




WHITE EARTH RESERVATION

CHAIRMAN Michael Fairbanks **SECRETARY-TREASURER** Leonard Alan Roy
DISTRICT I Raymond Auginaush, Sr. **DISTRICT II** Kathy Goodwin **DISTRICT III** Eugene "Umsy" Tibbetts

November 4, 2019

MEMORANDUM

TO: Band Members, White Earth Reservation

FROM: Alan Roy, Secretary/Treasurer 

SUBJECT: Petition Process: Blood Quantum, MCT Land Transfer, Other

Band Members,

Pursuant to Article VI, and as related to Article XIV, of the Revised Constitution and Bylaws of the Minnesota Chippewa Tribe (MCT), this Memorandum is being delivered at the request of Band members regarding Referendums and the Petition process of the MCT. As this request directly affects the MCT, Tribal members should contact the MCT Executive Director for further details and the approved petition process. However, Band members have contacted the office of the Secretary/Treasurer for initial guidance. The guidance is issued with the understanding that White Earth is a Band of the MCT and that White Earth Band members are Tribal members of the MCT.

Generally, for Tribal members that wish to initiate a petition, the Ordinance Implementing Constitutional Petitions, provides "uniformity and standards for the submission and processing of petitions requesting the Tribal Executive Committee...to call a referendum under Article XIV..." The Ordinance outlines the process for petitions. Section 2.3.1.1 clarifies that, "A petition under Article XIV must be filed within one (1) year of the effective date of the resolution or ordinance that is the subject of the petition."

As related to the MCT Land Transfer (Resolution 96-19), a petition may cause a referendum vote. For blood quantum change, a proposed resolution could be introduced with an accompanying qualified petition to cause a referendum vote.

Article XIV, Section 1 states that, "The Tribal Executive Committee, upon receipt of a petition by 20 percent of the resident voters of the Minnesota Chippewa Tribe...shall submit any enacted or proposed resolution or ordinance of the Tribal Executive Committee to a referendum of the eligible voters of the Minnesota Chippewa Tribe. The majority of the votes cast in such referendum shall be conclusive and binding on the Tribal Executive Committee. The Tribal Executive Committee shall call such referendum and prescribe the manner of conducting the vote."

Accordingly, a petition may be introduced on the following subjects:

1. Minnesota Chippewa Tribe Land Transfer: Resolution 96-19

- a. MCT Tribal members may submit a qualified petition for referendum if the action is complete prior to April 24, 2019 as the resolution was approved on that date (Section 2.3.1.1 applies due to the one-year rule). The completed qualified petition should be submitted to the Tribal Executive Committee (TEC) by the next Regular meeting to be held on January 31, 2019 for action.
- b. Once the petition is accepted for action under the Ordinance Implementing Constitutional Petitions, the TEC shall call such referendum and prescribe the manner of conducting the vote.
- c. It is recommended that the referendum be held concurrently with the 2020 Primary or General Election for each Band of the MCT to avoid budgetary issues and to answer public demand.
- d. Prior to TEC action, it is recommended that a schedule be produced with the MCT Executive Director to make sure the petition is qualified, accepted, and submitted to the TEC on January 31, 2020 to call such referendum and to prescribe the manner of conducting the vote.
- e. It is recommended that the petition specifies and calls for those MCT lands located outside of the exterior boundaries of each Band of the MCT as the subject for referendum.

2. Blood Quantum Change: Resolution (Pending/Proposed)

- a. MCT Tribal members may submit a qualified petition for referendum related to blood quantum change if the action is complete prior to January 31, 2019 as a proposed resolution would need to be submitted for approval of the TEC on that date (Article XIV, Section 1: proposed resolutions may be submitted for referendum). Proposed resolutions may be submitted by a TEC member along with membership and a qualified petition. The completed petition should be submitted to the TEC by the next Regular meeting to be held January 31, 2019 for action.

- b. Once the petition is accepted for action under the Ordinance Implementing Constitutional Petitions, the TEC shall call such referendum and prescribe the manner of conducting the vote.
- c. It is recommended that the referendum be held concurrently with the 2020 Primary or General Election for each Band of the MCT to avoid budgetary issues and to answer public demand.
- d. Prior to TEC action, it is recommended that a schedule be produced with the MCT Executive Director to make sure the petition is qualified, accepted, and submitted to the TEC on January 31, 2020 to call such referendum and to prescribe the manner of conducting the vote.
- e. The proposed resolution must meet the constitutional requirements for Tribal membership under Article II of the Revised Constitution and Bylaws of the MCT. Article II is further clarified by the MCT Enrollment Ordinance which would be updated if the resolution seeks to change blood quantum. It is recommended that the resolution be narrow in scope and leaves long-term Article II (enrollment) questions to the MCT Constitutional Delegates as a Constitutional Amendment would require a Secretarial Election.
- f. It is recommended that the proposed resolution references ideas from the recent 1941 blood quantum correction approved by the TEC on October 30, 2019. Over 1,000 individuals were recognized as full bloods as they were wrongfully listed as less than full bloods on the 1941 membership roll. Wrongful blood quantum calculations are rampant in the MCT enrollment database. This decision by the TEC clearly showed that the TEC has the authority to determine its own membership criteria and that it can make necessary changes to blood quantum by resolution.
- g. Accompanied and authorized by a qualified petition, a proposed constitutionally compliant resolution would have similar effect.

3. Other Proposals

- a. See subject 2 (Blood Quantum Change) as the process would be nearly the same.

The Administration is directed to publish a public notice of this Memorandum with the attachment(s) on the website and by written copy of this Memorandum at the Reservation Business Committee building entrance and Administration desk entrance.

To better facilitate the petition process, please contact your elected official on how they can help with the MCT Land Transfer and Blood Quantum change.

Please contact my office or the MCT Executive Director for further questions.

cc: RBC
Executive Director
Tribal Attorney
Executive Coordinator
Minnesota Chippewa Tribe

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Minnesota Chippewa Tribe Constitution

REVISED CONSTITUTION AND BYLAWS OF THE MINNESOTA CHIPPEWA TRIBE, MINNESOTA

PREAMBLE

We, the Minnesota Chippewa Tribe, consisting of the Chippewa Indians of the White Earth, Leech Lake, Fond du Lac, Bois Forte (Nett Lake), and Grand Portage Reservations and the Nonremoval Mille Lac Band of Chippewa Indians, in order to form a representative Chippewa tribal organization, maintain and establish justice for our Tribe, and to conserve and develop our tribal resources and common property; to promote the general welfare of ourselves and descendants, do establish and adopt this constitution for the Chippewa Indians of Minnesota in accordance with such privilege granted the Indians by the United States under existing law.

ARTICLE I - ORGANIZATION AND PURPOSE

Section 1. The Minnesota Chippewa Tribe is hereby organized under Section 16 of the Act of June 18, 1934 (48 Stat. 984), as amended.

Sec. 2. The name of this tribal organization shall be the "Minnesota Chippewa Tribe."

Sec. 3. The purpose and function of this organization shall be to conserve and develop tribal resources and to promote the conservation and development of individual Indian trust property; to promote the general welfare of the members of the Tribe; to preserve and maintain justice for its members and otherwise exercise all powers granted and provided the Indians, and take advantage of the privileges afforded by the Act of June 18, 1934 (48 Stat. 984) and acts amendatory thereof or supplemental thereto, and all the purposes expressed in the preamble hereof.

Sec. 4. The Tribe shall cooperate with the United States in its program of economic and social development of the Tribe or in any matters tending to promote the welfare of the Minnesota Chippewa Tribe of Indians.

ARTICLE II – MEMBERSHIP

Section 1. The membership of the Minnesota Chippewa Tribe shall consist of the following:

- (a) Basic Membership Roll. All persons of Minnesota Chippewa Indian blood whose names appear on the annuity roll of April 14, 1941, prepared pursuant to the Treaty with said Indians as enacted by Congress in the Act of January 14, 1889 (25 Stat. 642) and Acts amendatory thereof, and as corrected by the Tribal Executive Committee and ratified by the Tribal Delegates, which roll shall be known as the basic membership roll of the Tribe.
- (b) All children of Minnesota Chippewa Indian blood born between April 14, 1941, the date of the annuity roll, and July 3, 1961, the date of approval of the membership ordinance by the Area Director, to a parent or parents, either or both of whose names appear on the basic membership roll, provided

an application for enrollment was filed with the Secretary of the Tribal Delegates by July 4, 1962, one year after the date of approval of the ordinance by the Area Director.

