



BIG SANDY RANCHERIA

**Constitution
Of The
Big Sandy Band Of Western Mono Indians**

**37387 Auberry Mission Road
PO Box 337
Auberry, CA 93602**

**Constitution
of the
Big Sandy Band of Western Mono Indians**

PREAMBLE

We, the adult members of the Big Sandy Band of Western Mono Indians, also known as the San Joaquin Band of Indians, hereinafter referred to as the tribe, in order to establish tribal governmental powers and privileges, do hereby ordain and establish this constitution.

ARTICLE I - TERRITORY

The jurisdiction of the tribe shall extend to all those lands as shown on the map of Fresno County Tract No. 2060 recorded at pages 89, 90, and 91 in volume 22 of plats, Fresno County Records, and to all Indian country (as now defined by 18 U.S.C. § 1151) held by or for the benefit of the Tribe or any member of the Tribe, wherever located.

(as amended by Amendment No. II, Resolution No. 0405-01G)

ARTICLE II - MEMBERSHIP

Section 1. The membership of the tribe shall consist of the following:

- (a) All persons of California Indian descent who were listed as distributees or as dependent members of distributees in the Plan for the Distribution of the Assets of the Big Sandy (Auberry) Rancheria as approved by the Under Secretary of the Interior on February 17, 1965, and amended on January 24, 1967.
- (b) Direct lineal descendants or individuals who qualify under (a) of this section.

Section 2. No person who is enrolled with the Big Sandy Band of Western Mono Indians shall also be a member of another tribe, band or community of Indians. Any persons so dually enrolled shall relinquish membership in the other tribe or be disenrolled, provided nothing in this provision shall be construed in any way to require the relinquishment of any property acquired by purchase, allotment, bequest, inheritance, assignment, or other manner of acquisition.

Section 3. The general council shall have the power to adopt ordinances consistent with this constitution governing future membership, loss of membership and the adoption of members into the tribe.

ARTICLE III - GOVERNING BODY

Section 1. The governing body of the Big Sandy Band of Western Mono Indians shall be a five (5) member tribal council. The tribal council shall consist of a chairperson, vice-chairperson, secretary, treasurer and one (1) member each elected by a majority vote of the qualified voters of the tribe in an election in which at least thirty percent (30%) of the qualified voters have voted. In the event that no candidate receives a majority of the votes cast or in the event that thirty percent (30%) of the voters fail to participate in the election, a subsequent election shall be held within thirty (30) days. Should it be necessary to hold a subsequent election, the two (2) candidates receiving the highest number of votes for each position shall be the only candidates for that office at such election.

Section 2. The general council shall consist of all members of the Big Sandy Band of Western Mono Indians eighteen (18) years of age or older.

Section 3. Other officials or committees may be appointed by the tribal council when deemed necessary.

ARTICLE IV - NOMINATIONS AND ELECTIONS

Section 1. The officers of the Big Sandy Band of Western Mono Indians in office at the time of approval of this constitution shall, hold office until their successors are duly elected and installed. The first election under this constitution shall be held on the second Wednesday in September of 1986 and the officials elected shall hold office for two (2) years. Thereafter, elections shall be held every two (2) years on the second Wednesday in September.

Section 2. Any enrolled member of the tribe who is at least eighteen (18) years of age at the time of the election shall be entitled to vote and hold office regardless of residency. Absentee voting shall be permitted.

Section 3. Any qualified voter of the general council shall announce his/her candidacy for the tribal council no later than thirty (30) days prior to an election. The list of candidates shall be posted at the tribal office. In the event an insufficient number announce their candidacy, a general council meeting shall be called and convened to accept nominations.

Section 4. The candidate receiving the highest number of votes for a particular office shall hold that office.

Section 5. The general council shall adopt an election ordinance within six (6) months following the effective date of this constitution. The ordinance shall include secret balloting, voter registration, maintenance at all times of a current list of qualified voters and a procedure for handling election disputes and appeals. Procedures shall also be included regarding the conduct of recall and referendum elections and a uniform procedure and format for submitting and validating petitions. Elections to amend this constitution shall be conducted in accordance with Article XIV.

