

**CONSTITUTION  
OF THE HOPLAND BAND OF POMO INDIANS  
MENDOCINO COUNTY, CALIFORNIA**

**PREAMBLE**

We the adult members of the Hopland Band of Pomo Indians, located in Mendocino County, State of California, prepare this document of self-government with the hope that it will enable us to live as we have always lived on our homelands with respect for the land and all growing things on it.

Further, we proclaim we are organizing for the common good, the preservation of our cultural traditions, the protection of our homelands, the continuous improvement of the social and economic standard of our people, the establishment of a democratically representative government for present and future generations of the Hopland Band of Pomo Indians, and to avail ourselves of the authorities conferred by the Indian Reorganization Act of June 18, 1934 (48 Stat. 984) as amended.

**ARTICLE I -- NAME**

The name of this organization shall be known as the Hopland Band of Pomo Indians.

**ARTICLE II -- JURISDICTION**

The jurisdiction of the Hopland Band of Pomo Indians shall extend to all lands, water, and persons within the exterior boundaries of the Hopland Indian Reservation or Rancheria, and any other lands in which the Band acquires ownership, management, use or occupancy by virtue of purchase, gift, act of Congress or otherwise.

### ARTICLE III-- MEMBERSHIP

**Section 1.** As used in this section the word "descent" shall mean a person who is a direct lineal descendant of a person who is racially a Hopland Indian. The membership of the Hopland Band of Pomo Indians shall consist of:

(a) All persons of Hopland Band Indian descent who were listed as distributees or dependent members of distributees in the Hopland Rancheria Plan for the Distribution of the Assets of the Hopland Reservation as approved by the Secretary on May 22, 1961.

(b) All lineal descendants of any person of Hopland Band Indian descent whose name appears as a distributee or dependent member of a distributee on the Plan for the Distribution of Assets of the Hopland Reservation as approved by the Secretary on May 22, 1961.

(c) All persons of Hopland Band Indian descent who have ever leased, owned, received, or were assigned land on the Hopland Reservation.

(d) All other persons of Indian descent who can to the satisfaction of the general council, demonstrate a substantial connection with the Hopland Reservation. The tribal council shall screen all applicants for acceptability under this clause and acceptance as members shall be subject to a majority vote of the general council at the next regularly scheduled meeting at which a quorum is present.

**Section 2.** A person who has been allotted or received a land use assignment on another reservation shall not be enrolled as a member of the Hopland Reservation; provided, however, that nothing in this section shall prevent a person who has inherited an allotment or land use assignment on another Indian reservation and who is

otherwise eligible for enrollment under this Article from being enrolled as a member of the Hopland Reservation.

**Section 3.** A person who is officially enrolled with or is a recognized member of some other tribe, reservation or rancheria shall not be enrolled unless such person relinquishes affiliation with such tribe, reservation or rancheria to the satisfaction of the tribal council. A "recognized member of another tribe, reservation or rancheria" is a person whose name is listed on the membership roll of another tribe, reservation or rancheria.

**Section 4.** The official membership roll shall be prepared in accordance with an ordinance adopted by the tribal council. Such ordinance shall contain provisions for enrollment and disenrollment procedures, enrollment committees, applications, rejection notice, appeals, corrections and provisions for keeping the roll on a current basis.

**Section 5.** Persons who have been refused membership for one reason or another or who are subject to loss of membership shall have the right to redress and to be heard before the general council of the Hopland Band of Pomo Indians. Such a hearing shall be conducted at the next regularly scheduled general council meeting at which a quorum is present. Upon the completion of such a redress hearing, the tribal council shall abide by the majority will and the decision of the general council shall be final.

#### **ARTICLE IV -- GOVERNING BODY**

**Section 1.** The governing body of the Hopland Band of Pomo Indians shall be the tribal council. The tribal council shall consist of seven (7) members elected from the

general council. Four (4) members shall constitute a quorum. The tribal council shall consist of a chairperson, vice-chairperson, secretary and a treasurer and three (3) members, each elected by the qualified voters in an election held in accordance with this Constitution. The chairperson, vice-chairperson, secretary, and treasurer shall be determined by the tribal council.

**Section 2. General Council.** The general council shall consist of all members of the Hopland Band of Pomo Indians who are eighteen (18) years of age or older and are duly registered to vote.

**Section 3. General Membership.** The general membership shall consist of all enrolled members of the Hopland Band of Pomo Indians.

## **ARTICLE V -- ELECTIONS**

**Section 1. Voter Qualifications.** All enrolled members of the Hopland Band of Pomo Indians who are eighteen (18) years of age or older and are duly registered pursuant to the Band's voter registration system shall be qualified voters. Residency shall not be a requirement of voting.