- (c) All children of at least one quarter (1/4) degree Minnesota Chippewa Indian blood born after July 3, 1961, to a member, provided that an application for enrollment was or is filed with the Secretary of the Tribal Delegates or the Tribal Executive Committee within one year after the date of birth of such children.

Sec. 2. No person born after July 3, 1961, shall be eligible for enrollment if enrolled as a member of another tribe, or if not an American citizen.

Sec. 3. Any person of Minnesota Chippewa Indian blood who meets the membership requirements of the Tribe, but who because of an error has not been enrolled, may be admitted to membership in the Minnesota Chippewa Tribe by adoption, if such adoption is approved by the Tribal Executive Committee, and shall have full membership privileges from the date the adoption is approved.

Sec. 4. Any person who has been rejected for enrollment as a member of the Minnesota Chippewa Tribe shall have the right of appeal within sixty days from the date of written notice of rejection to the Secretary of the Interior from the decision of the Tribal Executive Committee and the decision of the Secretary of Interior shall be final.

Sec. 5. Nothing contained in this article shall be construed to deprive any descendant of a Minnesota Chippewa Indian of the right to participate in any benefits derived from claims against the U.S. Government when awards are made for and on behalf and for the benefit of descendants of members of said tribe.

ARTICLE III - GOVERNING BODY

The governing bodies of the Minnesota Chippewa Tribe shall be the Tribal Executive Committee and the Reservation Business Committees of the White Earth, Leech Lake, Fond du Lac, Bois Forte (Nett Lake), and Grand Portage Reservations, and the Nonremoval Mille Lac Band of Chippewa Indians, hereinafter referred to as the six (6) Reservations.

Section 1. Tribal Executive Committee. The Tribal Executive Committee shall be composed of the Chairman and Secretary-Treasurer of each of the six (6) Reservation Business Committees elected in accordance with Article IV. The Tribal Executive Committee shall, at its first meeting, select from within the group a President, a Vice-President, a Secretary, and a Treasurer who shall continue in office for the period of two (2) years or until their successors are elected and seated.

Sec. 2. Reservation Business Committee. Each of the six (6) Reservations shall elect a Reservation Business Committee composed of not more than five (5) members nor less than three (3) members. The Reservation Business Committee shall be composed of a Chairman, Secretary-Treasurer, and one (1), two (2), or three (3) Committeemen. The candidates shall file for their respective offices and shall hold their office during the term for which they were elected or until their successors are elected and seated.

ARTICLE IV - TRIBAL ELECTIONS

Section 1. Right to Vote. All elections held on the six (6) Reservations shall be held in accordance with a uniform election ordinance to be adopted by the Tribal Executive Committee which shall provide that:

- (a) All members of the tribe, eighteen (18) years of age or over, shall have the right to vote at all elections held within the reservation of their enrollment.¹
- (b) All elections shall provide for absentee ballots and secret ballot voting.
- (c) Each Reservation Business Committee shall be the sole judge of the qualifications of its voters.
- (d) The precincts, polling places, election boards, time for opening and closing the polls, canvassing the vote and all pertinent details shall be clearly described in the ordinance.

Sec. 2. Candidates. A candidate for Chairman, Secretary-Treasurer and Committeeman must be an enrolled member of the Tribe and reside on the reservation of his or her enrollment for one year before the date of election.² No member of the Tribe shall be eligible to hold office, either as a Committeeman or Officer, until he or she has reached his or her twenty-first (21) birthday on or before the date of election.³

Sec. 3. Term of Office.

- (a) The first election of the Reservation Business Committee for the six (6) Reservations shall be called and held within ninety (90) days after the date on which these amendments became effective in accordance with Section 1, of this Article.
- (b) For the purpose of the first election, the Chairman and one (1) Committeeman shall be elected for a four-year term. The Secretary-Treasurer and any remaining Committeemen shall be elected for a two-year term. Thereafter, the term of office for officers and committeemen shall be four (4) years. For the purpose of the first election, the Committeeman receiving the greatest number of votes shall be elected for a four-year term.

Sec. 4. No member of the Tribe shall be eligible to hold office, either as a Committeeman or Officer, if he or she has ever been convicted of a felony of any kind; or of a lesser crime involving theft, misappropriation, or embezzlement of money, funds, assets, or property of an Indian tribe or a tribal organization.⁴

ARTICLE V - AUTHORITIES OF THE TRIBAL EXECUTIVE COMMITTEE

Section 1. The Tribal Executive Committee shall, in accordance with applicable laws or regulations of the Department of the Interior, have the following powers:

- (a) To employ legal counsel for the protection and advancement of the rights of the Minnesota Chippewa Tribe; the choice of counsel and fixing of fees to be subject to the approval of the Secretary of the Interior, or his authorized representative.

¹ As amended per Amendment I, approved by the Secretary of the Interior on November 6, 1972.
² As amended per Amendment III, approved by the Secretary of the Interior on January 5, 2006.
³ As amended per Amendment II, approved by the Secretary of the Interior on November 6, 1972.
⁴ As amended per Amendment IV, approved by the Secretary of the Interior on January 5, 2006.

- (b) To prevent any sale, disposition, lease or encumbrance of tribal lands, interest in lands, or other assets including minerals, gas and oil.
- (c) To advise with the Secretary of the Interior with regard to all appropriation estimates or Federal projects for the benefit of the Minnesota Chippewa Tribe, except where such appropriation estimates or projects are for the benefit of individual Reservations.
- (d) To administer any funds within the control of the Tribe; to make expenditures from tribal funds for salaries, expenses of tribal officials, employment or other tribal purposes. The Tribal Executive Committee shall apportion all funds within its control to the various Reservations excepting funds necessary to support the authorized costs of the Tribal Executive Committee. All expenditures of tribal funds, under the control of the Tribal Executive Committee, shall be in accordance with a budget, duly approved by resolution in legal session, and the amounts so expended shall be a matter of public record at all reasonable times. The Tribal Executive Committee shall prepare annual budgets, requesting advancements to the control of the Tribe of any money deposited to the credit of the Tribe in the United States Treasury, subject to the approval of the Secretary of the Interior or his authorized representative.
- (e) To consult, negotiate, contract and conclude agreements on behalf of the Minnesota Chippewa Tribe with Federal, State and local governments or private persons or organizations on all matters within the powers of the Tribal Executive Committee, except as provided in the powers of the Reservation Business Committee.
- (f) Except for those powers hereinafter granted to the Reservation Business Committees, the Tribal Executive Committee shall be authorized to manage, lease, permit, or otherwise deal with tribal lands, interests in lands or other tribal assets; to engage in any business that will further the economic well being of members of the Tribe; to borrow money from the Federal Government or other sources and to direct the use of such funds for productive purposes, or to loan the money thus borrowed to Business Committees of the Reservations and to pledge or assign chattel or income, due or to become due, subject only to the approval of the Secretary of the Interior or his authorized representative, when required by Federal law or regulations.
- (g) The Tribal Executive Committee may by ordinance, subject to the review of the Secretary of the Interior, levy licenses or fees on non-members or non-tribal organizations doing business on two or more Reservations.
- (h) To recognize any community organizations, associations or committees open to members of the several Reservations and to approve such organizations, subject to the provision that no such organizations, associations, or committees may assume any authority granted to the Tribal Executive Committee or to the Reservation Business Committees.
- (i) To delegate to committees, officers, employees or cooperative associations any of the foregoing authorities, reserving the right to review any action taken by virtue of such delegated authorities.

