

UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF INDIAN AFFAIRS



CONSTITUTION AND BY-LAWS
OF THE
DUCKWATER SHOSHONE TRIBE
OF THE
DUCKWATER RESERVATION
NEVADA



APPROVED NOVEMBER 28, 1940



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Office
William Harvey
of Quaker
Shawano
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CONSTITUTION AND BY-LAWS OF THE DUCKWATER SHOSHONE TRIBE OF THE DUCKWATER RESERVATION, NEVADA

PREAMBLE

We, the Shoshone Indians residing on lands proclaimed on November 13, 1940, to be an Indian reservation, which shall be known hereafter as the Duckwater Reservation, in order to establish a tribal organization, to conserve our tribal property, to develop our resources, to administer justice, and to promote the welfare of ourselves and our descendants, do hereby ordain and establish this Constitution and By-laws for the Duckwater Shoshone Tribe.

ARTICLE I—NAME AND TERRITORY

SECTION 1. The name of this organized body shall be the Duckwater Shoshone Tribe.

SEC. 2. The jurisdiction of the Duckwater Shoshone Tribe shall include all the territory within the confines of the Duckwater Reservation as established by the Proclamation dated November 13, 1940, and shall extend to such other lands as may hereafter be acquired by the Duckwater Shoshone Tribe or by the United States in trust for said Tribe.

ARTICLE II—MEMBERSHIP

SECTION 1. The membership of the Duckwater Shoshone Tribe shall consist of the following:

(a) All Shoshone Indians of at least one-half degree Indian blood who may be designated by the Secretary of the Interior as eligible for residence on lands purchased heretofore or hereafter for the benefit of the Duckwater Shoshone Tribe.

(b) Any other person of at least one-half degree of Shoshone blood whose name appears on the Carson Agency census of the Duckwater Shoshone Indians who applies in writing to the Duckwater Tribal Council.

(c) All children of at least one-half degree of Shoshone Indian blood born to any member of the Tribe.

SEC. 2. The Tribal Council shall cancel the membership of any adult person who makes application to sever his tribal relation, and thereafter such person shall cease to hold membership in the Tribe.

SEC. 3. The Tribal Council shall have power to promulgate ordinances subject to review by the Secretary of the Interior, governing adoption and loss of membership.

ARTICLE III—GOVERNING BODY

SECTION 1. The governing body of the Duckwater Shoshone Tribe of the Duckwater Reservation shall be a council known as the Duckwater Tribal Council.

SEC. 2. The Tribal Council shall consist of five members duly elected to serve three years, two members being elected each year except that every third year one shall be elected.

SEC. 3. The Council so organized shall elect from within its own number, (1) a chairman; (2) a vice chairman; and from within or without, (3) a secretary; and (4) a treasurer; and may appoint or employ such other officers or committees as may be deemed necessary.

SEC. 4. The first election of the Tribal Council hereunder shall be called, held and supervised by the Superintendent of the Carson Agency and the Constitutional Committee within sixty days after ratification and approval of this Constitution.

The two candidates receiving the highest number of votes shall hold office for three years; the two next highest, two years; and the next highest, one year, and they shall hold office until their successors are duly elected and qualified. After the first election, elections for the Tribal Council shall be called at least sixty days prior to expiration of terms of office of the members of the Tribal Council.

SEC. 5. In all elections after the first election, no person shall be a candidate for membership in the Tribal Council unless he shall be a member of the Duckwater Shoshone Tribe of the Duckwater Reservation, and shall have resided on the Reservation for a period of one year next preceding the election, and be at least twenty-five years of age.

SEC. 6. The Tribal Council of the Duckwater Shoshone Tribe shall be the sole judge of the qualifications of its members.

ARTICLE IV—NOMINATIONS AND ELECTIONS

SECTION 1. The Tribal Council or an election board appointed by the Council shall determine rules and regulations governing all elections.

SEC. 2. All elections shall be by secret ballot.

SEC. 3. Any qualified member of the Duckwater Shoshone Tribe may announce his or her candidacy for the Tribal Council, such announcement to be in writing and presented to the Secretary of the Tribal Council at least ten days before the election. It shall be the duty of the Secretary to post in a public place at least ten days before the election the names of all candidates for the Tribal Council.

SEC. 4. The Tribal Council or the election board appointed by the Tribal Council shall certify to the election of the members of the Tribal Council within five days after the election returns.

SEC. 5. Any member of the Duckwater Shoshone Tribe 21 years of age or over, who has maintained legal residence on the reservation for at least one year immediately prior to any election, shall have the right to vote, provided that at the first election the one-year residence rule shall not apply.

ARTICLE V—VACANCIES AND REMOVAL FROM OFFICE

SECTION 1. If a councilman or an official shall die, resign, be removed or recalled from office, permanently leave the reservation, or be found

guilty of a felony or misdemeanor involving dishonesty in any Indian, State or Federal court, the Tribal Council shall declare the position vacant and an election shall be held to fill the unexpired term.