ARTICLE V - VACANCIES AND REMOVAL

Section 1. If a member of the tribal council shall die, resign or be absent from regular council meetings two (2) successive unexcused times or three (3) unexcused times in any twelve (12) month period, the council shall declare the position vacant, if a member of the tribal council shall be convicted by a court of competent jurisdiction of a felony while in office, the council shall declare the position vacant by a majority vote of the council members. If less than twelve (12) months of a term remains, the council shall fill the vacancy by appointment of a tribal member who qualifies for candidacy. A special election shall be called to fill vacated positions when more than twelve (12) months remain in the unexpired term.

Section 2. The tribal council may, by three affirmative votes, expel any officer or tribal council member who is proven guilty of improper conduct or of gross neglect of duty, provided the accused official is given written notification of charges at least ten (10) days prior to the designated tribal council meeting. Before any vote for expulsion is taken in the matter, such officer or member shall be given an opportunity to answer all written charges at a designated tribal council meeting called for that purpose. The decisions of the tribal council shall be final. Voting shall be by secret ballot and the chairman is eligible to vote.

ARTICLE VI - POWERS OF THE TRIBAL COUNCIL

Section 1. Enumerated Powers. The tribal council shall exercise the following powers and responsibilities subject only to those limitations imposed by this constitution and the laws of the United States;

- (a) To consult and negotiate with Federal, State, local and tribal governments and other agencies on behalf of the tribe on all matters which may affect the Big Sandy Band of Western Mono Indians or the Big Sandy Rancheria; and to advise the Secretary of the Interior on all federal projects for the benefit of the tribe or the Rancheria.
- (b) To promote the health, education and general welfare of the members of the tribe and to administer charity and other services as may contribute to the social and economic advancement of the tribe and its members.
- (c) To encourage and foster arts, crafts, traditions and culture of the tribe.
- (d) To promulgate and enforce resolutions or ordinances, providing for the manner of making, holding and revoking assignments of Big Sandy Rancheria land; providing for the levying of taxes and the appropriation of available tribal funds for public purposes; providing for the licensing of non tribal members, and for the exclusion of persons who are not so licensed or are otherwise undesirable, from the Big Sandy Rancheria or other tribal lands.
- (e) To promulgate and enforce ordinances on such subjects as the activity of the tribe may require as are not inconsistent with this constitution.
- (f) To borrow money and provide for the repayment thereof, manage all economic affairs and enterprises, negotiate and contract on behalf of the tribe, and create tribally-owned corporations.
- (g) To initiate, approve, grant or reject any acquisition, disposition, lease, or encumbrance of tribal lands or property; to manage, protect and preserve all lands,

- minerals, wildlife and other natural resources of the Big Sandy Rancheria; to initiate and administer land development projects for the entire Rancheria.
- (h) To create and maintain a reasonable tribal fund for administrative expenses of the tribe and to provide for remuneration of tribal council members and tribal officials as may be required, to administer any funds or property within the control of the tribe for the benefit of the tribe and its members, officers or employees; and to allocate tribal funds as loans or grants and to transfer tribal property and other assets to tribal organizations for such use as the tribal council may determine.
 - (i) To employ legal counsel on behalf of the tribe, the choice of counsel and fixing of fees to be subject to the approval of the Secretary of the Interior or his authored representative so long as such approval is required by Federal law.
 - (j) To sue and be sued on behalf of the tribe provided such suit is consented to by waiver of sovereign immunity; provided, no waiver of sovereign immunity shall be made by the tribal council without the express prior approval by a majority of the general council, voting thereon at a meeting duly called and noticed for that express purpose, or at a regularly scheduled meeting.
 - (k) Employ consultants for the protection and advancement of the interest of the tribe and its members.
 - (l) To form or join existing tribal courts, consortiums or Indian organizations dealing with Indian Child Welfare Act of 1978 (25 U.S.C. 1901 *et seq.*) and to reassume jurisdiction over Indian child custody proceedings as authorized by the Indian Child Welfare Act (25 U.S.C. 1918).
 - (m) To establish a tribal judicial system, define its jurisdiction and promulgate tribal court rules.
 - (n) To create and regulate subordinate organizations; and to delegate to such organizations, or to any subordinate boards or officials of the Auberry Big Sandy Rancheria, any of the foregoing powers, reserving the right to review and rescind any action taken by virtue of such delegated powers.
 - (o) To form or join an existing housing authority.

Section 2. The tribal council shall have all of the appropriate powers necessary to implement specific provisions of this constitution and to effectively govern tribal affairs. All powers heretofore vested in the tribe, but not specifically referred to in this Constitution, shall not be abridged, but shall be reserved to the people of the tribe and may be exercised through appropriate amendment to this constitution.