**Section 2. Qualifications of Candidates.** A candidate for the position of tribal council must be a qualified voter of the Hopland Band of Pomo Indians. Individuals convicted of a felony will not be permitted to serve on the tribal council unless the conviction has been expunged or pardoned. Residency shall not be a requirement for candidacy provided that the candidate is a resident of the State of California.

**Section 3.** All elections of the Band officials shall be by secret ballot.

**Section 4.** An election committee, appointed by the chairperson and confirmed by the tribal council, shall supervise and administer all elections in accordance with this Constitution. No person who holds any elective office, or is a candidate for such office, shall serve on the election committee.

**Section 5. First Elections.** The officers of the Hopland Band of Pomo Indians in office at the time of approval of this Constitution by the general membership shall hold office until their successors are duly elected and seated. The election committee shall hold a meeting as necessary for the purpose of nominating members to the tribal council. The date of such meetings shall coincide with the date of the first such meeting following the approval of this Constitution by a majority of the members of the Band voting on the Constitution at a special election, but shall be at least twenty-one (21) days prior to the date of the first election to elect officers under this Constitution. At the first election held under this Constitution, the chairperson, secretary, treasurer and one (1) member receiving the highest number of votes shall be elected for a period of two (2) years; the vice-chairperson and two (2) members of the tribal council shall be elected for a period of one (1) year. Thereafter, all terms of office shall be for four (4) years and elections shall be held as necessary in accordance with the tribal election ordinance and this Constitution.

**Section 6. Nominations.** The time, place and manner of nominations shall be specified in the election ordinance adopted pursuant to Section 7 of this Constitution.

**Section 7. Election Ordinance.** An election ordinance shall be adopted by the tribal council within one (1) year following the effective date of this Constitution. This Constitution will become effective when approved by a majority vote of the members of

the Band voting at a special election called for that purpose. Such ordinance shall include but not be limited to the following mandatory provisions: secret balloting, voter registration, nominations of candidates, absentee balloting, maintaining at all times a current list of qualified voters, screening of prospective candidates, and a procedure for resolving election disputes. Provisions shall also be included regarding the conduct of recall and referendum elections and a uniform procedure and format to be used for submitting petitions and shall describe how such petitions are to be determined valid. Elections to amend this Constitution shall be conducted in accordance with Article XIV of this Constitution.

## **ARTICLE VI -- REMOVAL, RECALL AND FORFEITURE**

**Section 1. Removal.** Any official found guilty by the tribal council of behavior involving misconduct reflecting on the dignity and integrity of the tribal government, malfeasance in office, or gross neglect of duty shall be removed from office if at least four (4) members of the tribal council vote in favor of such removal. Voting shall be by secret ballot and the chairperson shall be entitled to vote. If the accused is a member of the tribal council, the accused shall have the right to cast a secret ballot. Before any vote for removal is taken, such member or official shall be given a written statement of the charges against him/her at least ten (10) days before the meeting of the tribal council at which he/she is to appear and he/she shall be given an opportunity to answer any and all charges at the designated tribal council meeting. The decision of the tribal council shall be final. No member of the tribal council shall preside over the meeting at which his/her removal is being considered.

**Section 2. Recall.** Upon receipt of a valid petition signed by at least thirty percent (30%) of the registered voters of the Reservation, it shall be the duty of the tribal council to call and conduct within thirty (30) days a special election to vote on the recall of an elected official. The election shall be conducted pursuant to the election ordinance. If a majority of those actually voting favor the recall of the official, the office shall be declared vacant and filled in accordance with Article VII. No individual shall be subjected to recall more than once during his/her term of office.

**Section 3. Forfeiture.** After due notice, it shall be the duty of the tribal council immediately to declare vacant any position and to promptly fill such vacancy in the manner provided in Article VII when it is determined that the incumbent:

- (a) Has resigned.
- (b) Has been convicted while in office of a felony or crime of moral turpitude.
- (c) Has falsified his or her affidavit of qualifications of a felony or crime of moral turpitude when being certified as a candidate for tribal office.
- (d) Has been absent, without being excused by the respective body, for more than three (3) consecutive regular meetings; provided that the loss of office for such reason shall not serve to deny a person from becoming a candidate for office in subsequent elections.
- (e) Has ceased to reside physically in the State of California.

## ARTICLE VII – VACANCIES

**Section 1.** Any office which has been vacated, whether it be by removal, recall or forfeiture proceedings pursuant to Article VI of this Constitution, shall be filled as follows and such replacement shall serve the unexpired term of office:

(a) If the office is vacated during the first or second year of a term, then a special election shall be called for the purpose of filling the vacated office.

(b) If the office is vacated during the third or fourth year of a term, then the tribal council shall appoint the candidate who received the highest number of votes in the last tribal council election but did not win a seat on the tribal council so long as that candidate remains eligible to serve on the tribal council and agrees to fill the office.