SEC. 2. The Tribal Council may by four affirmative votes remove any official or expel any member of the Council for neglect of duty or gross misconduct. Before any such vote is taken on the matter, the member or official shall be given a written statement of the charges against him at least five days before the meeting of the Tribal Council before which he is to appear, and he shall be given an opportunity to answer any and all charges at such designated Council meeting. The decision of the Tribal Council shall be final.

SEC. 3. Upon receipt of a petition signed by one-third of the eligible voters calling for the recall of any member of the Council, it shall be the duty of the Council to call an election on said recall petition. No member may be recalled in any such election unless at least 30 percent of the legal voters shall vote at such election.

ARTICLE VI—DUTIES AND POWERS OF THE TRIBAL COUNCIL

SECTION 1. *Enumerated Powers.*—The Duckwater Tribal 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 Duckwater Shoshone Tribe.

(b) To employ legal counsel for the protection and advancement of the rights of the Duckwater Shoshone Tribe, 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 longer period than permitted by law, 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 Duckwater Shoshone Tribe of the Duckwater Reservation 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 Duckwater Shoshone Tribe within the Duckwater Reservation; 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 reservation for the purpose of hunting, fishing, trading, or other business, and for the exclusion from the reservation of all persons not so licensed; and providing for the establishment of proper agencies for law enforcement within the jurisdiction of the Tribe.

(g) To charter subordinate organizations for economic purposes and to delegate to such organizations, or to any subordinate boards or officials of the Tribe, any of the foregoing powers, reserving the right to review any actions taken by virtue of such designated power.

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

SEC. 2. Future Powers.—The Duckwater Shoshone Tribe may exercise such further powers as may in the future be delegated to the Council by members of the Tribe 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 eligible to reside on the Duckwater Reservation in accordance with the Proclamation of November 13, 1940, but not expressly referred to in this Constitution, shall not be abridged by this Article, but may be exercised by the people of the Duckwater Reservation 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 same bearing his endorsement to the Secretary of the Interior, who may, within ninety 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 majority vote, refer the ordinance or resolution to the Secretary of the Interior, who may, within ninety 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 Duckwater Shoshone Tribe now held or hereafter acquired by the Duckwater Shoshone Tribe, or by the United States in trust for said tribe, shall be held as tribal lands and shall be used in accordance with a land-use agreement entered into between the Tribe and the Secretary of the Interior, and no part of such lands shall be mortgaged or sold. Tribal lands shall not be allotted to individual Indians, but agricultural lands may be assigned

to members of the Tribe or otherwise used by the Tribe as hereinafter provided.

Sec. 2. In any assignments of tribal lands which are now owned by the Tribe or which may hereafter 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 who are entirely landless and secondly, to heads of families who have received assignments consisting of less than an economic unit of agricultural land, or other land or interest in land. The Tribal Council may, if it sees fit, charge a land-use fee in accordance with the terms of the land-use agreement entered into by the Tribe and the Secretary of the Interior. At least fifty percent of the proceeds of such fees will be deposited in a fund to be expended, with the approval of the Secretary of the Interior, for the purchase of additional tribal land.

Assignments made under this section shall be for the primary purpose of establishing homes for landless Indians and shall be made in accordance with the terms of the land-use agreement entered into by the Tribe and the Secretary of the Interior.

Sec. 3. If any member of the Tribe holding an assignment of land shall, for a period of one year, fail to use the land so assigned, the assignment shall be cancelled by the Council after due notice and an opportunity to be heard is granted, and the said land may be reassigned in accordance with the provisions of Section 2 of this Article. Revocation of an assignment may be appealed by the assignee to the Commissioner of Indian Affairs, who shall upon receiving such an appeal establish a board composed of three members, one member to be named by the applicant, one by the Tribal Council, and a third member to be chosen by the first two, provided that this third member shall not be a member of the Tribe and shall not be an employee of the Carson Indian Agency. The decision rendered by this Board of Appeals shall be final. In case the two members first named fail to agree on a third member, the Commissioner of Indian Affairs shall make the appointment.

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 Duckwater Shoshone Tribe who would be eligible to receive an assignment.

Sec. 4. 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 at least two conspicuous places on the reservation for not less than twenty 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 assignment 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.

Any member of the Tribe or the Superintendent may protest to the Commissioner of Indian Affairs against the action of the Council on an assignment application within 30 days after such action has been taken. Upon receiving such a protest, the Commissioner shall authorize the creation of a Board of Appeals, one member to be named by the person making the protest, one to be named by the Tribal Council, and a third member to be chosen by the first two, provided that the third member shall not be affiliated with the Tribe and shall not be employed in the Indian Service. In case the two members first named fail to agree on a third member, the Commissioner of Indian Affairs shall make the appointment. The decision rendered by this Board of Appeals shall be final.

ARTICLE IX—REFERENDUM

Upon receipt of a petition signed by at least ten qualified voters of the Duckwater Shoshone Tribe, a referendum may be demanded on any enacted or proposed ordinance or resolution of the Council, and the vote of a majority of the qualified voters voting in such referendum shall thereafter 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 Duckwater Shoshone Tribe of the Duckwater Reservation, voting at an election called for that purpose by the Secretary of the Interior; *Provided*, That at least 30 percent of those entitled to vote shall vote at 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 percent of the qualified voters, members of the Tribe.

