

CONSTITUTION OF THE NORTHWESTERN BAND OF THE SHOSHONE NATION

(Several Sections revised on November 7, 2006)

ARTICLE I – PREAMBLE

We, the members of the Northwestern Band of the Shoshone Nation of Washakie, Utah, in order to organize for the common good, to govern ourselves under our own laws and customs, to maintain our tribal culture, language, and religious beliefs, to protect our tribal land and to conserve and develop its natural resources, to exercise our right pursuant to the Treaty of Box Elder of 1868 (15 Stat. 663) and the Treaty of Fort Bridger of 1868 (15 Stat. 673) do establish and adopt the following constitution for the government, protection and common welfare of the Northwestern Band of the Shoshone Nation and the members thereof, pursuant to the Indian Reorganization Act of June 18, 1934 (48 Stat. 984), as amended)

ARTICLE II – JURISDICTION

The governmental powers of the Northwestern Band of the Shoshone Nation of Washakie, Utah, a federally recognized Indian Tribe, shall, consistent with applicable federal law and this constitution, extend to all persons, subjects and property, including natural resources within the exterior boundaries of lands held in trust for the band and to land held in trust for any of its members, not otherwise included within the boundaries of other Indian reservation lands, to any other lands hereafter acquired in trust for the band or to its members in the exercise of the treaty right to hunt and fish on the unoccupied lands of the United States pursuant to the Treaty of Fort Bridger of 1868 (15 Stat. 673).

ARTICLE III – MEMBERSHIP

Section 1 – Requirements. The membership of the Northwestern Band of the Shoshone Nation shall consist of all persons:

- (A) Whose names validly appear on the official tribal roll dated December 18, 1971, provided that, if necessary, corrections may be made by the tribal council of the Northwestern Band of the Shoshone Nation subject to the approval of the Secretary of the Interior, or
- (B) Who possess one-eighth (1/8) or more degree Northwestern Band blood quantum, have filed an application for enrollment with the appropriate tribal body, whose application has been approved in accordance with the tribal ordinance adopted under Section 2 of this article and whose name or names of a direct ancestor appears on one of the following rolls:
 - (1) Census rolls of the Washakie Sub-Agency of the Fort Hall jurisdiction dated January 1, 1937, by F.A. Gross, Superintendent of the Fort Hall Reservation; dated January 1, 1940, by F.A. Gross, Superintendent of the Fort Hall Reservation; dated March 10, 1954, and dated April 21, 1964; or
 - (2) Official tribal roll dated December 18, 1971.
- (C) “Northwestern Band Blood” means all Shoshone Indian blood derived from a direct ancestor named on any roll specified in paragraph (B) of this Section.

Section 2 – Ordinance. The tribal council shall have the power to enact ordinances establishing enrollment procedures including application procedures and procedures for making corrections to the December 18, 1971, roll as provided in Section 1 of this article. Individuals whose applications for membership are rejected shall have an opportunity to appeal the rejection. The tribal council may establish procedures for the adoption of persons as members who; do not meet the membership requirements. Adopted members shall not have any rights which accrue to tribal members.

Section 3 – Dual Enrollment Prohibition. No person who is or becomes enrolled as a member of another tribe may be a member of this tribe.

Section 4 – Relinquishment of Membership. A tribal member over eighteen years of age, or the guardian or parent of a minor, may request in writing relinquishment of membership in the band. Relinquishment shall occur upon acceptance by the tribal council and/or upon acceptance by the individual into another tribe.

ARTICLE IV – BRANCHES OF GOVERNMENT

The government of the Northwestern Band of the Shoshone Nation shall be composed of two separate and independent branches: the tribal council and the tribal judiciary.

ARTICLE V – TRIBAL COUNCIL

Section 1. The legislative and executive powers of the band shall be vested in and exercised by the tribal council.

Section 2. The tribal council shall consist of seven (7) members each elected at large by the eligible voters of the band for a term of four (4) years. Dates of tribal elections and staggered terms of office shall be specified in the tribe's election ordinance. The tribal council shall elect from its membership a chairperson, vice-chairperson, secretary and treasurer at the first council meeting following each tribal council election to serve for a two year term. If, after serving three months as Tribal Chairman, Vice-Chairman, Secretary, or Treasurer, an officer is not performing his/her duties and responsibilities in a satisfactory manner, the council may, by 2/3 vote, remove such officer and elect a member of the council to assume the vacated position.