ARTICLE VI - AUTHORITIES OF THE RESERVATION BUSINESS COMMITTEES

Section 1. Each of the Reservation Business Committees shall, in accordance with applicable laws or regulations of the Department of the Interior, have the following powers:

- (a) To advise with the Secretary of the Interior with regard to all appropriation estimates on Federal projects for the benefit of its Reservation.
- (b) To administer any funds within the control of the Reservation; to make expenditures from Reservation funds for salaries, expenses of Reservation officials, employment or other Reservation purposes. All expenditures of Reservations funds under the control of the Reservation Business Committees shall be in accordance with a budget, duly approved by resolution in legal session, and the amounts so expended shall be a matter of public record at all reasonable times. The Business Committees shall prepare annual budgets requesting advancements to the control of the Reservation of tribal funds under the control of the Tribal Executive Committee.
- (c) To consult, negotiate and contract and conclude agreements on behalf of its respective Reservation with Federal, State and local governments or private persons or organizations on all matters within the power of the Reservation Business Committee, provided that no such agreements or contracts shall directly affect any other Reservation or the Tribal Executive Committee without their consent. The Business Committees shall be authorized to manage, lease, permit or otherwise deal with tribal lands, interests in lands or other tribal assets, when authorized to do so by the Tribal Executive Committee but no such authorization shall be necessary in the case of lands or assets owned exclusively by the Reservation. To engage in any business that will further the economic well being of members of the Reservation; to borrow money from the Federal Government or other sources and to direct the use of such funds for productive purposes or to loan the money thus borrowed to members of the Reservation and to pledge or assign Reservation chattel or income due or to become due, subject only to the approval of the Secretary of the Interior or his authorized representative when required by Federal law and regulations. The Reservation Business Committee may also, with the consent of the Tribal Executive Committee, pledge or assign tribal chattel or income.
- (d) The Reservation Business Committee may by ordinance, subject to the review of the Secretary of the Interior, levy licenses or fees on non-members or non-tribal organizations doing business solely within their respective Reservations. A Reservation Business Committee may recognize any community organization, association or committee open to members of the Reservation or located within the Reservation and approve such organization, subject to the provision that no such organization, association or committee may assume any authority granted to the Reservation Business Committee or to the Tribal Executive Committee.
- (e) To delegate to committees, officers, employees or cooperative associations any of the foregoing authorities, reserving the right to review any action taken by virtue of such delegated authorities.
- (f) The powers heretofore granted to the bands by the charters issued by the Tribal Executive Committee are hereby superceded by this Article and said charters will no longer be recognized for any purposes.

ARTICLE VII - DURATION OF TRIBAL CONSTITUTION

Section 1. The period of duration of this tribal constitution shall be perpetual or until revoked by lawful means as provided in the Act of June 18, 1934 (48 Stat. 984), as amended.

ARTICLE VIII - MAJORITY VOTE

Section 1. At all elections held under this constitution, the majority of eligible votes cast shall rule, unless otherwise provided by an Act of Congress.

ARTICLE IX - BONDING OF TRIBAL OFFICIALS

Section 1. The Tribal Executive Committee and the Reservation Business Committees, respectively, shall require all persons, charged by the Tribe or Reservation with responsibility for the custody of any of its funds or property, to give bond for the faithful performance of his official duties. Such bond shall be furnished by a responsible bonding company and shall be acceptable to the beneficiary thereof and the Secretary of the Interior or his authorized representative, and the cost thereof shall be paid by the beneficiary.

ARTICLE X - VACANCIES AND REMOVAL

Section 1. Any vacancy in the Tribal Executive Committee shall be filled by the Indians from the Reservation on which the vacancy occurs by election under rules prescribed by the Tribal Executive Committee. During the interim, the Reservation Business Committee shall be empowered to select a temporary Tribal Executive Committee member to represent the Reservation until such time as the election herein provided for has been held and the successful candidate elected and seated.

Sec. 2. The Reservation Business Committee by a two-thirds (2/3) vote of its members shall remove any officer or member of the Committee for the following causes:

- (a) Malfeasance in the handling of tribal affairs.
- (b) Dereliction or neglect of duty.
- (c) Unexcused failure to attend two regular meetings in succession.
- (d) Conviction of a felony in any county, State or Federal court while serving on the Reservation Business Committee.
- (e) Refusal to comply with any provisions of the Constitution and Bylaws of the Tribe.

The removal shall be in accordance with the procedures set forth in Section 3 of this Article.

Sec. 3. Any member of the Reservation from which the Reservation Business Committee member is elected may prefer charges by written notice supported by the signatures of no less than 20 percent of the resident eligible voters of said Reservation, stating any of the causes for removal set forth in Section 2 of this Article, against any member or members of the respective Reservation Business Committee. The notice must be submitted to the Business Committee. The Reservation Business Committee shall consider such notice and take the following action:

- (a) The Reservation Business Committee within fifteen (15) days after receipt of the notice or charges shall in writing notify the accused of the charges brought against him and set a date for a hearing. If the Reservation Business Committee deems the accused has failed to answer charges to its satisfaction or fails to appear at the appointed time, the Reservation Business Committee may remove as provided in Section 2 or it may schedule a recall election which shall be held within thirty (30) days after the date set for the hearing. In either event, the action of the Reservation Business Committee or the outcome of the recall election shall be final.

(b) All such hearings of the Reservation Business Committee shall be held in accordance with the provisions of this Article and shall be open to the members of the Reservation. Notices of such hearings shall be duly posted at least five (5) days prior to the hearing.

(c) The accused shall be given opportunity to call witnesses and present evidence in his behalf.

Sec. 4. When the Tribal Executive Committee finds any of its members guilty of any of the causes for removal from office as listed in Section 2 of this Article, it shall in writing censor the Tribal Executive Committee member. The Tribal Executive Committee shall present its written censure to the Reservation Business Committee from which the Tribal Executive Committee member is elected. The Reservation Business Committee shall thereupon consider such censure in the manner prescribed in Section 3 of this Article.

Sec. 5. In the event the Reservation Business Committee fails to act as provided in Sections 3 and 4 of this Article, the Reservation membership may, by petition supported by the signatures of no less than 20 percent of the eligible resident voters, appeal to the Secretary of the Interior. If the Secretary deems the charges substantial, he shall call an election for the purpose of placing the matter before the Reservation electorate for their final decision.

ARTICLE XI – RATIFICATION

Section 1. This constitution and the bylaws shall not become operative until ratified at a special election by a majority vote of the adult members of the Minnesota Chippewa Tribe, voting at a special election called by the Secretary of the Interior, provided that at least 30 percent of those entitled to vote shall vote, and until it has been approved by the Secretary of the Interior.

ARTICLE XII – AMENDMENT

Section 1. This constitution may be revoked by Act of Congress or amended or revoked by a majority vote of the qualified voters of the Tribe voting at an election called for that purpose by the Secretary of the Interior if at least 30 percent of those entitled to vote shall vote. No amendment shall be effective until approved by the Secretary of the Interior. It shall be the duty of the Secretary to call an election when requested by two-thirds of the Tribal Executive Committee.

ARTICLE XIII - RIGHTS OF MEMBERS

All members of the Minnesota Chippewa Tribe shall be accorded by the governing body equal rights, equal protection, and equal opportunities to participate in the economic resources and activities of the Tribe, and no member shall be denied any of the constitutional rights or guarantees enjoyed by other citizens of the United States, including but not limited to freedom of religion and conscience, freedom of speech, the right to orderly association or assembly, the right to petition for action or the redress of grievances, and due process of law.

ARTICLE XIV – REFERENDUM

Section 1. The Tribal Executive Committee, upon receipt of a petition signed by 20 percent of the resident voters of the Minnesota Chippewa Tribe, or by an affirmative vote of eight (8) members of the

Tribal Executive Committee, shall submit any enacted or proposed resolution or ordinance of the Tribal Executive Committee to a referendum of the eligible voters of the Minnesota Chippewa Tribe. The majority of the votes cast in such referendum shall be conclusive and binding on the Tribal Executive Committee. The Tribal Executive Committee shall call such referendum and prescribe the manner of conducting the vote.

