moak Bands of Western Shoshone Indians shall include the lands within the Elko Colony, and reservations or colony sites occupied by Indians of the Te-Moak Bands of Western Shoshones which shall be made a part of such territory by majority vote of the Indians residing thereon, and any other lands heretofore or hereafter acquired by the Te-Moak Bands of Western Shoshone Indians or by the United States in trust for said tribe.

ARTICLE II—MEMBERSHIP

SECTION 1. The membership of the Te-Moak Bands of Western Shoshone Indians shall consist of the following:

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

(b) All persons of at least one-quarter Shoshone Indian blood residing in the territory of the Bands whose names appear on the official census roll of the Carson Indian Agency as of January 1, 1937, who make written application to the Te-Moak Western Shoshone Council.

(c) All children of at least one-quarter degree of Indian blood born to any member.

SEC. 2. The Tribal Council may admit to membership any other person whose name appears on the official census roll of the Carson Indian Agency as of January 1, 1937.

SEC. 3. The Tribal Council shall cancel the membership of any adult person who makes application to sever his tribal relations, and thereafter such person shall cease to hold membership in the tribe.

SEC. 4. The Tribal Council shall have power to promulgate ordinances subject to review by the Secretary of the Interior governing adoption and compulsory loss of membership.

ARTICLE III—GOVERNING BODY

SECTION 1. The governing body of the Te-Moak Bands of Western Shoshone Indians shall consist of a council known as the Te-Moak Western Shoshone Council.

SEC. 2. The Te-Moak Western Shoshone Council shall be organized as follows: Five councilmen shall be elected at the first election to serve for a term of at least one year, as provided in Article V. During its term of office said Council shall consider and adopt ordinances, which shall be subject to the approval of the Secretary of the Interior, which shall provide for a reapportionment of councilmen with a view to establishing it as a representative body. Each group of 100 Indians, or a major fraction thereof, who become members of the tribe shall be entitled to representation in the Council. The Indians occupying the Elko Colony shall be entitled to at least two representatives. At the expiration of its term of office, the first Council shall be replaced by a representative body as provided herein, at an election called for this purpose by the Council. Councilmen elected at this election and at subsequent elections shall serve for a term of two years.

SEC. 3. No person shall be a candidate for membership in the Council unless he is a member of the tribe and has been affiliated for a period of one year next preceding the election with a group of Indians from which he seeks to be elected as a representative.

SEC. 4. The Te-Moak Western Shoshone Council shall elect from within its own members a tribal chief and a tribal subchief, and from within or without its own members a tribal secretary, a tribal treasurer, and such other officers and committees as may be deemed necessary.

SEC. 5. The Te-Moak Western Shoshone Council shall be the sole judge of the constitutional qualifications of its own members.

ARTICLE IV—COMMUNITY ORGANIZATIONS

SECTION 1. Each group of 100 Indians, or major fraction thereof, who are members of the tribe, may be recognized as a distinct community by the Te-Moak Western Shoshone Council, and may organize itself for local self-government with such powers as may be delegated to it by the Council. The councilmen from each recognized community shall, together with four additional members of the Community, constitute a committee for the government of the Community as provided herein. The four additional members of each Community Committee shall be elected at the same time and in the same manner as the representatives to the Te-Moak Western Shoshone Council. Officers for each Community Committee shall be chosen by the Committee.

SEC. 2. The Chairman of each Community Committee shall call and preside over popular meetings of the Community whenever necessary for the consideration of matters of local interest. A Community may consult with representatives of the Interior Department on all matters of local interest and make recommendations thereon to the Te-Moak Western Shoshone Council, the Superintendent or the Commissioner of Indian Affairs, may undertake and manage local

enterprises for the benefit of the Community, may levy assessments for the use of Community privileges or property upon members of the Community, may expend moneys in the Community treasury for the benefit of the Community, may keep a roll of the members of the tribe affiliated with the Community, and may exercise such further powers as may be delegated to it by the Te-Moak Western Shoshone Council. No action of any Community Committees shall, however, be inconsistent with the constitution, by-laws, ordinances and resolutions of the Te-Moak Bands of Western Shoshone Indians.