ARTICLE VI – POWERS OF THE TRIBAL COUNCIL

Section 1 – Tribal Council Powers. The tribal council, as established in Article V hereof, shall be vested with all the executive and legislative powers of the tribe except as limited and enumerated in this constitution, or by applicable federal law, including the power to make and implement laws, and including such powers as may in the future be restored or granted to the band by the laws of the United States, or other authority. The executive and legislative powers of the council are vested in the council as a whole and

not in the individual members of the council, except as expressly enumerated in Article XIII of this constitution. In addition to all powers vested in any Indian tribe or tribal council by applicable law, the powers of the tribal council include the following: to employ legal counsel and fix legal counsel fees; to establish or approve the administrative structure of the tribe; to hire administrative staff, as determined by the council, to aid the council in carrying out its administrative responsibilities; to approve expenditures from tribal funds; to prevent the sale, disposition or encumbrance of tribal lands; approve leases and land exchanges; protect other tribal assets; to negotiate with and make intergovernmental agreements or compacts with federal, state, local and other tribal governments; to apply for grants from governmental agencies, foundations, corporations and non-profit entities; to create tribal corporation(s) to promote and create economic development for the tribe and its members; and to perform any and all other legislative and administrative functions not prohibited by this constitution or applicable law.

Section 2 – Limitations on Powers. This constitution, the ordinances of the band, and other enactments of the tribal council, not in conflict with this Constitution, shall be the supreme law of the band and all persons subject to its jurisdiction. The tribal council shall exercise its powers consistent with the provisions of this constitution, tribal ordinances and enactments, and applicable Federal Law.

ARTICLE VII – TRIBAL COURT

Section 1. The judicial power of the band is vested in a tribal judiciary that consists of a tribal court and an appellate court.

Section 2. The judicial powers of the court shall extend to all matters arising under this constitution or tribal enactments, including such powers as may in the future be granted or restored to the band by any law of the United States, or other authority, except as limited by this constitution.

Section 3. The duties and procedures of the tribal courts shall be established by ordinance of the tribe.

Section 4. The tribal council shall set forth by ordinance qualifications for trial and appellate judges, grounds for removal and procedures for filling vacancies. The council shall appoint persons to fill said positions for a term of two (2) years. Such appointments

may be renewed. No judge shall be removed during his/her term of office except for cause and only upon due notice and an opportunity for a hearing before the tribal council.

ARTICLE VIII – SOVEREIGN IMMUNITY

Section 1 – Suits against the Band in Tribal Court. The band shall be subject to suit for declaratory and injunctive relief in the tribal courts by persons subject to tribal jurisdiction for the purpose of enforcing rights and duties established by this constitution, by the ordinances of the band and by the Indian Civil Rights Act of 1968 (25 U.S.C. 1301 and 1302)

Section 2 – Immunity of Tribal Council Members and Employees. The members of the tribal council and employees acting within the scope of their authority or employment shall be personally immune from suit and said personal immunity shall extend beyond their term of office for actions occurring during said term.

Section 3 – Immunity of Band from Suit. Except as provided above, the band shall not waive any right which it has to immunity from suit in the courts of the band, the United States or of any state unless the waiver is expressly authorized by a majority of the tribal council in writing.

ARTICLE 1X – RIGHTS OF MEMBERS

Section 1 – Individual Rights. Each duly enrolled member of the Northwestern Band of the Shoshone Nation has the following rights:

- (A) The right to equal opportunity to participate in the economic resources and activities of the Northwestern Band of the Shoshone Nation.
- (B) The right to enjoy freedom of worship, conscience, speech, press, assembly and association, and other rights enumerated by the Indian Civil Rights Act of 1968 (25 U.S.C. 1301 et. seq.)
- (C) The right to exercise traditional rights and privileges of members of the Northwestern Band of the Shoshone Nation where not in conflict with other provisions of this constitution, tribal laws and ordinances, or Federal law.