Sec. 2. The Reservation Business Committee, upon receipt of a petition signed by 20 percent of the resident voters of the Reservation, or by an affirmative vote of a majority of the members of the Reservation Business Committee, shall submit any enacted or proposed resolution or ordinance of the Reservation Business Committee to a referendum of the eligible voters of the Reservation. The majority of the votes cast in such referendum shall be conclusive and binding on the Reservation Business Committee. The Reservation Business Committee shall call such referendum and prescribe the manner of conducting the vote.

ARTICLE XV - MANNER OF REVIEW

Section 1. Any resolution or ordinance enacted by the Tribal Executive Committee, which by the terms of this Constitution and Bylaws is subject to review by the Secretary of the Interior, or his authorized representative, shall be presented to the Superintendent or officer in charge of the Reservation who shall within ten (10) days after its receipt by him approve or disapprove the resolution or ordinance.

If the Superintendent or officer in charge shall approve any ordinance or resolution it shall thereupon become effective, but the Superintendent or officer in charge shall transmit a copy of the same, bearing his endorsement, to the Secretary of the Interior, who may within ninety (90) days from the date of approval, rescind the ordinance or resolution for any cause by notifying the Tribal Executive Committee.

If the Superintendent or officer in charge shall refuse to approve any resolution or ordinance subject to review within ten (10) days after its receipt by him he shall advise the Tribal Executive Committee of his reasons therefor in writing. If these reasons are deemed by the Tribal Executive Committee to be insufficient, it may, by a majority vote, refer the ordinance or resolution to the Secretary of the Interior, who may, within ninety (90) days from the date of its referral, approve or reject the same in writing, whereupon the said ordinance or resolution shall be in effect or rejected accordingly.

Sec. 2. Any resolution or ordinance enacted by the Reservation Business Committee, which by the terms of this Constitution and Bylaws is subjected to review by the Secretary of the Interior or his authorized representative, shall be governed by the procedures set forth in Section 1 of this Article.

Sec. 3. Any resolution or ordinance enacted by the Reservation Business Committee, which by the terms of this Constitution and Bylaws is subject to approval by the Tribal Executive Committee, shall within ten (10) days of its enactment be presented to the Tribal Executive Committee. The Tribal Executive Committee shall at its next regular or special meeting, approve or disapprove such resolution or ordinance.

Upon approval or disapproval by the Tribal Executive Committee of any resolution or ordinance submitted by a Reservation Business Committee, it shall advise the Reservation Business Committee within ten (10) days, in writing, of the action taken. In the event of disapproval the Tribal Executive Committee shall advise the Reservation Business Committee, at that time, of its reasons therefore.

BYLAWS

ARTICLE I - DUTIES OF THE OFFICERS OF THE TRIBAL EXECUTIVE COMMITTEE

Section 1. The President of the Tribal Executive Committee shall:

- (a) Preside at all regular and special meetings of the Tribal Executive Committee and at any meeting of the Minnesota Chippewa Tribe in general council.
- (b) Assume responsibility for the implementation of all resolutions and ordinances of the Tribal Executive Committee.
- (c) Sign, with the Secretary of the Tribal Executive Committee, on behalf of the Tribe all official papers when authorized to do so.
- (d) Assume general supervision of all officers, employees and committees of the Tribal Executive Committee and, as delegated, take direct responsibility for the satisfactory performance of such officers, employees and committees.
- (e) Prepare a report of negotiations, important communications and other activities of the Tribal Executive Committee and shall make this report at each regular meeting of the Tribal Executive Committee. He shall include in this report all matters of importance to the Tribe, and in no way shall he act for the Tribe unless specifically authorized to do so.
- (f) Have general management of the business activities of the Tribal Executive Committee. He shall not act on matters binding the Tribe until the Tribal Executive Committee has deliberated and enacted appropriate resolution, or unless written delegation of authority has been granted.
- (g) Not vote in meetings of the Tribal Executive Committee except in the case of a tie.

Sec. 2. In the absence or disability of the President, the Vice-President shall preside. When so presiding, he shall have all rights, privileges and duties as set forth under duties of the President, as well as the responsibility of the President.

Sec. 3. The Secretary of the Tribal Executive Committee shall:

- (a) Keep a complete record of the meetings of the Tribal Executive Committee and shall maintain such records at the headquarters of the Tribe.
- (b) Sign, with the President of the Tribal Executive Committee, all official papers as provided in Section 1 (c) of this Article.
- (c) Be the custodian of all property of the Tribe.
- (d) Keep a complete record of all business of the Tribal Executive Committee. Make and submit a complete and detailed report of the current year's business and shall submit such other reports as shall be required by the Tribal Executive Committee.
- (e) Serve all notices required for meetings and elections.
- (f) Perform such other duties as may be required of him by the Tribal Executive Committee.

Sec. 4. The Treasurer of the Tribal Executive Committee shall:

- (a) Receive all funds of the Tribe entrusted to it, deposit same in a depository selected by the Tribal Executive Committee, and disburse such tribal funds only on vouchers signed by the President and Secretary.
- (b) Keep and maintain, open to inspection by members of the Tribe or representatives of the Secretary of the Interior, at all reasonable times, adequate and correct accounts of the properties and business transactions of the Tribe.
- (c) Make a monthly report and account for all transactions involving the disbursement, collection or obligation of tribal funds. He shall present such financial reports to the Tribal Executive Committee at each of its regular meetings.

Sec. 5. Duties and functions of all appointive committees, officers, and employees of the Tribal Executive Committee shall be clearly defined by resolution of the Tribal Executive Committee.

ARTICLE II - TRIBAL EXECUTIVE COMMITTEE MEETINGS

Section 1. Regular meetings of the Tribal Executive Committee shall be held once in every 3 months beginning on the second Monday in July of each year and on such other days of any month as may be designated for that purpose.

Sec. 2. Notice shall be given by the Secretary of the Tribal Executive Committee of the date and place of all meetings by mailing a notice thereof to the members of the Tribal Executive Committee not less than 15 days preceding the date of the meeting.

Sec. 3. The President shall call a special meeting of the Tribal Executive Committee upon a written request of at least one-third of the Tribal Executive Committee. The President shall also call a special meeting of the Tribal Executive Committee when matters of special importance pertaining to the Tribe arise for which he deems advisable the said Committee should meet.

Sec. 4. In case of special meetings designated for emergency matters pertaining to the Tribe, or those of special importance warranting immediate action of said Tribe, the President of the Tribal Executive Committee may waive the 15-day clause provided in Section 2 of this Article.

Sec. 5. Seven members of the Tribal Executive Committee shall constitute a quorum, and Robert's Rules shall govern its meetings. Except as provided in said Rules, no business shall be transacted unless a quorum is present.

Sec. 6. The order of business at any meeting so far as possible shall be:

- (a) Call to order by the presiding officer.
- (b) Invocation.
- (c) Roll call.
- (d) Reading and disposal of the minutes of the last meeting.

- (e) Reports of committees and officers.
- (f) Unfinished business.
- (g) New business.
- (h) Adjournment.

ARTICLE III – INSTALLATION OF TRIBAL EXECUTIVE COMMITTEE MEMBERS

Section 1. New members of the Tribal Executive Committee who have been duly elected by the respective Reservations shall be installed at the first regular meeting of the Tribal Executive Committee following election of the committee members, upon subscribing to the following oath:

"I, _____, do hereby solemnly swear (or affirm) that I shall preserve, support and protect the Constitution of the United States and the Constitution of the Minnesota Chippewa Tribe, and execute my duties as a member of the Tribal Executive Committee to the best of my ability, so help me God."

ARTICLE IV – AMENDMENTS

Section 1. These bylaws may be amended in the same manner as the Constitution.

ARTICLE V – MISCELLANEOUS

Section 1. The fiscal year of the Minnesota Chippewa Tribe shall begin on July 1 of each year.

Section 2. The books and records of the Minnesota Chippewa Tribe shall be audited at least once each year by a competent auditor employed by the Tribal Executive Committee, and at such times as the Tribal Executive Committee or the Secretary of the Interior or his authorized representative may direct. Copies of audit reports shall be furnished the Bureau of Indian Affairs.