**Section 2.** The tribal council shall enact an election ordinance establishing procedures for the filling of vacancies created by removal, recall or forfeiture proceedings undertaken pursuant to Article VI of this Constitution and for the purpose of carrying out the provisions of this article.

## ARTICLE VIII -- COUNCIL ENACTMENTS

**Section 1. Ordinances.** All final decisions on matters of general and permanent interest to members of the Reservation shall be embodied in ordinances, such as an enrollment ordinance or an election ordinance. Such enactments shall be available for inspection by members of the Band during normal office hours.

**Section 2. Resolutions and Motions.** All final decisions on matters of short term or one time interest where a formal expression is needed shall be embodied in resolutions. Other decisions of temporary nature or relating to particular individuals,



officials or committees shall be put in the form of motions and noted in the minutes and shall be available for inspection by members of the rancheria during normal office hours.

**Section 3. Codification of Ordinances and Resolutions.** All ordinances and resolutions shall be dated and numbered, and shall include a certification showing the presence of a quorum and the number of members voting for or against the proposed enactment and shall be signed by the Chairperson and attested to by the council secretary.

**Section 4.** No enactment of the tribal council or general council shall have any validity or effect in the absence of a quorum of the membership thereof at a legally called session.

**Section 5.** [Intentionally Deleted]

**Section 6.** Copies of all minutes, ordinances and resolutions shall be available for public inspection by members of the Band during normal office hours.

#### **ARTICLE IX -- POWERS OF THE TRIBAL COUNCIL**

**Section 1.** The tribal council shall exercise the powers and responsibilities provided by the Indian Reorganization Act of June 18, 1934 (48 Stat. 984) as amended by the Act of June 15, 1935 (49 Stat. 378) subject to any limitations imposed upon such powers by the statutes and laws of the United States.

(a) To preserve and protect the Constitution of the Hopland Band of Pomo Indians.

(b) To consult, negotiate, contract or conclude agreements with Federal, tribal, state and local governments, private businesses and individuals which may affect the Hopland Band of Pomo Indians.

(c) To employ legal counsel, the choice of counsel and fixing of fees.

(d) To manage, lease or otherwise operate all unassigned Reservation property and to control the use of and development on assigned Reservation lands. Toward this end the tribal council shall within one (1) year of the effective date of this Constitution submit for ratification to a referendum vote of the registered voters of the Band a land use assignment ordinance.

(e) To acquire property and to accept gifts.

(f) To join and/or charter tribal housing authorities.

(g) To charter business enterprises, corporations and associations.

(h) To prescribe rules and regulations governing future membership, loss of membership and adoption of members and towards this end the Tribal Council shall within ten (10) days from the date this Constitution is approved by the general membership, enact a tribal enrollment ordinance.

(i) To administer Reservation assets and manage all economic affairs and enterprises of the Band.

(j) To promote the peace, safety, health and general welfare of the members of the Band.

(k) To promulgate and adopt ordinances as needed as long as they do not conflict with this Constitution.

(l) To establish or join an Indian tribal judicial organization to deal with the Indian Child Welfare Act of 1978 (P.L. 95-608) and any other legal matters which may come within its jurisdiction, under Federal law.

**Section 2.** The tribal council shall have all the appropriate powers necessary to implement specific provisions of this Constitution and to effectively govern Reservation affairs. All powers heretofore vested in the Hopland Band of Pomo Indians but not specifically referred to in this Constitution shall not be abridged or lost by reason of their omission, but shall be reserved to and exercised by the general council.

**Section 3.** The tribal council shall not transfer trust land or interest therein out of Band ownership by any means unless prior to any such proposed transfer it is approved by the Secretary of the Interior and by a majority vote of the general council, provided that a quorum is present.

**Section 4.** Except as permitted below, the tribal council shall not pledge, mortgage, lease, grant licenses to use land (whether revocable or irrevocable) or otherwise encumber Reservation land or interest therein unless such action is approved by a vote of a majority of the general council voting in the questions, provided that a quorum is present.

Notwithstanding the provisions of Section 4 above, the tribal council may authorize the following encumbrances by a vote of a majority of the entire tribal council:

(1) grants of permission to members of the Band and qualified non-members in accordance provisions of this Constitution, to use specific portions of Reservation land for residential, agricultural, commercial or industrial purposes and (2) grants of rights-of-way over Reservation land or interest therein for the purpose of providing

municipal services, such as water, sewer disposal, electricity, telephone and roads to and for the benefit of Band members, or the heirs and descendants of Band members who hold a land use assignment or lease.

**Section 5.** The tribal council shall not develop on a commercial or industrial basis any natural resources on the Reservation without the consent of a majority vote of the general council, provided that a quorum is present.

**Section 6.** Sections 3, 4 and 5 of this article shall not be construed to deny to the tribal council its power and authority to regulate activities of Reservation land for the Band's general welfare, including but not limited to zoning, the regulation of commercial ventures, fishing, hunting and other sports activities, and for the purpose of promoting the health, safety, and welfare of Band members and the conservation and protection of Reservation resources.