ARTICLE X – INITIATIVE AND REFERENDUM

Section 1 – Initiative. The eligible voters of the Northwestern Band of the Shoshone Nation have the power to independently propose, appeal or amend ordinances, resolutions or other legislation affecting the band in accordance with the provisions of this article. Any proposed initiative measure will be presented to the tribal council accompanied by a petition signed by at least twenty percent (20%) of the eligible voters of the band. Upon receipt of the petition, the tribal council will, within thirty (30) days, either adopt without alteration the initiative measure by a majority vote or call a special election for the purpose of allowing the members of the band to vote on the initiative measure. The election shall be held within sixty (60) days from the date a valid petition is presented to the tribal council, provided that a general election is not scheduled within six (6) months of submission of a valid petition. Should a general election be scheduled to be held within six (6) months of submission of a valid petition, the tribal council with the concurrence of the election board may defer for economic reasons the holding of the initiative election until the regularly scheduled election, provided, that the subject matter of the election is not of priority nature. The decision of a majority of those actually voting in the election shall be conclusive and binding upon the tribal council, provided that at least forty percent (40%) of the qualified voters of the band cast ballots in the election.

In the event that the tribal council fails to act within thirty (30) days of the petition's receipt, the election board shall call and conduct a special election on the initiative question.

Section 2 – Referendum. The tribal council shall, either at the direction of the council itself, or upon receipt of a valid petition signed by at least twenty percent (20%) of the eligible voters, submit any proposed or previously enacted ordinances or tribal enactment to a referendum of the qualified voters of the band. The tribal council shall call a referendum within sixty (60) days from the date of receipt of a valid petition, provided that a general election is not scheduled to be held, within six (6) months of submission of a valid petition. Should a general election be scheduled to be held with six (6) months of

submission of a valid petition, the tribal council with the concurrence of the election board may defer for economic reasons the holding of the referendum election until the regularly scheduled election, provided the subject matter of the election is not of a priority nature. The decision of a majority of those actually voting in the referendum election shall be conclusive and binding upon the tribal council, provided that at least forty percent (40%) of the qualified voters of the band cast ballots in the election.

ARTICLE XI – RECALL, REMOVAL AND FORFEITURE

Section 1 – Recall from Office by Petition of Tribal Membership

- (A) At any time after being elected to the tribal council, any elected representative to the tribal council may be recalled from office by the eligible voters of the band for negligent or improper use of, or unlawful conversion of tribal property, equipment or funds; acceptance of gifts in exchange for influence or favors given in his or her official capacity; using his/her position as a council member to intimidate, coerce, or threaten any tribal member or employee of the tribe or its subsidiaries: unauthorized disclosure of confidential information from official records kept by the tribe; physical, mental or emotional incapability which prevents the councilman from performing his/her duties; destruction of tribal property; failure to attend tribal council meetings; neglect of duty or willful misconduct in office or conviction of a felony or class A misdemeanor.
- (B) The procedure to effect the recall of a tribal council member as verified by the tribal election board shall be as follows:
- (1) Upon receiving a written request for a petition to recall a council member, from an eligible tribal voter, the tribal council shall issue for circulation within five (5) business days a petition, with the date of issuance stated thereon, for recall of the tribal council member named in the request. Should the council fail to issue the petition within the time specified, the election board shall automatically issue the petition. Said petition must be filed with the tribal council within thirty (30) days of the issuance thereof and

must contain the valid signatures of thirty percent (30%) of the eligible voters of the band in order to be a valid petition.

- (2) The recall petition shall contain a detailed statement, not to exceed 200 words, of the charges and accusations against said council member the petitioner(s) believe constitute grounds for recall. The Council member subject to the recall petition shall have the right to attach a statement, if he/she so chooses, not to exceed two hundred (200) words to the recall petition justifying why he/she should not be recalled.
- (C) Upon the filing of a valid petition with the tribal council signed by thirty percent (30%) of the eligible voters, the tribal council member named therein shall be subject to a recall election.
- (D) Recall elections shall be held within thirty (30) days of the filing of a valid petition; provided, that if the petition is submitted within three (3) months of a special election, or general election, the tribal council may direct that the matter be placed on the ballot for that election.
- (E) In order to recall a tribal council member, fifty percent (50%) of the eligible voters shall cast ballots in the recall election and a majority of those voting shall vote in favor of the recall.
- (F) The election board shall certify the results of a recall election within five (5) business days of the election. If the requisite number of voters cast ballots in favor of the recall of a council member, the office shall be deemed vacated.