ARTICLE VI - RESERVATION BUSINESS COMMITTEE BYLAWS

Section 1. The Reservation Business Committee shall by ordinance adopt bylaws to govern the duties of its officers and Committee members and its meetings.

Section 2. Duties and functions of all appointive committees, officers, and employees of the Reservation Business Committee shall be clearly defined by resolution of the Reservation Business Committee.

CERTIFICATION OF ADOPTION

Pursuant to an order approved September 12, 1963, by the Assistant Secretary of the Interior, the Revised Constitution and Bylaws of the Minnesota Chippewa Tribe was submitted for ratification to the qualified voters of the reservations, and was on November 23, 1963, duly adopted by a vote of 1,761 for and 1,295

against, in an election in which at least 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 (49 Stat. 378).

(sgd) Allen Wilson, President
Tribal Executive Committee

(sgd) Peter DuFault, Secretary
Tribal Executive Committee

(sgd) H.P. Mittelholtz, Superintendent
Minnesota Agency

APPROVAL

I, John A. Carver, Jr., 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 approved the attached Revised Constitution and Bylaws of the Minnesota Chippewa Tribe, Minnesota.

John A. Carver, Jr.,
Assistant Secretary of the Interior
Washington, D.C.
(SEAL) Date: March 3, 1964

Ordinance Implementing Constitutional Petitions

ORDINANCE IMPLEMENTING CONSTITUTIONAL PETITION AND CENSURE PROCESSES

SECTION 1. Purpose

The purpose of this Ordinance is to provide uniformity and standards for the submission and processing of petitions requesting the Tribal Executive Committee or a Band governing body to call a referendum under Article XIV or requesting a Band governing body to set a date for a hearing for removal or recall under Article X, Section 3.

SECTION 2. Form and Content of the Petition

- 2.1 As used in this Ordinance, “petition” means a written request or a written notice of charges.
- 2.2 Petitions may consist of as many pages as necessary to accommodate the printed names, dates of birth, residence address, and signatures of the petitioners, as well as the date each signature was affixed.
- 2.3 Each sheet of a petition must set forth at least a summary of the objectives of the petitioners.
 - 2.3.1 A petition seeking a referendum under Article XIV must comply in all respects with Interpretation No. 11-09 and must state with specificity the resolution or ordinance of the Tribal Executive Committee or the Reservation Business Committee (a/k/a Band governing body) for which a referendum is sought.
 - 2.3.1.1 A petition under Article XIV must be filed within one (1) year of the effective date of the resolution or ordinance that is the subject of the petition.
 - 2.3.2 A petition to initiate the removal or recall process under Article X must identify at least one of the causes for removal set out in Article X, Section 2. It must also state enough facts to persuade a reasonable person that during the term of office the accused member has committed an act or omission that, if true, constitutes a cause for removal or recall. A mere conclusion without a factual basis is insufficient and will not require action by a Band governing body.
 - 2.3.2.1 A petition under Article X must be filed within five (5) years of commission of the act alleged as the basis for the petition.

- 2.4 Each sheet of a petition must in plain language provide notice that by signing, the person acknowledges that he or she understands the purpose of the document and that signatures may not be withdrawn.
- 2.5 Each sheet of a petition must bear a notarized statement of the collector of the signatures that attests that the signatures were affixed on the dates shown and by the individuals whose names appear thereon and that to the best of his/her knowledge the signatories are resident eligible voters.

SECTION 3. Who may sign petitions; time for circulation

- 3.1 Tribal Executive Committee Petitions: All members eligible to vote who reside on one of the six Reservations shall be entitled to sign a petition to the Tribal Executive Committee.
- 3.2 Band Petitions: All members eligible to vote who reside on the Band's Reservation are entitled to sign a petition to a Band governing body.
- 3.3 Time for Circulation: Any petition must be filed not more than ninety (90) days after the date of the first signature.

SECTION 4. Filing of petitions

- 4.1 Petitions to the Tribal Executive Committee shall be filed with the Executive Director of the Minnesota Chippewa Tribe. The person filing the petition must declare that it is his/her intent to make an official filing. Upon such declaration, the Executive Director must enter the date of receipt on the first page of the petition and provide a written acknowledgement that contains:
 - the date of receipt;
 - the number of pages attached; and
 - the number of signatures.
- 4.2 Each Band governing body shall designate an official or employee who shall be responsible for receiving petitions. In the absence of a written designation, the Secretary-Treasurer shall be the responsible official.
 - 4.2.1 The Band's designee shall prepare the same acknowledgement as required of the Executive Director in paragraph 4.1, above.
- 4.3 The filing of a petition must include the name, address and phone number of the person who is designated as the spokesperson for the petitioners. That person will be the contact for purposes of all notices under this ordinance.

- 4.4 After official filing, no additional signatures may be added and none may be withdrawn.

SECTION 5. Determination of Sufficiency

Immediately following the official filing of a petition, the governing body with which the petition is filed shall determine whether the petition meets the form and content requirements of Section 2, above. In the event that it does not, it shall be deemed insufficient and returned to the spokesperson for the petitioners with a written explanation of the reason for the determination. No further action shall be required. If the petition meets the requirements of Section 2, the governing body will proceed as provided in Section 6.

SECTION 6. Challenges to Signatures

- 6.1 Not less than three (3) days following written acknowledgment or receipt, the responsible official shall prepare and post at the principal office of the Band or the MCT both a copy of the entire petition and a public notice advising the members that copies of the petition are available for examination upon request for fifteen (15) days following the posting.
- 6.2 During the period during which the petition is available, any adult member of the Band (or the Tribe if it is a petition to the MCT) may challenge a signature on these grounds:
- forgery;
 - lack of proper qualifications of a signer based on residence, age, or membership; and
 - that a signature appears more than once.
- 6.3 A challenge to a signature must be in writing and supported by written documentation unless the challenge is based on multiple signatures of the same person in which case only one shall be counted.

SECTION 7. Certification and Sufficiency

- 7.1 Within ten (10) days of the end of the time allowed for challenges, the designated official shall certify the number of valid signatures on a petition. The certification shall include a description of the documents used for authentication.
- 7.2 The Minnesota Chippewa Tribe determines the sufficiency (20% of resident eligible voters) based on the number of resident eligible voters as of the date of receipt of the petition for referendum.

- 7.3 The Band governing body determines the sufficiency (20% of resident eligible voters of the Reservation) based on the number of resident eligible voters as of the date of receipt of the petition under Article X, Section 3.
- 7.4 The certification and determination of sufficiency shall be served upon the spokesperson for the petitioners, posted in public places and made available to members upon request.

SECTION 8. Action on a Sufficient Petition

- 8.1 Notice and Date: If a Band governing body determines that a petition under Article X, Section 3, is sufficient or receives a notice of censure as provided in Section 9.5 below, it shall within fifteen (15) days of such determination or receipt give written notice of the charges to the accused member and set a date for a hearing. The hearing date shall be at least thirty (30) days, but not more than sixty (60) days after the date of notice.
- 8.2 Posting: The notice of hearing shall be posted at least five (5) days prior to the hearing.

SECTION 9. Censure of TEC Members

- 9.1 Who May Initiate: A request to censure a member of the Tribal Executive Committee must be in the form of a motion by a Tribal Executive Committee member at a regular or special meeting.
- 9.2 Content of Motion: A motion for censure must: (1) identify the cause for removal in Article X, Section 2 that is the basis for the motion; and (2) state with particularity the facts which the Tribal Executive Committee member believes are evidence of the identified cause for removal. If the motion identifies more than one cause, each must be accompanied by a statement of facts.
 - 9.2.1 The Tribal Executive Committee shall not censure a member unless it determines that there are sufficient facts upon which a reasonable person could conclude that a cause for removal enumerated in Article X, Section 2, has occurred.
- 9.3 Documents: When a motion for censure refers to documents, those documents must be provided at the time the motion is made.
- 9.4 Response by Accused: If a motion to censure is made and seconded, the Tribal Executive Committee shall provide an opportunity for the accused member to respond. If the member requests time to prepare a response, the matter shall be tabled and considered at a meeting not more than forty-five (45) days later.