BY-LAWS OF THE DUCKWATER SHOSHONE TRIBE

ARTICLE I—DUTIES OF OFFICERS

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

SEC. 2. The Vice-Chairman shall assist the chairman, when called upon so to do, and in the absence of the chairman, he shall preside. When so presiding, he shall have all the privileges, duties and responsibilities of the chairman.

SEC. 3. The Secretary of the Tribal Council shall conduct all correspondence and keep a complete and accurate record of all matters transacted at Council meetings. It shall be his duty to submit promptly to the Superintendent of the Carson Indian Agency and the Commissioner of Indian Affairs, copies of all minutes of regular and special meetings of the Tribal Council and the Tribe.

SEC. 4. The duties of the 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. Until the Treasurer is bonded, the Council may make such provision for the handling of funds of the Tribe 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 official, 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 Tribal Council shall be held four times yearly in the months of January, April, July and October, and at such other times as the Council shall by resolution provide, the exact day of meeting to be fixed by resolution.

SEC. 8. Special meetings may be called by written notice signed by the chairman, or by a majority of the Council, and when so called, the Council shall have power to transact business as in regular meetings. 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. 9. Order of business:

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

SEC. 10. The Tribal Council may prescribe such salaries and expenses for officers or members of the Council as may be deemed advisable, from such funds as may be available.

ARTICLE II—ORDNANCES AND RESOLUTIONS

SECTION 1. All final decisions of the Council on matters of general and permanent interest to the members of the Tribe, 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 adoption 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 be made to secure a unanimous agreement.

SEC. 4. Every ordinance shall begin with the words, "Be it enacted by the Duckwater Tribal Council—". Every resolution shall begin with the words, "Be it resolved by the Duckwater Tribal Council—".

ARTICLE III—ADOPTION OF CONSTITUTION AND BY-LAWS

This Constitution and By-laws shall be in full force and effect whenever a majority of the Shoshone Indians residing on the Duckwater Reservation, Nevada, in accordance with the Proclamation of November 13, 1940, voting at an election called by the Secretary of the Interior in which at least 30 percent 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, the 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 Duckwater Shoshone Tribe of the Duckwater Reservation.

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 will be inapplicable to these Indians from and after the date of their adoption thereof.

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

Approval recommended: November 26, 1940.

F. H. DAIKER,

Assistant to the Commissioner of Indian Affairs.

OSCAR L. CHAPMAN,
Assistant Secretary.

[SEAL]

WASHINGTON, D. C., November 28, 1940

CERTIFICATION OF ADOPTION

Pursuant to an order, approved November 28, 1940 by the Assistant Secretary of the Interior, the attached Constitution and By-laws was submitted for ratification to the Indians of the Duckwater Reservation

and was on November 30, 1940, duly approved by a vote of 36 for, and 0 against, in an election in which over 30 percent 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.

OLIVER IKE,
Chairman, Election Board.
BROWNIE SAM,
Secretary, Election Board.

DON C. FOSTER,
Superintendent, Carson Agency.

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AMENDMENT TO CONSTITUTION AND BY-LAWS OF THE DUCKWATER SHOSHONE TRIBE OF THE DUCKWATER RESERVATION, NEVADA

AMENDMENT I.

Article V, Section 1 of the Constitution and By-laws shall be amended to read as follows:

"SEC. 1. If a councilman or an official shall die, resign, be removed from or recalled from office, permanently leave the reservation, or be found guilty of a felony or misdemeanor involving dishonesty in any Indian, State or Federal court, the Tribal Council shall declare the position vacant and an election shall be held to fill the unexpired term, provided, however, that in case the councilman or official is called to some branch of the Armed Forces of the United States of America, a vacancy shall be declared and an appointment made by the Council to fill that vacancy only until the person involved is released from the Armed Forces or until his term would have expired under ordinary conditions, whichever event occurs first. Upon returning to the reservation the person involved shall resume former duties."

CERTIFICATION OF ADOPTION

Pursuant to an order, approved March 20, 1944, by the Assistant Secretary of the Interior, the attached amendment to the Constitution and By-laws of the Duckwater Shoshone Tribe of the Duckwater Reservation, Nevada, was submitted for ratification to the qualified voters of the Duckwater Shoshone Tribe and was on April 7, 1944, duly ratified by a vote of 20 for and 2 against, in an election in which more than 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).

ANDY THOMPSON,
Chairman, Duckwater Tribal Council.

RAYMOND GRAHAM,
Secretary, Duckwater Tribal Council.

RALPH M. GELVIN,
Superintendent, Carson Agency.

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 amendment to the Constitution and By-laws of the Duckwater Shoshone Tribe of the Duckwater Reservation, Nevada.

Approved recommended: April 29, 1944

PAUL L. FICKINGER,
Acting Commissioner.

[SEAL]

OSCAR L. CHAPMAN,
Assistant Secretary.

WASHINGTON, D. C., June 6, 1944.