## **ARTICLE X -- MEETINGS**

### **Section 1. Tribal Council Meetings.**

(a) **Regular Meetings.** Regular meetings of the tribal council shall be held on the third Saturday of each month at a place and time designated by the tribal council. The council secretary shall be responsible for telephoning or sending written notices to each member at least three (3) days in advance of the meeting if the regular date and place should have to be changed.

(b) **Special Meetings.** Special meetings of the tribal council may be called solely or shall be called by the chairperson upon the written request of at least four (4) council members provided that the reason for the meeting is stated in the request and

that each member of the council is given at least forty-eight (48) hours advance notice of any special meeting. Upon refusal by the chairperson to call a special meeting within forty-eight (48) hours of the written request of the council, the four (4) members who requested the special meeting may proceed to call and conduct the special meeting provided that a quorum is present. Notice of the special meeting must be given at least twenty-four (24) hours prior to the special meeting.

(c) **Quorum**. A quorum of the tribal council shall consist of four (4) members of the tribal council. No business shall be transacted unless a quorum is present.

## **Section 2. General Council Meetings.**

(a) **Annual Meetings**. The general council shall meet at least annually at a time, place and date designated by the tribal council. The council secretary shall be responsible for sending written notices to the membership at least ten (10) days in advance of the scheduled meeting.

(b) **Special Meetings**. Special meetings of the general council may be called at the discretion of the chairperson, provided, that in each instance a written notice, including the purpose of the meeting, is given at least seven (7) days in advance of the scheduled meeting.

Special meetings of the general council shall be called by the chairperson upon receipt of a valid petition signed by at least twenty-five percent (25%) of the qualified voters of the Band or by resolution of the tribal council, for the purpose of bringing special business or issues to the general council for discussion and/or enactment. The petition or resolution must state the purpose of the meeting. If, upon validation of the petition by the secretary, the chairperson does not call and notice the meeting within

fifteen (15) days after validation, the next highest ranking officer shall exercise such authority, and upon failure of any of the tribal council members to call and notice the special meeting, the petitioner spokesperson shall proceed to call, notice and conduct the special meeting; provided, that a quorum shall be required to validate actions taken at such meetings. Special meetings of the general council shall not be cancelled after the seven (7) day notice is given.

(c) **Quorum.** A quorum of the general council shall consist of twenty-five percent (25%) of the general council. No business shall be conducted unless a quorum is present except that a quorum shall not be required for the election of Band officials.

#### **ARTICLE XI -- BILL OF RIGHTS**

**Section 1.** All members of the Band shall enjoy without hindrance freedom of worship, conscience, speech, press, assembly and association.

**Section 2.** This Constitution shall not in anyway alter, abridge or otherwise jeopardize the rights and privileges of the members of the Band as citizens of the United States.

**Section 3.** The individual Property rights of any member of the Hopland Band of Pomo Indians shall not be altered, abridged or otherwise affected by the provisions of this Constitution.

**Section 4.** Band members shall have the right to review all council records, including financial records at any reasonable time in accordance with the procedures established by the tribal council.

**Section 5.** In accordance with the Act of April 11, 1968, the Indian Civil Rights Act, 82 Stat. 78, 25 U.S.C. Section 1301, 1303, the Hopland Band of Pomo Indians in exercising its powers of self-government shall not:

(a) Make or enforce any law prohibiting the full 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 any person in a criminal proceeding the right to a speedy trial, to be informed of the nature and cause of the accusation, to be confronted with the witness 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 conviction of any one offense, any penalty or punishment greater than imprisonment for a term of one year or a fine of \$5,000.00 or both.

- (h) Deny to any member of the Band the equal protection of its laws or deprive any person of liberty or property without due process of law.
- (i) Pass any bill of attainder or ex post facto law.
- (j) Deny any person accused of any offense punishable by imprisonment the right upon request to a trial by jury of not less than six (6) persons.

**Section 6.** Any provisions of Section 5 a-j that are inconsistent with the provisions of the Indian Civil Rights Act as amendment or repeal by Congress after passage of this Constitution shall be void.

## **ARTICLE XII -- DUTIES OF OFFICERS**

**Section 1.** Newly elected officers shall assume their respective office and duties immediately upon being elected.

**Section 2. Chairperson:**

- (a) The chairperson shall preside at all meetings of the tribal council. He/She may be bonded in an amount the tribal council designates by resolution.
- (b) He/She shall execute on behalf of the Hopland Band of Pomo Indians all contracts and other documents approved by the tribal council.
- (c) He/She shall have general supervision of all other officers, delegates and committees of the Hopland Band of Pomo Indians and see that their duties are properly performed, according to a personnel manual developed and approved by the tribal council.
- (d) When the tribal council is not in session, he/she shall be the official representative of the Hopland Band of Pomo Indians.