- 9.5 Action by TEC: After considering an accused member's response to the allegations in a motion to censure, the Tribal Executive Committee shall, by official action, either (1) exonerate the member or (2) censure the member and refer the matter to the Band represented by the member for a hearing under Article X, Section 3, by issuing a notice of censure. The notice shall include a copy of all documents considered by the TEC.
- 9.6 Effect of Censure: A notice of censure shall not by itself restrain or limit the obligations or duties of a member.
- 9.7 Action by Band: Upon receipt of a notice of censure, the Band governing body shall proceed as provided in Article X, Section 3 and this ordinance.

SECTION 10. Hearings

All hearings required by a petition certified as sufficient or by receipt of a notice of censure by the TEC shall be conducted in accordance with the procedures in this Section 10.

- 10.1 Notice: Hearings shall be conducted at the time and place set out in a notice of hearing and shall be open to the members of the Band, representatives of the accused member and such other persons as the Band governing body determines are reasonably necessary to maintain order or provide for the efficient conduct of the hearing.
- 10.2 Presiding Official: Within three (3) days of issuing the notice of hearing, the Band governing body shall appoint a presiding official who shall have authority to maintain order and take such action as authorized in this ordinance.
- 10.3 Witnesses / Documents: A presiding official shall be authorized to order the spokesperson for the petitioners and the accused to exchange copies of the documents each intends to offer in support of their positions and written lists of witnesses each intends to call, including a brief statement of the testimony expected from each witness. All such orders shall require compliance at least ten (10) days prior to the hearing.
- 10.3.1 The failure of a party to identify a witness or produce a document shall preclude testimony of the witness or consideration of the document.
- 10.4 Hearing Process: The presiding official shall conduct the hearing in the following order:
- 10.4.1 Presiding official recites the summary of charges as stated in the petition or the notice of censure.
- 10.4.2 Presiding official describes the process, including the rules of decorum for all present, the requirement that evidence be relevant to the stated charge,

and not repetitious of other evidence, and time limits for each presentation.

- 10.4.3 The spokesperson for the petitioners has an opportunity to be heard on the charges.
- 10.4.4 The accused has an opportunity to respond. The accused may designate a person as his or her representative at the hearing.
- 10.5 Deliberation by Band Governing Body: After the parties have been heard on the charges, the Band governing body shall deliberate in executive session and decide whether the accused has answered the charges to its satisfaction.
- 10.5.1 Participation by the Accused: The accused member may participate in deliberations and cast a vote.
- 10.5.2 Action by Band Governing Body: If the Band governing body determines that the accused has failed to answer the charge to its satisfaction or fails to appear at the appointed time, it may either:
- By a 2/3 vote, remove the member from office, effective immediately*; or
 - By a majority vote, schedule a recall election within thirty (30) days of the hearing date**.
- 10.5.3 Announce the Decision: The decision of the Band governing body shall be announced publicly by the presiding official.
- 10.5.4 Finality: The Band governing body vote to remove or the outcome of the recall election shall be final.

*Interpretation No. 14-2011

**Interpretation No. 15-2011

MCT Land Transfer Fact Sheet

FACT SHEET

Minnesota Chippewa Tribe Trust Land

- Approximate – 116,000 acres of Minnesota Chippewa Tribe Trust Land involved Breakdown (*attached).
- Original lands were transferred by Executive Order – approval of transfer by Tribal Executive Committee – December 27, 1935 by Resolution (*attached).
- Other land put in name of Minnesota Chippewa Tribe through acquisition of allotted lands, lands purchased with Trust funds or appropriated funds and other lands transferred to Minnesota Chippewa Tribe ownership under the sub-marginal Lands Act of 1975 (*attached).
- Unknown how much was spent to purchase lands but most of the money was Minnesota Chippewa Tribe funds.
- Revised Land Ordinance #3 (*attached) approved October 22, 1997, grants authority to manage all Minnesota Chippewa Tribe lands to the individual bands.
- The Minnesota Chippewa Tribe received a contract from Bureau of Indian Affairs September 8, 2010 approved for \$95,000 to conduct Timber count and valuations on the six bands (*Resolution 129-10 attached). Thomas Burke & Associates performed much of the work through a contract with the Minnesota Chippewa Tribe. The Minnesota Chippewa Tribe also paid individual reservations to assist with inventory of timber on their own reservations (Completed by July 2013).
- Office of the Special Trustee did the market analysis to determine the value of certain types of land on each reservation. There was no full blown appraisal at that time (completed August 2013).
- Data provided to each band in 2013 regarding the timber valuations as well as the market analysis from the Bureau of Indian Affairs.
- Resolution (*attached) regarding Land Transfer brought to Tribal Executive Committee, February 2014 – Tabled.
- Flash drives were prepared by Joel Smith in August 2018 with Bureau of Indian Affairs source documents and given to enrollment coordinators asking them to provide to Individual Tribal Executive Committee members.
- Resolution 67-19 (*attached) approved February 20, 2019 by a 10-1 vote. Approved Legislation language to seek and support legislation transferring beneficial title to lands that are held in trust for the Minnesota Chippewa Tribe to constituent bands exercising jurisdiction over lands.
- Resolution 96-19 (*attached) approved April 24, 2019 by a 10-1 vote approves additional language to original bill after receiving additional input from bands.
- Proposed language of current land transfer bill (*attached)

BREAKDOWN

MCT Trust Land Base

12/29/2014

Total MCT Trust Land Ownership Acreage	116,033.66
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	Bois Forte	Grand Portage	Leech Lake	Mille Lacs	Fond du Lac	White Earth
Acquisition of Allotted Lands	2,802.14	120.00	4,287.70	2,090.12	2,624.90	80.00
Tribal Original Lands - 1938 Executive Order (lands not purchased under Nelson Act)	22,476.70	10,197.12	5,948.51	5.00	1,133.28	2,930.45
Lands Purchased in Trust With Tribal Funds	2,752.59	0.35	950.65	1,502.72	3,852.40	
Lands Purchased in Trust With Appropriated Funds	4,109.64	1.14	1,335.22	80.00	1,660.28	15,401.30
Tribal Reserve	89.10		560.31			17.00
Other MCT Lands	570.64		0.10			28,454.30
MCT Trust Land Ownership Acreage by Reservation	32,800.81	10,318.61	13,082.49	3,677.84	9,270.86	46,883.05

DECEMBER 27, 1935
RESOLUTION

MINNESOTA CHIPPEWA TRIBEMeeting of Tribal Executive CommitteeCass Lake, Minnesota, December 27th, 1935.

The Tribal Executive Committee of the Chippewa Indians in Minnesota, a quorum being present, assembled in meeting at 11:30 A.M., on the 27th day of December, 1935, in the village of Cass Lake, Minnesota, pursuant to a call issued on the 12th day of December by the office of the Consolidated Chippewa Agency of said village, the purpose of the meeting being the selection of wild rice reserves as provided in the Act of July 24, 1935 (Pub. No. 217-74th Congress) and the restoration of land to tribal ownership under section 3 of the Act of June 18, 1934 (48 Stat. 984).

Upon the opening of the meeting by the Chairman, Jacob J. Munnell of the Consolidated Chippewa Agency, a member of the Leech Lake Chippewas, outlined briefly the purposes of the meeting and called attention to some of the matters to be considered in determining the selection of wild rice-bearing lakes as provided in the Act of July 24, 1935 (Pub. No. 217-74th Congress).

The morning session adjourned at 12:30 P.M. until 1:30 P.M.

The Committee assembled at the designated time.

The subject of wild rice reserves was first brought up and extensively discussed by the Committee. The probable cost of the reserves created by the above cited Act, being Rice Lake in Clearwater County, Minnesota, the boundaries of which are in said Act defined, was estimated and it was found according to 1932 values the lands necessary for acquisition to create such reserve was \$36,000. The lake being about four miles in length gave the Committee some idea what the cost would be for reserves on other lakes.