ARTICLE VII - DUTIES OF OFFICERS

Section 1. The chairperson of the tribal council shall preside at all meetings of the general council and of the tribal council, and shall execute on behalf of the tribe all contracts, leases or other documents approved by the tribal council. He/she shall have general supervision of all other officers, employees and committees of the tribe and see that their duties are properly performed. When neither the general council nor the tribal council is in session, he/she shall be the official representative of the Big Sandy Band of Western Mono Indians.

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, he/she shall preside. When presiding,

he/she, shall have all the rights, privileges, and duties as well as responsibilities of the chairperson.

Section 3. The secretary of the tribal council shall conduct all tribal correspondence, keep a complete and accurate record of all matters transacted at council meetings and attest to the enactment of all resolutions and ordinances. At the expiration of his/her term of office, all records and papers in his/her possession shall be turned over to his/her successor or the tribal council.

Section 4. It shall be the duty of the treasurer of the tribal council to accept, receive, receipt for, preserve and safeguard all funds in the custody of the council. As directed by the tribal council, he/she shall deposit all such funds in such banks or elsewhere, where depositor's funds are insured by the Federal Deposit Insurance Corporation. He/she shall not pay out nor authorize disbursement of any funds in his/her possession or custody or in the possession or custody of the council, except when properly authorized to do so by a majority vote of the tribal council. The books and records of the treasurer shall be audited at least once a year by a competent auditor. The treasurer shall be required to give bond satisfactory to the council. The premium for such bond shall be paid from tribal funds.

Section 5. The duties of all appointive committees or officials of the band shall be clearly defined by the tribal council at the time of their creation or appointment. Such committees and officers shall report on their activities and decisions from time to time as required by the tribal council. Their actions and decision shall be subject to review by the tribal council.

Section 6. Newly-elected members who have been duly certified shall be installed at the first regular meeting of the tribal council following certification.

ARTICLE VIII - MEETINGS

Section 1. Regular meetings of the tribal council shall be held on the last Saturday of each month, or at such other times as the tribal council may by resolution provide, on a day to be determined by the tribal council. Special meetings may be called by written notice signed by the chairperson, and shall be called by him upon receipt of a petition signed by at least three (3) tribal council members, and when so called the tribal council shall have the power to transact business as in the regular meetings, provided a quorum is present.

Section 2. The general council shall meet quarterly on the last Sunday of each third month. Special meetings of the general council may be called by the chairperson and/or shall be called by him upon receipt of a petition signed by at least thirty percent (30%) of the members of the general council.

Section 3. No tribal business shall be transacted at regular or special meetings unless a quorum is present. A quorum of the tribal council is three (3) members. For general council meetings a quorum is fifteen percent (15%) of the qualified voters.

Section 4. Order of Business
(a) Call to Order by Chairperson
(b) Roll Call

- (c) Reading of Minutes of Last Meeting
- (d) Unfinished Business
- (e) Reports
- (f) New Business
- (g) Adjournment

ARTICLE IX - REFERENDUM AND INITIATIVE

Section 1. Referendum. The tribal council shall, upon receipt of a petition signed by not less than thirty percent (30%) of the qualified voters, submit any enacted or proposed tribal legislation to a referendum of the eligible voters. The decision of a majority of the voters voting in the referendum shall be final and binding on the tribal council provided that at least thirty percent (30%) of the qualified voters have voted in such election. The tribal council shall call the referendum within thirty (30) days from the date of the receipt of a valid petition. The vote shall be by secret ballot.

Section 2. Initiative. The qualified voters of the tribe reserve the power to independently propose tribal legislation. Any proposed initiative measure shall be presented to the tribal council accompanied by a petition signed by not less than thirty percent (30%) of the eligible voters of the general council. Upon receipt of such a petition, the tribal council shall call a special election for the purpose of allowing the members of the tribe to vote on the initiative measure. The election shall be held within thirty (30) days from the date a valid petition is presented. The initiative shall be final and binding provided that at least thirty percent (30%) of the qualified voters have voted in such an election.

ARTICLE X - RECALL

Section 1. Recall. Upon receipt of a petition signed by at least thirty percent (30%) of the qualified voters of the tribe demanding a recall of any member of the tribal council, it shall be the duty of the tribal council to call a special election on the question of the recall within thirty (30) days from the date of the filing of the valid petition. The elections shall be held in the manner prescribed in an election ordinance in accordance with Article IV, Section 5. Should the tribal council fail to call an election within thirty (30) days, the office shall automatically be vacant and shall be filled in accordance with Article V, Section I. The decision of a majority of the voters voting in the recall shall be final provided at least thirty percent (30%) of the qualified voters voted. Once an individual has been subjected to recall proceedings, he/she shall not again be subject to such action during the balance of his/her term of office.