(e) The chairperson shall appoint or remove all committee members, subject to approval of the tribal council.

(f) The chairperson shall vote only in case of a tie vote at the tribal council meeting except as otherwise provided in Section 1 of Article VI of this Constitution.

**Section 3. Vice-Chairperson:**

The vice-chairperson, in the absence of the chairperson, shall have all the power and authority of the chairperson and may, if authorized by the chairperson, assist the chairperson in the performance of his/her duties.

**Section 4. Secretary:**

(a) The secretary shall keep the minutes of all tribal council meetings.

(b) Shall certify the enactment of all notices required by the Constitution.

(c) Shall receive and validate all petitions provided for in the Constitution of the Hopland Band of Pomo Indians on behalf of the tribal council.

(d) Shall attend to the giving of notices required by the Constitution.

(e) At the expiration of his/her term in office, all records and papers in his/her possession shall be turned over to his/her successor or the tribal council.

**Section 5. Treasurer:**

(a) Shall carry out the financial directives of the tribal council, receive monies of and for the Hopland Band of Pomo Indians and keep an accurate account of receipts and disbursement.

(b) Shall deposit funds in the Hopland Band of Pomo Indians' account in a local bank selected by the tribal council.

(c) Shall give a financial report at all tribal council meetings and all financial records shall be available for inspection by officers of the tribal council and members of the Hopland Band of Pomo Indians.

(d) He/She may be bonded in the amount the tribal council designates by resolution.

(e) At the expiration of his/her term in office, all records and papers in his/her possession will be turned over to his/her successor or the tribal council.

### **ARTICLE XIII -- JUDICIARY**

**Section 1.** The judicial power of the Band shall be vested in one (1) supreme court and in such other inferior courts as the tribal council may from time to time establish. The tribal court shall exercise jurisdiction over all cases and controversies within the Band's jurisdiction, in law and equity, whether civil or criminal in nature that arise under this Constitution, the laws of the Band or which is vested in the tribal courts by Federal law.

**Section 2.** There shall be established one (1) Supreme Court which shall consist of a chief judge and two (2) associate judges, appointed-by the chairperson of the tribal council and confirmed by not less than a three-fourths (3/4) majority vote of the tribal council.

**Section 3.** The duties and procedures of the court shall be determined by the tribal council by a duly enacted ordinance in accordance with this Constitution. The ordinance shall be adopted by the tribal council within one year from the date that this Constitution is approved by a majority vote of the members of the Band voting at a special election called for that purpose by the Secretary of the Interior.

**Section 4.** The tenure and salary of tribal judges shall be established by ordinance of the tribal council. No person shall be appointed to the office of tribal judge unless he or she is at least thirty (30) years of age and has never been convicted of a felony or, within one (1) year of receiving his or her appointment, of a misdemeanor under federal, state, or tribal law.

**Section 5.** In all criminal prosecutions, the accused shall enjoy the right to a speedy jury trial, to be informed of the nature and cause of the accusations, to be confronted with the witnesses against him, the right of cross-examination, to have compulsory process for obtaining witnesses in his or her favor, and to have the assistance of an advocate for his or her defense admitted to practice before the tribal courts.

**Section 6.** The tribal council shall sit as a court of appeals whenever necessary and may within its discretion hear appeals from the supreme court at any regular or special meetings. Whenever the tribal council sits as an appellate court its decision shall be final and binding upon all parties to the suit and not subject to review. The procedures of the tribal council sitting as an appellate court shall be determined by the tribal council at any regular or special meeting.

#### **ARTICLE XIV -- AMENDMENT**

**Section 1.** This Constitution may be amended by a majority vote of the qualified voters of the Hopland Band of Pomo Indians voting in an election called for that purpose provided at least thirty percent (30%) of those entitled to vote shall vote in such election.

**Section 2.** [Intentionally Deleted]

## **ARTICLE XV -- REFERENDUM**

**Section 1.** Upon presentation to the tribal council of a valid petition signed by thirty percent (30%) of the qualified voters, the tribal council shall either (1) adopt the provisions of the petition by ordinance, resolution or other appropriate action; or (2) provide that the issue presented by the petition be voted on within thirty (30) days by secret ballot at a regular or special election. The tribal council shall abide by the vote of the majority of the voters in any such election, provided that at least thirty percent (30%) of those eligible to vote have voted.

**Section 2.** No referendum shall be conducted that will abrogate, modify or amend any properly approved contracts or agreements with third parties who are not members of the Hopland Band of Pomo Indians.

## **ARTICLE XVI -- SEVERABILITY**

If any provision of this Constitution shall in the future be declared invalid by a court of competent jurisdiction, the invalid provision or provisions shall be severed and the remaining provisions shall continue in full force and effect.