ARTICLE V—NOMINATIONS AND ELECTIONS

SECTION 1. The first election of councilmen under this Constitution shall be called by the Superintendent of the Carson Indian Agency, within 60 days after its ratification and approval. The second election shall be held between August 15 and October 1, on a date set by the Tribal Council and announced 30 days in advance, which date shall fall at least one year, but less than two years, after the election of the first Council. Thereafter, elections shall be held every two years on a date between August 15 and October 1, to be determined by the Te-Moak Western Shoshone Council and announced at least 30 days in advance.

SEC. 2. Any qualified voter of a Community may announce his candidacy as representative of said Community to the Te-Moak Western Shoshone Council by notifying the Community Secretary in writing at least 15 days prior to the election. It shall be the duty of the secretary of each Community Committee to post in a public place the names of all candidates in his Community who have met these requirements, at least ten days before the election.

SEC. 3. The Te-Moak Western Shoshone Council, or a board appointed by the Council, shall determine rules and regulations governing all elections after the first election, and shall certify to the election of members of the Council within five days after the election returns.

SEC. 4. Any member of the Te-Moak Bands of Western Shoshone Indians who is 21 years of age or over, and who has maintained a legal residence for at least one year within the territory of the tribe shall be entitled to vote in the Community nearest to his place of residence.

ARTICLE VI—VACANCIES AND REMOVAL FROM OFFICE

SECTION 1. Each Community Committee shall have the power to fill any vacancy which may occur in its representation on the Council.

SEC. 2. Any councilman who is proven guilty of improper conduct or gross neglect of duty may be expelled from the Council by a two-thirds vote of the Council members: *Provided*, That the accused member is given full opportunity to reply to any and all charges at a designated Council meeting: *And provided further*, That the accused member shall have been given a written statement of the charges against him at least 15 days before the meeting at which he is to be given an opportunity to reply.

SEC. 3. Upon petition of at least one-third of the eligible voters of any Community, it shall be the duty of the Council to call a special election in the Community to consider the recall of the member or members of the Council named in such petition. In the event that a majority of those voting in such election favor such recall from office, the office shall be declared vacant by the Council and the Community Committee shall fill the unexpired term by appointment.

ARTICLE VII—POWERS OF THE TE-MOAK WESTERN SHOSHONE COUNCIL

SECTION 1. *Enumerated Powers.*—The Te-Moak Western Shoshone Council shall exercise the following powers, subject to any limitations imposed by the Statutes or the Constitution of the United States, and subject to all express restrictions upon such powers contained in this Constitution and attached By-laws:

(a) To negotiate with the Federal, State, and local governments on behalf of the tribe and to advise and consult with the representatives of the Interior Department on all activities of the Department that may affect the Te-Moak Bands of Western Shoshone Indians.

(b) To employ legal counsel for the protection and advancement of the rights of the Te-Moak Bands of Western Shoshone Indians, the choice of counsel and the fixing of fees to be subject to the approval of the Secretary of the Interior.

(c) To approve or veto any sale, disposition, lease or encumbrance of tribal lands, interests in lands or other tribal assets which may be authorized or executed by the Secretary of the Interior, the Commissioner of Indian Affairs, or any other qualified official or agency of government: *Provided*, That no reservation lands shall ever be leased for a period exceeding five years, or sold or encumbered, except for governmental or public service purposes.

(d) To confer with the Secretary of the Interior with regard to all appropriation estimates or Federal projects for the benefit of the tribe prior to the submission of such estimates to the Bureau of the Budget and to Congress.

(e) To manage all economic affairs and enterprises of the Te-Moak Bands of Western Shoshone Indians in the territory of the tribe in accordance with the terms of a charter that may be issued to the tribe by the Secretary of the Interior.