Mr. Broker, as well as other members of the Committee, brought out the point that even if the reserves should cost considerable amount of money to be paid out of the tribal fund as provided in the Act, it was considered a good investment as such reserves would produce revenue to the Indians for years to come, whereas a like amount of money spent for per capita payments to the Indians is quickly spent or exhausted, this they contend is also true for other purposes for which larger amounts of Chippewa funds are being expended, that wild rice reserves would be a source of more lasting benefit to the large number of Indians.

The Nett Lake delegation said they were instructed to have included as one of the reserves the Nett Lake, situated within their reservation. However, they were willing to withdraw and

permit the selection of other lake in place of it in view of the fact that there were very few non-Indian lands bordering this lake. This lake is now practically surrounded by Indian land and practically controlled by Indians with little or no interference in the harvest of wild rice. They thought subsequent purchases of land would eventually close up the gaps and thus entirely control the lake. After some discussion, the Committee decided to include Nett Lake so as to receive the benefits of the Act.

The adaptability of several lakes was mentioned, the main ones being East Lake or otherwise known as Big Rice Lake in Aitken County, White Elk Lake in Aitken County, Bowstring, Leech Lake, Sugar Lake and Squaw Lake in Cass and Itasca Counties. After these discussions, motions were in order for the selection of the lakes to be included in the wild rice harvest.

A motion was made and carried approving the reserve of Rice Lake in Clearwater County, as embodied in the Act.

A motion was made and carried selecting Big Rice Lake, in Aitken County to be included as one of the wild rice reserves under the Act. The Committee selected this lake because it will take care of the Indians of Mille Lac, East Lake, Danbury and the Fond du Lac districts.

A motion was made and carried unanimously selecting Nett Lake in Koochiching and St. Louis Counties, to be included as one of the wild rice reserves. This lake was selected by the Committee as it would serve the Nett Lake and other Indians in northeastern Minnesota.

A motion was made and carried selecting Squaw Lake in Itasca County to be included as one of the wild rice reserves under the Act. This lake was selected after much discussion. Some of the desirable lakes were too small and would not serve sufficient number of Indians to warrant expenditure of tribal funds. Other lakes were too large as to make the cost of acquisition of land prohibitive.

Selection of wild rice reserves completed at 4:30 P.M., and the Committee proceeded to take up the matter of restoration of land to tribal ownership, under Section 3 of the Indian Reorganization Act and the following resolution was adopted and passed:

"We, the Tribal Executive Committee of the Chippewa Indians of Minnesota, assembled at a meeting of said Committee, pursuant to call of the Acting Superintendent of the Consolidated Chippewa Agency, at the village of Cass Lake, Minnesota, having been brought before this Committee the matter of restoration to tribal ownership the undisposed of "opened" lands on the various Indian reservations, as authorized by Section 3 of the Indian Reorganization Act of June 18, 1934 (48 Stat. L. 984) and

Whereas, the Secretary of the Interior has withdrawn from entry such lands on September 19, and supplemental withdrawal of November 2, 1934 and

Whereas, the said Secretary of the Interior has furnished a list of such lands affected by the withdrawal to the Superintendent of the Consolidated Chippewa Agency, Cass Lake, Minnesota, now

Therefore, we the Tribal Executive Committee, contend that it is not against public interest to restore said lands to tribal ownership but to the interest and benefit of the Chippewa Indians of Minnesota, as a large portion of such lands have been opened for homestead for many years and have not to the date of the withdrawal been entered, that said lands will fit into the forestry development, economic and land acquisition program as contemplated for the Indians under the Indian Reorganization Act. We, therefore, respectfully request the Honorable Secretary of the Interior to restore these lands to tribal ownership at his earliest convenience, pursuant to law; said lands situated in the following Chippewa Reservations and in the approximate acreages as shown in the list furnished by the said Secretary of the Interior:

Bois Fort (Nett Lake)	19,605.46	acres
Fond du Lac	1,054.86	"
Leech Lake	4,887.40	"
Grand Portage	5,052.96	"
White Earth	1,327.47	"

This resolution passed unanimously by the Tribal Executive Committee of the Chippewa Indians of Minnesota on the 27th day of December 1935.

Chairman, Tribal Executive Committee

Secretary, Tribal Executive Committee

Cass Lake, Minnesota
December 27, 1935.

**SUB-MARGINAL LANDS
ACT OF 1975**

Public Law 94-114
94th Congress

An Act

To declare that certain submarginal land of the United States shall be held in trust for certain Indian tribes and be made a part of the reservations of said Indians, and for other purposes.

Oct. 17, 1975
[S. 1327]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) except as hereinafter provided, all of the right, title, and interest of the United States of America in all of the land, and the improvements now thereon, that was acquired under title II of the National Industrial Recovery Act of June 16, 1933 (48 Stat. 200), the Emergency Relief Appropriation Act of April 8, 1935 (49 Stat. 115), and section 55 of the Act of August 24, 1935 (49 Stat. 750, 781), and that are now administered by the Secretary of the Interior for the use or benefit of the Indian tribes identified in section 2(a) of this Act, together with all minerals underlying any such land whether acquired pursuant to such Acts or otherwise owned by the United States, are hereby declared to be held by the United States in trust for each of said tribes, and (except in the case of the Cherokee Nation) shall be a part of the reservations heretofore established for each of said tribes.

Indians.
Certain tribes.
Lands in trust.
25 USC 459.
40 USC
401-411a note.
15 USC 723-728
note.

(b) The property conveyed by this Act shall be subject to the appropriation or disposition of any of the lands, or interests therein, within the Pine Ridge Indian Reservation, South Dakota, as authorized by the Act of August 3, 1958 (82 Stat. 663), and subject to a reservation in the United States of a right to prohibit or restrict improvements or structures on, and to continuously or intermittently inundate or otherwise use, lands in sections 25 and 26, township 48 north, range 3 west, at Odanah, Wisconsin, in connection with the Bad River flood control project as authorized by section 203 of the Act of July 3, 1958 (72 Stat. 297, 311): *Provided*, That this Act shall not convey the title to any part of the lands or any interest therein that prior to enactment of this Act have been included in the authorized water resources development projects in the Missouri River Basin as authorized by section 203 of the Act of July 3, 1958 (72 Stat. 297, 311), as amended and supplemented: *Provided further*, That such lands included in Missouri River Basin projects shall be treated as former-trust lands are treated.

16 USC 441.

25 USC 459a.

SEC. 2. (a) The lands, declared by section 1 of this Act to be held in trust by the United States for the benefit of the Indian tribes named in this section, are generally described as follows:

Tribes	Reservation	Submarginal land project donated to said tribe or group	Approximate acreage
1. Bad River Band of the Lake Superior Tribe of Chippewa Indians of Wisconsin.	Bad River	Bad River LI-WI-8	18,148.81
2. Blackfeet Tribe	Blackfeet	Blackfeet LI-MT-9	8,533.73
3. Cherokee Nation of Oklahoma		Delaware LI-OK-1	18,743.19
4. Cheyenne River Sioux Tribe	Cheyenne River	Adair LI-OK-5	5,753.47
5. Crow Creek Sioux Tribe	Crow Creek	Crow Creek LI-SD-10	19,169.89
6. Lower Brule Sioux Tribe	Lower Brule	Lower Brule LI-SD-10	13,254.22
7. Devils Lake Sioux Tribe	Fort Totten	Fort Totten LI-ND-11	1,424.45
8. Fort Belknap Indian Community	Fort Belknap	Fort Belknap LI-MT-3	20,530.10
9. Anishinabe and Sioux Tribes	Fort Peck	Fort Peck LI-MT-5	85,453.83
10. Lac Courte Oreilles Band of Lake Superior Chippewa Indians	Lac Courte Oreilles	Lac Courte LI-WI-9	13,164.05
11. Keweenaw Bay Indian Community	IAAps	IAAps LI-MI-8	4,016.40
12. Minnesota Chippewa Tribe	White Earth	Two Lakes LI-MN-6 Pie Lake LI-MN-15	28,544.80
13. Navajo Tribe	Navajo	Gallup Two Wells LI-NM-18	50,937.24
14. Ojibwa Sioux Tribe	Pine Ridge	Pine Ridge LI-SD-7	13,091.48
15. Rosebud Sioux Tribe	Rosebud	Oshtemo LI-SD-8 Antelope LI-SD-9	23,754.59
16. Shoshone-Bannock Tribes	Fort Hall	Fort Hall LI-ID-2	8,711
17. Standing Rock Sioux Tribe	Standing Rock	Standing Rock LI-ND-10 Standing Rock LI-SD-10	13,203.5

Publication in Federal Register.