Section 2 – Removal from Office by the Tribal Council. The tribal council may by a two-thirds vote of all its members remove any tribal council member from the council for any of the reasons listed in Article XI, Section 1 (A), after notice and an opportunity to be heard by the council. Any member so removed has the right to appeal the removal to the tribal court within 30 days of the Council’s decision with full review by the court of the grounds and proceedings. The Tribal Court must issue a ruling within 15 days of the court hearing.

Section 3 – Automatic Forfeiture of Office. In the event of death, conviction of a felony or a Class A misdemeanor while in office or failure to attend three (3) consecutive

regular council meetings, the council member shall automatically forfeit his/her office and a vacancy shall be created.

ARTICLE XII – ELECTIONS

Section 1 – Voters. All enrolled members of the Northwestern Band of the Shoshone Nation who are eighteen (18) years of age or older have the right and privilege of voting in all tribal elections.

Section 2 – Manner of Vote. All Tribal elections shall be by secret ballot. Tribal elections may be conducted by absentee ballot or by voting at designated polling places. If elections occur at polling places, provision shall be made for those wishing to vote by absentee ballot, such ballots shall be made available to eligible voters no later than 15 days in advance of any election and ballots submitted by absentee voters shall be received no later than the scheduled day of the election. Absentee votes received after election day are invalid except for delays in mail service caused by a natural disaster or act of terrorism that adversely affects the delivery of mail as determined by the election board.

Section 3 – Tribal Council Elections. Candidates for tribal council shall be: (1) duly enrolled members of the Northwestern Band of the Shoshone Nation, (2) be at least twenty-one (21) years of age on the date of the election, (3) never have been convicted of a felony or a Class A misdemeanor in any court of competent jurisdiction; (4) never have been removed from the Council for offenses specified in Article XI Section 1 (A), (5) must be current on any payments or money owed to the tribe, or any of its subsidiaries on the filing deadline for candidacy; and (6) must be a resident of the state of Utah or Idaho. Candidates must file statements of their candidacy with the election board not less than forty-five (45) days before the election. Tribal members shall be informed of candidacies by the election board not less than thirty (30) days before the election. Each voter may cast one (1) vote for each vacancy at each election. The winner shall be chosen by plurality according to the rank order of votes received. In the event of a tie, the winner shall be chosen by a coin flip under the supervision of the election board.

Section 4 – Election Statute. The tribal council shall enact an ordinance consistent with the provisions of this article. The ordinance shall include provision for appointment by

the tribal council of a three-member election board. The members of the board shall serve for a three (3) year term and shall not be removed from office prior to their terms expiring, other than for cause. No person who holds an elective office or is a candidate for such office shall be eligible to serve on the election board. The election board shall supervise and conduct all tribal elections, verify petitions by tribal members and perform such other duties as are set out by the election ordinance. The ordinance shall provide for settlement of election disputes, including the right of appeal to the tribal court whose decision shall be final, shall define special elections and shall provide for participation by those who understand or prefer to speak the Shoshone language

Section 5 – Elections. The first tribal council election, following the adoption of this revised constitution shall be held in May of 2005 with the winners taking office in July of 2005. Enrolled tribal members, eligible to vote, shall elect three (3) tribal council members, who shall each serve for a (4) four year term. The four (4) candidates who received the highest number of votes in the April 2002 election shall serve a (4) four year term ending in June of 1997. All future tribal council elections shall be for (4) four year terms.

Section 6 – Vacancies. In the event that any elective tribal office becomes vacant, the tribal council shall appoint a qualified tribal member to fill the vacancy for the remainder of the term of the person vacating office within 30 days of the vacancy.

Section 7 – Appeal Rights. Any person who is certified as ineligible to seek elective office by the election board may appeal the election board's decision to the tribal council. The council will render a final decision on the appeal at least thirty-five (35) days before the election. A candidates right to appeal the election shall be spelled out in the Tribal Election Ordinance.