ARTICLE XI - ORDINANCES AND RESOLUTIONS

Section 1. All final decisions of the tribal council on matters of general and permanent 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 tribal employees, or rules of order for the council) shall be embodied in resolutions or ordinances.

Section 2. All questions of procedure (such as acceptance of committee reports, or invitations to outsiders to speak) shall be decided by action of the tribal council, or by the ruling

of the chairperson, if no objection is heard. On all ordinance, resolutions, or motions the tribal council may act by a majority of those present.

Section 3. All ordinances and resolutions shall be dated and numbered and shall include certification showing the presence of a quorum and the number of members voting for or against the proposed enactment. No action of the tribal council shall have any validity or effect in the absence of a quorum.

ARTICLE XII - BILL OF RIGHTS

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

Section 2. This constitution shall not in any way alter, abridge, or otherwise jeopardize the rights and privileges of the members of the tribe as citizens of the State of California or the United States.

Section 3. The individual property rights of any member of the Big Sandy Band of Western Mono Indians shall not be altered, abridged or otherwise affected by the provisions of this constitution.

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

Section 5. In accordance with Title II of the Indian Civil Rights Act of 1968 (82 Stat. 77), the Big Sandy Band of Western Mono 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 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;
- (e) Take any private property for a public use without just compensation;
- (f) Deny to any person in a criminal proceeding the right to a speedy trial, to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor, and, at his own expense, to have the assistance of counsel for his defense;
- (g) Require excessive bail, impose excessive fines, inflict cruel and unusual punishments, and in no event impose for conviction of any one offense any penalty or punishment greater than imprisonment for a term of six (6) months or a fine of \$500 or both;

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

ARTICLE XIII - 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 XIV - AMENDMENTS

Section 1. This constitution may be amended by a majority vote of the qualified voters of the Big Sandy Band of Western Mono Indians, voting in an election called for that purpose by the Tribal Council, provided that at least thirty percent (30%) of those entitled to vote shall vote in such election.

Section 2. It shall be the duty of the Tribal Council to call an election on any proposed amendment at the request of the General Council or upon receipt of a petition signed by at least thirty percent (30%) of the qualified voters of the Big Sandy Band of Western Mono Indians.


ARTICLE XV - ADOPTION


Section 1. This Constitution when adopted by a majority vote of the qualified voters of the Big Sandy Band of Western Mono Indians, voting at an election called for that purpose by the tribal council in which at least thirty percent (30%) of those entitled to vote shall vote, and shall be effective from the date of its approval.

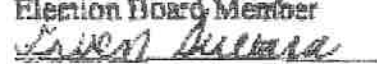
(as amended by Amendment No. I, Resolution No. 0603-03)

ARTICLE XVI - CERTIFICATE OF RESULTS OF ELECTION

Pursuant to an order issued February 11, 2000, by Loren Baty, Chairperson, Big Sandy Band of Western Mono Indians, the Constitution of the Big Sandy Band of Western Mono Indians of the Big Sandy Rancheria of California was submitted to the qualified voters of the tribe, and was on February 21, 2000 duly adopted/rejected by a vote of 44 for, and 0 against, in an election in which at least thirty percent (30%) of the 169 entitled to vote cast their ballots in accordance with Article XIV of this constitution.



 Kenneth L. Simple
 Chairperson, Election Board


 Kenneth Simple
 Election Board Member


 Loren Baty
 Election Board Member

ARTICLE XVII - CERTIFICATE OF APPROVAL

We, the Big Sandy Rancheria Tribal Council, do hereby approve this Constitution of the Big Sandy Band of Western Mono Indians in accordance with Article XV of this constitution. It is effective as of this date, provided that nothing in this approval shall be construed as authorizing any action under this document that would be contrary to Federal law.