(f) To promulgate and enforce ordinances, which shall be subject to review by the Secretary of the Interior, governing the conduct of members of the Te-Moak Bands of Western Shoshone Indians within the jurisdiction of the tribe, providing for the manner of making, holding, and revoking assignments of tribal land or interests therein, providing for the levying of assessments for the use of tribal privileges and property and the appropriation of available tribal funds for public purposes, providing for the licensing of nonmembers coming upon the tribal land for the purpose of hunting, fishing, trading, or other business, and for the exclusion from the tribal land of persons not so licensed, and establishing proper agencies for law enforcement in the jurisdiction of the tribe.

(g) To charter subordinate organizations for economic purposes and to delegate to such organizations, to any subordinate boards or

officials of the tribe, or to any constituent Community any of the foregoing powers, reserving the right to review any action taken by virtue of such delegated power.

(h) To adopt resolutions not inconsistent with this Constitution and By-laws, regulating the procedure of the Council itself and of other tribal agencies, tribal officers, or tribal organizations of the Te-Moak Bands of Western Shoshone Indians, and to exercise such duties as are conferred upon the Council by the By-laws.

SEC. 2. *Future Powers.*—The Te-Moak Western Shoshone Council may exercise such further powers as may in the future be delegated to the Council by members of the Bands or by the Secretary of the Interior or any other duly authorized official or agency of the State or Federal government.

SEC. 3. *Reserved Powers.*—Any rights and powers heretofore vested in the Indians of the Elko Colony or any other group of Te-Moak Western Shoshone Indians, but not expressly referred to in this Constitution, shall not be abridged by this article, but may be exercised by the people of the Te-Moak Bands of Western Shoshone Indians through the adoption of appropriate by-laws and constitutional amendments.

SEC. 4. *Manner of Review.*—Any resolution or ordinance which by the terms of this Constitution is subject to review by the Secretary of the Interior, shall be presented to the Superintendent of the Carson Indian Agency, who shall, within ten days thereafter, approve or disapprove the same.

If the Superintendent shall approve any ordinance or resolution, it shall thereupon become effective, but the Superintendent shall transmit a copy of the same, bearing his endorsement, to the Secretary of the Interior, who may, within 90 days from the date of enactment, rescind the said ordinance or resolution for any cause by notifying the Council of such decision.

If the Superintendent shall refuse to approve any ordinance or resolution within ten days after its enactment, he shall advise the Council of his reasons therefor. If these reasons appear to the Council insufficient, it may, by a majority vote, refer the ordinance or resolution to the Secretary of the Interior, who may, within 90 days from the date of its enactment, approve the same in writing, whereupon the said ordinance or resolution shall become effective.

ARTICLE VIII—TRIBAL LANDS

SECTION 1. The lands of the Te-Moak Bands of Western Shoshone Indians now held or hereafter acquired by the Te-Moak Bands of Western Shoshone Indians or by the United States in trust for said tribe shall be held as tribal lands, and no part of such land shall be mortgaged or sold. Tribal lands shall not be allotted to individual Indians but may be assigned to members of the Te-Moak Bands of Western Shoshone Indians, or leased, or otherwise used by the tribe, as hereinafter provided.

SEC. 2. Tribal lands may be leased by the Council, with the approval of the Secretary of the Interior, for such periods of time as are permitted by law.

In the leasing of tribal lands preference shall be given, first, to Indian cooperative associations, and secondly, to individual Indians who are members of the Te-Moak Bands of Western Shoshone Indians. No lease of tribal land to a nonmember shall be made by the Council unless it shall appear that no Indian cooperative association or individual member of the tribe is able and willing to use the land and to pay a reasonable fee for such use.

Grazing permits covering tribal land may be issued by the Council, with the approval of the Secretary of the Interior, in the same manner as leases.

SEC. 3. In any assignment of tribal lands which are now owned by the tribe or which hereafter may be acquired for the tribe by the United States or purchased by the tribe out of tribal funds, preference shall be given, first, to heads of families which are entirely landless, and second, to heads of families which have received assignments consisting of less than an economic unit of agricultural land, or other land or interests in land.

The Tribal Council may, if it sees fit, charge a fee of not to exceed five dollars, on approval of an assignment made under this section.

Assignments made under this section shall be for the primary purpose of establishing homes for landless Indians.