ARTICLE XIII – DUTIES OF OFFICERS

Section 1. The chairperson of the tribal council shall preside at all meetings of the tribal council and shall execute on behalf of the band all contracts, leases or other documents approved by the tribal council. He/She shall have general supervision of all other officers and council members, employees and committees of the band and see that their duties are properly performed in accordance with all tribal laws, policies and procedures. The chairperson may assign council members as liaison to various tribal administrative

programs for the purpose of keeping the council informed about the functioning and activities of the various programs and to make recommendations to the council concerning the various programs. Council liaisons may, by council enactment, perform specifically designated administrative duties and functions not inconsistent with the provisions of this constitution. When the tribal council is not in session, the chairperson shall be the official representative of the Northwestern Band of the Shoshone Nation.

Section 2. The vice-chairperson of the tribal council shall assist the chairperson when called upon to do so, and in the absence of the chairperson, preside in the chairperson's place. When so presiding, he/she shall have all the rights, privileges, duties and responsibilities of the chairperson.

Section 3. The Secretary of the tribal council shall keep a complete and accurate record of all matters transacted at council meeting, or see that this responsibility is carried out by appropriate staff of the council. The secretary shall be responsible to see that the records of the council are kept in a safe place and that they are open to inspection during regular business hours by any tribal member. The secretary shall assure that notices of tribal council meetings are issued and posted prior to the meetings. At the expiration of his/her term of office, all tribal records and documents in the secretary's possession or under the secretary's care or custody shall be turned over to the tribal council.

Section 4. The treasurer shall accept, receive, receipt for, preserve and safeguard all funds in the custody of the tribal council or provide for the supervision of such by the tribes chief financial officer. The treasurer, or chief financial officer, under the supervision of the treasurer, may invest excess funds controlled or managed by the council in government securities or other instruments guaranteed by the government of the United States against loss. The treasurer shall deposit, or provide for the deposit of all tribal funds in such banks or other financial institutions that are approved by the tribal council. The treasurer shall pay out or provide for the pay out of funds in possession of the tribal council when properly authorized by the council as a whole. The treasurer shall be responsible for an annual audit of tribal funds and assets by a competent auditor. The treasurer and other tribal personnel authorized to receive, expend or invest tribal funds shall be required to give bond satisfactory to the council, the premium to be paid from tribal funds. At the expiration of his/her term of office, all records and documents in the treasurer's custody shall be turned over to the tribal council.

ARTICLE XIV – CONDUCT OF BUSINESS

Section 1 – Procedure of the Tribal Council. The tribal council shall hold meetings and take actions in accordance with the following procedures which it may add to by its own rules of procedures so long as such rules are consistent with the provisions of this constitution. The tribal council shall provide in its rules of procedure for the order of business at tribal council meetings and for the keeping of a journal of its proceedings.

Section 2 – Meetings of the Tribal Council.

- (a) Regular meetings of the tribal council shall be held each month at a time and place to be set by the tribal council.
- (b) Special meetings of the tribal council may be called by the chairperson at his/her discretion, but the chairperson shall call a special meeting upon written request of three (3) or more members of the tribal council.
- (c) Emergency meetings of the tribal council may be called as provided for in the rules of procedure. Council members shall be present for purposes of an emergency meeting if said member or members are in communication by telephone with the tribal council at the time the decision and vote are taken.
- (d) The removal of a council member shall only be conducted at a regular meeting.

Section 3- Agenda. The agenda shall be set by the chairperson provided that it shall include any items submitted upon the written request of three (3) or more members of the council.

Section 4 – Quorum. Four (4) members of the tribal council shall constitute a quorum. Matters of business shall be decided by a vote of four (4) in favor except where otherwise provided by the constitution. Voting shall be by roll-call vote and the ayes, nays and abstention shall be recorded in the minutes.

Section 5 – Participating in meetings. All meeting of the tribal shall be open to membership of the Northwestern Band of the Shoshone Nation and their families, provided, however, that the tribal council shall recess at its discretion to discuss and matter in a closed or executive session. At meetings of the tribal council and general council, only members may vote and participate, provided, the tribal council may invite non-members to attend and/or participate at any meeting.

Section 6 – Ordinances. All final decisions of the tribal council on matters of general and permanent interest to the tribal members of the band shall embodied in ordinances. The ordinances shall be collected and made available to tribal members and others affected.

Section 7 – Resolutions. All final decisions of the tribal council on matters of temporary interest shall be embodied in resolutions. The resolutions shall be collected and made available to tribal members and others affected.