## **ARTICLE XVII -- ADOPTION**

**Section 1.** This Constitution, in order to be effective, must be adopted by a majority vote of the qualified voters of the Hopland Band of Pomo Indians, voting at an election called for that purpose, provided that at least thirty percent (30%) of those entitled to vote shall vote in such election.

**ARTICLE XVIII -- CERTIFICATE OF RESULTS OF ELECTION**

[Intentionally Deleted]

**ARTICLE XIX -- CERTIFICATE OF APPROVAL**

[Intentionally Deleted]



**RESOLUTION NO. 09-08-25**

**A RESOLUTION OF THE ELECTION COMMITTEE OF THE HOPLAND BAND OF POMO INDIANS CERTIFYING THE RESULTS OF THE AUGUST 22, 2009 ELECTION TO AMEND THE HOPLAND BAND CONSTITUTION**

WHEREAS the Hopland Band of Pomo Indians is a federally recognized Indian tribe possessing the powers of self-government;

WHEREAS the Tribe adopted a written Constitution in 1981 that has been recognized by the Bureau of Indian Affairs and followed by the membership;

WHEREAS the Tribe has delegated to an Election Committee matters related to tribal elections;

WHEREAS the Election Committee conducted an election on August 22, 2009 to amend the Tribe's Constitution;

WHEREAS Article III, Section 1 of the Tribe's Constitution provided that all children born to any person of Hopland Band Indian descent listed on the 1961 distribution roll shall be a member of the Hopland Band and Amendment No. 1 on the official ballot proposed to amend this section to change "children born" to "lineal descendants";

WHEREAS this proposed Amendment No. 1 passed by a margin of 96 for and 15 against with a quorum voting;

WHEREAS Article V, Section 2 of the Tribe's Constitution provided that individuals convicted of a felony will not be permitted to run for tribal council and Amendment No. 2a on the official ballot proposed also precluding persons convicted of a crime of moral turpitude from serving on the tribal council;

WHEREAS this proposed Amendment No. 2a failed by a margin of 21 for and 90 against with a quorum voting;

WHEREAS Article V, Section 2 of the Tribe's Constitution provided that individuals convicted of a felony will not be permitted to run for tribal council and Amendment No. 2b on the official ballot proposed to amend this section to allow persons convicted of a felony to serve on the tribal council if the felony conviction has been expunged or pardoned;

WHEREAS this proposed Amendment No. 2b passed by a margin of 90 for and 21 against with a quorum voting;

WHEREAS Article VI, Section 3 of the Tribe's Constitution required the tribal council to declare vacant any position where the incumbent has been convicted while in office of a crime of dishonesty, has falsified his qualifications of a crime of dishonesty when being certified, or has missed three consecutive meetings and Amendment No. 3 on the official ballot proposed to amend this section by replacing crime involving dishonesty with felony or crime of moral turpitude and by clarifying that a person must miss three regular meetings;

WHEREAS this proposed Amendment No. 3 passed by a margin of 86 for and 25 against with a quorum voting;

WHEREAS Article VII, Section 1 of the Tribe's Constitution provided that the tribal council would fill any vacant seat by appointment and Amendment No. 4a on the official ballot proposed to clarify who may be appointed by providing that if the office is vacated in the first or second year of a term then a special election would be called but if the office is vacated in the third or fourth year of a term then the tribal council would appoint the person who received the most votes in the last election but did not win a seat;

WHEREAS this proposed Amendment No. 4a passed by a margin of 62 for and 49 against with a quorum voting;

WHEREAS Article VII, Section 1 of the Tribe's Constitution provided that the tribal council would fill any vacant seat by appointment and Amendment No. 4b on the official ballot proposed to clarify who may be appointed by providing that the tribal council would appoint the person who received the most votes in the last election but did not win a seat;

WHEREAS this proposed Amendment No. 4b failed by a margin of 37 for and 74 against with a quorum voting;

WHEREAS Article VIII, Section 5 of the Tribe's Constitution provided that certain resolutions and ordinances had to be submitted to the Secretary of Interior within ten days and Amendment No. 5 proposed to delete this section;

WHEREAS this proposed Amendment No. 5 passed by a margin of 84 for and 27 against with a quorum voting;

WHEREAS Article IX, Section 1(c) of the Tribe's Constitution provided that the hiring of legal counsel would be subject to approval of the Secretary of Interior if required by federal law and Amendment No. 6 on the official ballot proposed to delete any requirement for such approval;

WHEREAS this proposed Amendment No. 6 passed by a margin of 75 for and 36 against with a quorum voting;

WHEREAS Article IX, Section 3 of the Tribe's Constitution precluded the tribal council from transferring land out of Band ownership without Secretary of Interior approval and without a majority vote of the general council with at least forty-five persons of the general council voting and Amendment No. 7 on the official ballot proposed to clarify that this section applied to trust land and to change forty-five persons to quorum present;