SEC. 4. If any member of the tribe holding an assignment of land shall, for a period of two years, fail to use the land so assigned, the assignment may be cancelled by the Council after due notice and an opportunity to be heard, and the said land may be reassigned in accordance with the provisions of section 3 of this article.

Upon the death of any Indian holding an assignment, his heirs or other individuals designated by him, by will or by written request, shall have a preference in the reassignment of the land, provided such persons are members of the Te-Moak Bands of Western Shoshone Indians who would be eligible to receive an assignment.

SEC. 5. Applications for assignments shall be filed with the Secretary of the 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 Council shall be posted by him in the agency office and in at least three conspicuous places in the district in which the land is located, for not less than 20 days before action is taken by the Council. Any member of the tribe wishing to oppose the granting of an assignment shall do so in writing, setting forth his objections, to be filed with the Secretary of the Council, and may, if he so desires, appear before the Council to present evidence. The Secretary of the Council shall furnish the Superintendent or other officer in charge of the agency a complete record of all action taken by the Council on applications for assignments of land, and a complete record of assignments shall be kept in the agency office and shall be open for inspection by members of the tribe.

ARTICLE IX—REFERENDUM

Upon a petition of at least 100 qualified voters of the Te-Moak Bands of Western Shoshone Indians a referendum may be demanded

on any enacted or proposed ordinance or resolution of the Council, and the vote of the majority of the qualified voters in such referendum shall be conclusive and binding upon the Council.

ARTICLE X—AMENDMENTS

SECTION 1. This Constitution and By-laws may be amended by a majority vote of the qualified voters of the Te-Moak Bands of Western Shoshone Indians voting at an election called for that purpose by the Secretary of the Interior: *Provided*, That at least 30 per cent of those entitled to vote shall vote in such election; but no amendment shall become effective until it shall have been approved by the Secretary of the Interior.

SEC. 2. It shall be the duty of the Secretary of the Interior to call an election on any proposed amendment upon receipt of a petition signed by 25 per cent of the qualified voters, members of the Tribe.

BY-LAWS OF THE TE-MOAK BANDS OF WESTERN SHOSHONE INDIANS

ARTICLE I—DUTIES OF OFFICERS

SECTION 1. The Tribal Chief shall preside over all meetings of the Council, perform all duties of a chairman, and exercise any authority detailed to him.

SEC. 2. The Subchief shall assist the Chief, when called upon to do so, and in the absence of the Chief, shall preside, and when so presiding, he shall have all the privileges, duties, and responsibilities of a chairman.

SEC. 3. The Tribal Secretary shall forward a copy of the minutes of all meetings to the Superintendent in charge of the Carson Agency and to the Commissioner of Indian Affairs.

SEC. 4. The duties of the Tribal Treasurer shall be as follows: He shall accept, receive, receipt for, preserve, and safeguard all funds for which the Council is acting as trustee or custodian. He shall deposit all such funds in such bank or elsewhere, as directed by the Council, and he shall keep an accurate record, filing same in the Council's office, and he shall report all receipts and expenditures and accounts, and the nature of all funds in his possession, or custody, once every six months to the Council in writing, or at any time he is requested to do so by the Council. He shall be required to give a bond satisfactory to the Council and the Commissioner of Indian Affairs, in such an amount as the Council may by resolution provide. Until the Treasurer is bonded, the Council may make such provision for the custody and disbursement of funds as shall guarantee their safety and proper disbursement and use.

SEC. 5. Newly elected Council members who have been duly certified shall be installed at the first regular meeting of the Council following the election.

SEC. 6. Each member of the Council and each officer or subordinate officer, elected or appointed hereunder, shall take an oath of office prior to assuming the duties thereof, by which oath he shall pledge himself to support and defend the Constitution of the United States and this Constitution and By-laws:

Oath: "I, -----, do solemnly swear that I will support and defend the Constitution of the United States against all enemies; that I will carry out, faithfully and impartially, the duties of my office to the best of my ability; that I will cooperate, promote and protect the best interests of my tribe, in accordance with its Constitution and By-laws."