John W. Baly
Chairman, Tribal Council

2/21/00
Date

Willy Ch. Dore
Vice-Chair, Tribal Council

2/21/2000
Date

Regina Bates
Secretary, Tribal Council

2/21/00
Date

Jeanette L. Smith
Treasurer, Tribal Council

2/21/00
Date

Margaret Margary
Member-at-Large, Tribal Council

2/21/00
Date

**Big Sandy Rancheria
Resolution 0603-03
Amendment of the Constitution**

WHEREAS; the Big Sandy Rancheria is recognized by the United States Government as an Indian Tribe, located within the State of California; and

WHEREAS; the Tribal Council withdrew the clause regarding the Secretary of the Interior reviewing the constitution of Big Sandy Rancheria; and

WHEREAS; the Tribal Council concludes that the election held on February 11, 2000 was certified by the election committee and approves by a majority quorum set by the General Council; and

WHEREAS; the actions undertaken amend the constitution are valid under tribal law.

NOW, THEREFORE, BE IT RESOLVED, the Tribe Constitution of the Big Sandy Rancheria Stands Amended.

CERTIFICATION

The Tribal Council of the Big Sandy Rancheria hereby certifies this request at a duly called meeting on the 18th day of June, 2003. The vote is as follows:
5 FOR, 0 AGAINST, and 0 ABSTAIN.


Connie Lewis, Tribal Chair


Pearl Hutchins, Vice-Chair


Phyllis Lewis, Treasurer


Maria Sylvas, Secretary


Fred Bary, Member-at-Large



BIG SANDY RANCHERIA

GENERAL COUNCIL RESOLUTION

RESOLUTION NO. 0405-01 G OF THE BIG SANDY BAND OF WESTERN MONO INDIANS GENERAL COUNCIL

Constitutional Amendment Amendment II

RECITALS

WHEREAS, the Big Sandy Band of Western Mono Indians is a federally recognized Indian tribe (the "Tribe") and possesses all rights, powers and privileges attendant thereto; and

WHEREAS, the governing body of the Tribe is a five-member Tribal Council (the "Tribal Council") pursuant to the Constitution of the Big Sandy Band of Western Mono Indians, adopted on February 11, 2000, as amended (the "Constitution"); and

WHEREAS, the Constitution was properly amended, as stated in the June 12, 2003, Resolution No. 0603-03, to eliminate the Secretary of the Interior's mandatory review and approval of the Constitution and any amendments thereto; and

WHEREAS, Article XIV, Sections 1 and 2 of the Constitution permits amendments if a majority of the General Council votes in favor of such amendment at an election called for that purpose by the Tribal Council, provided at least thirty per cent (30%) of eligible voters participate in such election; and

WHEREAS, a duly called General Council meeting was convened to consider a second amendment to the tribal Constitution, at Article I, to clarify the extent of the Tribe's governmental power and jurisdiction and ability to provide tribal governmental and federally-funded tribal services to no less than the fullest extent permitted under federal law; and

WHEREAS, the General Council has considered the proposed amendment authorized herein and has determined that it is in the best interest of the Tribe and will assist in

improving the social, economic and health conditions of tribal members while strengthening the Tribe's overall political self-determination and economic self-sufficiency.

NOW THEREFORE, BE IT RESOLVED THAT The Constitution of the Big Sandy Band of Western Mono Indians, adopted on February 11, 2000, as amended, stands amended as follows (which amendment shall hereinafter be referred to as "Amendment II"):

The ~~territorial~~ jurisdiction of the tribe shall extend to all those lands as shown on the map of Fresno County Tract No. 2060 recorded at pages 89, 90, and 91 in volume 22 of plats, Fresno County Records, and to ~~such other lands as may be hereafter acquired by or for the tribe~~ all Indian country (as now defined by 18 U.S.C. § 1151) held by or for the benefit of the Tribe or any member of the Tribe, wherever located.

AND BE IT FURTHER RESOLVED THAT the Constitutional amendment acknowledged and ratified in Resolution No. 0603-03 on June 12, 2003, to eliminate the need for review and approval of the Constitution by the Secretary of the Interior, shall hereinafter be referred to as "Amendment I."

CERTIFICATION

We, the undersigned Tribal Council members, do hereby certify that the foregoing resolution was adopted by the General Council of the Big Sandy Band of Western Mono Indians of California, by a vote of 41 for, 25 against, with 3 abstaining, at a duly called meeting held on March 28, 2005, where a quorum was present.

Connie Lewis
Connie Lewis, Tribal Chairperson

Pearl A. Hutchins
Pearl Hutchins, Vice Chairperson

Regina Riley
Regina Riley, Secretary

Phyllis Lewis
Phyllis Lewis, Treasurer