WHEREAS this proposed Amendment No. 7 passed by a margin of 85 for and 26 against with a quorum voting;

WHEREAS Article IX, Section 4 of the Tribe's Constitution provided that the tribal council could not encumber Reservation land without Secretary of Interior approval and a majority vote of the general council provided that at least forty-five persons voted and Amendment No. 8 on the official ballot proposed to delete reference to the Secretary of Interior and change forty-five persons to quorum present;

WHEREAS this proposed Amendment No. 8 passed by a margin of 87 for and 24 against with a quorum voting;

WHEREAS Article IX, Section 5 of the Tribe's Constitution provided that that tribal council could not develop tribal natural resources without the consent of a majority of the general council with at least forty-five persons voting and Amendment No. 9 on the official ballot proposed to change forty-five persons to quorum present;

WHEREAS this proposed Amendment No. 9 passed by a margin of 90 for and 21 against with a quorum voting;

WHEREAS Article X, Section 1(a) of the Tribe's Constitution provided that regular tribal council meetings would be held on the second Sunday of each month and Amendment No. 10 on the official ballot proposed changing the meeting date to the third Saturday of each month;

WHEREAS this proposed Amendment No. 10 passed by a margin of 62 for and 49 against with a quorum voting;

WHEREAS Article XI, Section 5(g) of the Tribe's Constitution provided that the tribal court could not punish a defendant greater than six months in jail or a fine of \$500 and Amendment No. 11 on the official ballot proposed increasing those amounts to one year in jail and a fine of \$5,000;

WHEREAS this proposed Amendment No. 11 passed by a margin of 60 for and 51 against with a quorum voting;

WHEREAS Article XVIII of the Tribe's Constitution provided that the constitution would be submitted to the BIA for approval and Amendment No. 12 on the official ballot proposed deleting this section;



WHEREAS this proposed Amendment No. 12 passed by a margin of 71 for and 40 against with a quorum voting;

WHEREAS Article XIX of the Tribe's Constitution provided for approval and signature by the BIA of the Tribe's Constitution and Amendment No. 13 on the official ballot proposed deleting this section;

WHEREAS this proposed Amendment No. 13 passed by a margin of 75 for and 36 against with a quorum voting.

**NOW, THEREFORE, BE IT RESOLVED** that the Constitution of the Hopland Band of Pomo Indians is amended to read as follows with additions in italics and deletions in strike-out:

- A. Article III, Section 1. "As used in this section the word 'descent' shall mean a person who is a direct lineal descendant of a person who is racially a Hopland Indian. The membership of the Hopland Band of Pomo Indians shall consist of:
- (a) All persons of Hopland Band Indian descent who were listed as distributess or dependent members of distributess in the Hopland Rancheria Plan for the Distribution of the Assets of the Hopland Reservation as approved by the Secretary on May 22, 1961.
  - (b) All ~~children born to~~ *lineal descendants* of any person of Hopland Band Indian descent whose name appears as a distribute or dependent member of a distribute on the Plan for the Distribution of Assets of the Hopland Reservation as approved by the Secretary on May 22, 1961.
  - (c) All persons of Hopland Band Indian descent who have ever leased, owned, received, or were assigned land on the Hopland Reservation.
  - (d) All other persons of Indian descent who can to the satisfaction of the general council demonstrate a substantial connection with the Hopland Reservation. The tribal council shall screen all applicants for acceptability under this clause and acceptance as members shall be subject to a majority vote of the general council at the next regularly scheduled meeting at which a quorum is present."
- B. Article V, Section 2. "A candidate for the position of tribal council must be a qualified voter of the Hopland Band of Pomo Indians. Individuals convicted of a felony will not be permitted to *serve on the* ~~run for~~ tribal council *unless the conviction has been expunged or pardoned*. Residency shall not be a requirement for candidacy provided that the candidate is a resident of the State of California."
- C. Article VI, Section 3. "After due notice, it shall be the duty of the tribal council immediately to declare vacant any position and to promptly fill such vacancy in the manner provided in Article VII when it is determined that the incumbent:
- (a) Has resigned.
  - (b) Has been convicted while in office of a *felony or crime involving dishonesty of moral turpitude*.

(c) Has falsified his or her affidavit of qualifications of a *felony* or crime involving dishonesty of moral turpitude when being certified as a candidate for tribal office.

(d) Has been absent, without being excused by the respective body, for more than three (3) consecutive *regular* meetings; provided that the loss of office for such reason shall not serve to deny a person from becoming a candidate for office in subsequent elections.

(e) Has ceased to reside physically in the State of California.”