SEC. 7. Regular meetings of the Council shall be held two times yearly in the months of May and October, and at such other times as the Council shall by resolution provide. The exact day of meeting shall be fixed by resolution.

SEC. 8. Special meetings may be called by a written notice signed by the Chief, or a majority of the Council, and when so called, the Council shall have power to transact business as in the regular meetings.

SEC. 9. No business shall be transacted unless a quorum is present. A quorum shall consist of a majority of the entire membership of the Council.

SEC. 10. Order of business:

- (a) Call to order by the chairman
- (b) Roll call
- (c) Reading the minutes of last meeting
- (d) Unfinished business
- (e) Reports
- (f) New business
- (g) Adjournment

SEC. 11. The Council may prescribe such salaries and expenses for officers or members of the Council as it deems advisable, from such funds as may be available.

ARTICLE II—ORDINANCES AND RESOLUTIONS

SECTION 1. All final decisions of the Council on matters of general and permanent interest to the members of the Bands shall be embodied in ordinances. Such ordinances shall be collected and published from time to time for the information and education of the members of the tribe.

SEC. 2. All final decisions of the Council on matters of temporary interest (such as action on the tribal budget for a single year or petitions to Congress or the Secretary of the Interior) or relating especially to particular individuals or officials (such as adoptions of members, instructions for Council employees, or rules of order for the Council) shall be embodied in resolutions. Such resolutions shall be recorded in a special book which shall be open to public inspection.

SEC. 3. All questions of procedure (such as acceptance of committee reports or invitations to outsiders to speak) shall be decided by motion of the Council or by the ruling of the chairman if no objection is heard. On all ordinances, resolutions, or motions, the Council may act by majority vote, but all matters of importance shall be fully discussed, and a reasonable attempt shall be made to secure unanimous agreement.

SEC. 4. Every ordinance shall begin with the words: "*Be it enacted by the Te-Moak Western Shoshone Council * * **" Every

resolution shall begin with the words: "*Be it resolved by the Te-Moak Western Shoshone Council * * **"

ARTICLE III—ADOPTION

This Constitution and By-laws shall be in full force and effect whenever a majority of the Western Shoshone Indians residing in the Elko Colony, Nevada, voting at an election called by the Secretary of the Interior in which at least 30 per cent of the eligible voters shall vote, shall have ratified such Constitution and By-laws, and the Secretary of the Interior shall have approved same, as provided in the Act of June 18, 1934, as amended by the Act of June 15, 1935.

I, Oscar L. Chapman, Assistant Secretary of the Interior of the United States of America, by virtue of the authority granted me by the Act of June 18, 1934 (48 Stat. 984), as amended, do hereby approve the attached Constitution and By-laws of the Te-Moak Bands of Western Shoshone Indians of Nevada.

All rules and regulations heretofore promulgated by the Interior Department or by the Office of Indian Affairs, so far as they may be incompatible with any of the provisions of the said Constitution and By-laws are hereby declared inapplicable to the Te-Moak Bands of Western Shoshone Indians of Nevada.

All officers and employees of the Interior Department are ordered to abide by the provisions of the said Constitution and By-laws.

Approval recommended:

WILLIAM ZIMMERMAN, JR.

Assistant Commissioner of Indian Affairs.

OSCAR L. CHAPMAN,

Assistant Secretary of the Interior.

[SEAL]

WASHINGTON, D. C., August 24, 1938.

CERTIFICATION OF ADOPTION

Pursuant to an order, approved May 3, 1938, by the Assistant Secretary of the Interior, the attached Constitution and By-laws was submitted for ratification to the adult Indians residing on the Indian reservation at Elko, Nevada, and was on May 31, 1938 duly adopted by a vote of 47 for and 2 against, in an election in which over 30 per cent of those 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).

CHARLES MALOTTE,

Chairman, Tribal Committee.

JOHN COUCHUM,

Member, Tribal Committee.

WILLIE HARNEY,

Member, Tribal Committee.

ALIDA C. BOWLER,

Superintendent, Carson Agency.