Section 8 – Motions. All questions of procedure shall be decided by a motion duly passed or by the ruling of the chairperson if no objection is heard.

Section 9 – Conflict of Interest. No tribal council member shall vote on any matter wherein he/she, or a member of his/her immediate family, has a direct personal interest including, but not limited to, employment contracts, project funding and appointments to tribal committees. For purposes of this section, “Immediate family member” shall mean father, mother, brother, sister, spouse or child.

Section 10 – Minutes of Meetings. Written minutes shall be kept of all tribal council proceedings. The minutes shall be open to inspection by interested members of the Northwestern Band of the Shoshone Nation.

Section 11 – General Tribal : General tribal meetings shall be held annually. The date, time and place shall be established by the tribal council by ordinance. Notice of the meeting and the rules of procedure shall be provided for by ordinance. The purposes of the meeting shall be to discuss general tribal business including a financial report and the status of tribal programs.

ARTICLE XV – TRIBAL LANDS

Section 1 – Land Use Ordinance. The tribal council shall, by ordinance consistent with Federal law, establish the procedures and circumstances whereby tribal members and nonmembers may use specified parcels of land within the tribe’s jurisdiction for public, educational, recreational, residential, business, commercial, industrial, religious, or agricultural purposes.

Section 2 – Land Use Assignment. Permission to use tribal land for residential purposes shall be by land use assignment in accordance with the land ordinance. Permission to use tribal lands shall be a right granted only to the person designated in the land use assignment. Such permission for use of tribal lands cannot be transferable by the permittee during his or her lifetime. Upon death of the person holding the land use assignment, the assignment will be reassigned accordance to regulations and procedures established by ordinance. No tribal member shall receive more than one residential assignment.

ARTICLE XVI – AMENDMENTS TO THE CONSTITUTION

This constitution may be amended by a majority vote of the eligible voters of the Northwestern Band of the Shoshone Nation voting in an election called for that purpose by the Secretary of the Interior, provided that at least forty percent (40%) of the eligible voters shall vote in said election, but no amendment shall become effective until it has

been approved by the Secretary of the Interior. The election shall be conducted in accordance with the rules and regulations set forth by the Secretary of the Interior. It shall be the duty of the Secretary of the Interior to call an election on any proposed amendment at the request of the tribal council or upon the presentation to the Secretary of the Interior of a valid petition signed by at least thirty-three percent (33%) of the eligible voters of the tribe. The Secretary of the Interior may not propose amendments to this constitution.

ARTICLE XVII – ADOPTION OF THE CONSTITUTION

This constitution when adopted by a majority vote of the qualified voters of the Northwestern Band of the Shoshone Nation voting in an election called for that purpose by the Secretary of the Interior, in which at least forty percent (40%) of those entitled to vote shall vote, shall be submitted to the Secretary of the Interior for his approval and shall be effective upon the date of approval

ARTICLE XVIII – SEVERABILITY

If any provision of this constitution is, in the future, declared invalid by a court of competent jurisdiction, the invalid portion will be severed and the remaining provisions will continue in full force and effect

ARTICLE XIX

CERTIFICATE OF RESULTS OF ELECTION

Pursuant to an order issued December 6, 2006, by the Northwest Regional Director, Bureau of Indian Affairs, Portland Oregon, by virtue of the authority granted to the Secretary of the Interior of the United States, by the Act of June 18, 1934 (48 Stat. 984), as amended, and delegated to me pursuant to 209 DM 8, 230 DM 1, 3 IAM 4, 4A do hereby approve the foregoing Amendments: Amending the spelling from Shoshoni Nation to Shoshone Nation in all sections of the constitution, Article I Preamble, Article II Jurisdiction, Article III Membership, Article IV Branches of Government, Article IX Rights of Members, Article X Initiatives and Referendum, Article XI Recall Removal and Forfeiture, Article XII Elections, Article XIII Duties of Officers, Article XIV Conduct of

Business, Article XVI Amendments to the Constitution, Article XVII Adoption of the Constitution. These Amendments were adopted by a majority of the qualified voters of the Northwestern Band of Shoshone Nation at an election held November 7, 2006.


Northwest Regional Director
Bureau of Indian Affairs
Portland, Oregon

Date DEC 20 2006