D. Article VII, Section 1. “Any office which has been vacated, whether it be by removal, recall or forfeiture proceedings pursuant to Article VI of this Constitution, shall be filled by appointment of the tribal council at its next meeting *as follows* and such replacement shall serve the unexpired term of office:

(a) *If the office is vacated during the first or second year of a term, then a special election shall be called for the purpose of filling the vacated office.*

(b) *If the office is vacated during the third or fourth year of a term, then the tribal council shall appoint the candidate who received the highest number of votes in the last tribal council election but did not win a seat on the tribal council so long as that candidate remains eligible to serve on the tribal council and agrees to fill the office.”*

E. Article VIII, Section 5. “~~Any resolution or ordinance which by the terms of this Constitution or Federal law requires the approval of the Secretary of Interior must be received by the local Bureau Superintendent or his designated representative no later than ten (10) days following its enactment in order to be considered for approval. It shall be the duty of the Secretary’s local representative to acknowledge receipt of such enactment, and provided that such enactment is not disapproved by the Secretary’s local representative, it shall on the ninety first (91<sup>st</sup>) day automatically become effective.”~~

F. Article IX, Section 1(c). “(c) To employ legal counsel, the choice of counsel and fixing of fees ~~to be subject to the approval of the Secretary of the Interior or his authorized representative so long as such approval is required by Federal law.”~~

G. Article IX, Section 3. “The tribal council shall not transfer *trust* land or interest therein out of Band ownership by any means unless prior to any such proposed transfer *it is* approved by the Secretary of the Interior and by a majority vote of the general council, provided that *a quorum is present* at least forty five (45) persons ~~who are entitled to vote are present and vote in said election.”~~

H. Article IX, Section 4. “Except as permitted *below* by subsection (b) of this section, the tribal council shall not pledge, mortgage, lease, grant licenses to use land (whether revocable or irrevocable) or otherwise encumber Reservation land or interest therein unless such action is approved by the Secretary of Interior and by a vote of a majority of the general council voting on the question, provided that *a quorum is present* at least forty five (45) persons ~~who are entitled to vote are present and vote in said election.”~~

- I. Article IX, Section 5. "The tribal council shall not develop on a commercial or industrial basis any natural resources on the Reservation without the consent of a majority vote of the general council, provided that *a quorum is present at least forty-five (45) persons who are entitled to vote are present and vote in said election.*"
- J. Article X, Section 1(a). "Regular meetings of the tribal council shall be held on a the ~~second Sunday~~ *third Saturday* of each month at a place and time designated by the tribal council. The council secretary shall be responsible for telephoning or sending written notices to each member at least three (3) days in advance of the meeting if the regular date and place should have to be changed."
- K. Article XI, Section 5(g). "(g) Require excessive bail, impose excessive fines, inflict cruel and unusual punishments, and in no event impose conviction of any one offense, any penalty or punishment greater than imprisonment for a term of ~~six (6) months~~ *one year* or a fine of ~~\$500.00~~ *\$5,000.00* or both."
- L. Article XVIII. "Pursuant to an order issued on July 13, 1984, by \_\_\_\_\_, Deputy Assistant Secretary — Indian Affairs (Operations), the Constitution of the Hopland Band of Pomo Indians of California was submitted for adoption to the qualified voters of the Rancheria and was on \_\_\_\_\_, 19\_\_\_\_, duly ~~adopted~~ *rejected* by a vote of \_\_\_\_\_ for, and \_\_\_\_\_ against, in an election in which at least thirty percent of the \_\_\_\_\_ (number) 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);

\_\_\_\_\_  
 \_\_\_\_\_ Chairman, Election Board  
 \_\_\_\_\_  
 \_\_\_\_\_ Election Board Member  
 \_\_\_\_\_  
 \_\_\_\_\_ Election Board Member"

- M. Article XIX. "I, \_\_\_\_\_, 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 D.M. 8.3, do hereby approve this Constitution of the Hopland Band of Pomo Indians of California.

\_\_\_\_\_  
 \_\_\_\_\_ Deputy Assistant Secretary —  
 \_\_\_\_\_ Indian Affairs (Operations)

\_\_\_\_\_ Washington, D.C.  
 \_\_\_\_\_ Date: \_\_\_\_\_"

**BE IT FURTHER RESOLVED** that the Election Committee hereby certifies the results of the August 22, 2009 election as set forth above for the purpose of amending the Tribe's Constitution; and

**BE IT FINALLY RESOLVED** that the Hopland Band of Pomo Indians shall take all necessary steps to ensure that the adopted amendments are immediately implemented and all necessary persons notified.

**CERTIFICATION**

We, Trina Vega, Committee Chair, and Alfredo "Joe" Carrillo, Committee Secretary, serving in our official capacities for the Hopland Band of Pomo Indians Election Committee, hereby certify that the foregoing Resolution was enacted by a vote of 5 in favor, 0 against, and 0 abstaining, at a duly-noticed meeting of the Election Committee with a quorum present held on 08-25-2009.

  
Trina M. Vega, Committee Chair

  
Alfredo "Joe" Carrillo, Committee Secretary