(b) The Secretary of the Interior shall cause to be published in the Federal Register the boundaries and descriptions of the lands conveyed by this Act. The acreages set out in the preceding subsection are estimates and shall not be construed as expanding or limiting the grant of the United States as defined in section 1 of this Act.

25 USC 459b.

SEC. 3. (a) All of the right, title, and interest of the United States in all the minerals including gas and oil underlying the submarginal lands declared to be held in trust for the Stockbridge Munsee Indian Community by the Act of October 9, 1972 (86 Stat. 795), are hereby declared to be held by the United States in trust for the Stockbridge Munsee Indian Community.

Repeal.

(b) Section 9 of said Act of October 9, 1972, is hereby repealed.
(c) Section 5 of the Act of October 13, 1972 (86 Stat. 806), relating to the Burns Indian Colony is amended by striking the words "conveyed by this Act" and inserting in lieu thereof the words "conveyed by section 2 of this Act".

25 USC 459c.

SEC. 4. (a) Nothing in this Act shall deprive any person of any existing valid right of possession, contract right, interest, or title he may have in the land involved, or of any existing right of access to public domain lands over and across the land involved, as determined by the Secretary of the Interior. All existing mineral leases, including oil and gas leases, which may have been issued or approved pursuant to section 5 of the Mineral Leasing Act for Acquired Lands of August 7, 1947 (61 Stat. 913, 915), or the Mineral Leasing Act of 1920 (41 Stat. 437), as amended prior to enactment of this Act, shall remain in force and effect in accordance with the provisions thereof. All applications for mineral leases, including oil and gas leases, pursuant to such Acts, pending on the date of enactment of this Act and covering any of the minerals conveyed by sections 1 and 3 of this Act shall be rejected and the advance rental payments returned to the applicants.

30 USC 354.
50 USC 181 note.

(b) Subject to the provisions of subsection (a) of this section, the property conveyed by this Act shall hereafter be administered in accordance with the laws and regulations applicable to property held in trust by the United States for Indian tribes, including but not limited to the Act of May 11, 1938 (52 Stat. 347), as amended.

Sec. 5. (a) Any and all gross receipts derived from, or which relate to, the property conveyed by this Act, the Act of July 20, 1956 (70 Stat. 581), the Act of August 2, 1956 (70 Stat. 941), the Act of October 9, 1972 (86 Stat. 795), and section 1 of the Act of October 13, 1972 (86 Stat. 806) which were received by the United States subsequent to its acquisition by the United States under the statutes cited in section 1 of this Act and prior to such conveyance, from whatever source and for whatever purpose, including but not limited to the receipts in the special fund of the Treasury as required by section 6 of the Mineral Leasing Act for Acquired Lands of August 7, 1947 (61 Stat. 918, 915), shall as of the date of enactment of this Act be deposited to the credit of the Indian tribe receiving such land and may be expended by the tribe for such beneficial programs as the tribal governing body may determine: *Provided*, That this section shall not apply to any such receipts received prior to enactment of this Act from the leasing of public domain minerals which were subject to the Mineral Leasing Act of 1920 (41 Stat. 437), as amended and supplemented.

(b) All gross receipts (including but not limited to bonuses, rents, and royalties) hereafter derived by the United States from any contract, permit or lease referred to in section 4(a) of this Act, or otherwise, shall be administered in accordance with the laws and regulations applicable to receipts from property held in trust by the United States for Indian tribes.

Sec. 6. All property conveyed to tribes pursuant to this Act and all the receipts therefrom referred to in section 5 of this Act, shall be exempt from Federal, State, and local taxation so long as such property is held in trust by the United States. Any distribution of such receipts to tribal members shall neither be considered as income or resources of such members for purposes of any such taxation nor as income, resources, or otherwise utilized as the basis for denying or reducing the financial assistance or other benefits to which such member or his household would otherwise be entitled to under the Social Security Act or any other Federal or federally assisted program.

25 USC §96a.

25 USC 459d.

25 USC 465 note.

30 USC 355.

30 USC 181 note.

Tax exemption.

25 USC 459a.

42 USC 901 note.

Approved October 17, 1975.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-480 accompanying H.R. 5778 (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 94-377 (Comm. on Interior and Insular Affairs).

CONGRESSIONAL RECORD, Vol. 121 (1975):

Sept. 19, considered and passed Senate.

Oct. 6, considered and passed House, amended, in lieu of H.R. 5778.

Oct. 7, Senate concurred in House amendment.

**REVISED LAND
ORDINANCE #3**

THE MINNESOTA CHIPPEWA TRIBE LAND ORDINANCE #3

WHEREAS, The Constitution of The Minnesota Chippewa Tribe was adopted for the purposes of conserving and developing tribal resources and for promoting the general welfare of the members of the Tribe, (Article I, Section 3) and

WHEREAS, The Constitution of The Minnesota Chippewa Tribe, Article V, Sec. 1, (f), vests in the Tribal Executive Committee powers "to manage, lease, permit, or otherwise deal with tribal lands....."

WHEREAS, The Constitution of the Minnesota Chippewa Tribe, Article VI, Sec. 1, (c) authorizes Band governments "to manage, lease, permit or otherwise deal with tribal lands, interests in lands or other tribal assets, when authorized to do so by the Tribal Executive Committee."

NOW THEREFORE BE IT RESOLVED, that Land Ordinance #3 is hereby adopted and shall govern the assignment, leasing, encumbering, and all other dispositions and uses affecting tribal lands:

Chapter 1 - Revoking all prior laws; jurisdiction.

Section 101 - To the extent they are inconsistent with the terms of this Ordinance, all prior ordinances, resolutions and regulations of the Minnesota Chippewa Tribe are hereby revoked and nullified. In the absence of Band government resolutions, ordinances and regulations, this Ordinance shall govern the occupancy and use of tribal lands.

Section 102 - Each Band government shall retain the inherent authority to protect and manage the use of lands, waters and resources with respect to its Reservation so as to secure the political and economic security of the Band, and the health and welfare of its members. Where the conditions imposed by a provision of this Ordinance are in conflict with a statute, ordinance or regulation of the Band government, this Ordinance authorizes the Band government to follow the provisions of its own law, insofar as such law is not contrary to the political or economic welfare of the Band, and does not directly affect any other Band government without its consent.

Chapter 2 - Definitions.

Section 201 - "Tribe" means The Minnesota Chippewa Tribe, operating under its Constitution adopted pursuant to Section 16 of the Act of June 18, 1934, (48 Stat. 984), as amended.

Section 202 - "Tribal Executive Committee" means the governing body of the Tribe as established by the Constitution of The Minnesota Chippewa Tribe, Art. III, Section 1.

Section 203 - "Band government" means the governments of the White Earth, Leech Lake, Fond du Lac, Bois Forte (Nett Lake), Grand Portage and Mille Lacs Reservations, as established by the Constitution of the Minnesota Chippewa Tribe, Art. III, Section 2, and referred to therein as "Reservation Business Committees."

Section 204-1 - "Tribal Lands" as used herein shall consist of the following: (a) Land restored to tribal ownership for use and benefit of the Minnesota Chippewa Tribe under Section 3 of the Act of June 18, 1934 (48 Stat. 984), 25 U.S.C.A. 463; (b) Lands purchased in trust for the Minnesota Chippewa Tribe under Section 5 of the Act of June 18, 1934 (48 Stat. 985), 25 U.S.C.A. 465; (c) Lands purchased for wild rice camp sites under Section 5 of the Act of June 18, 1934 (48 Stat. 985), 25 U.S.C.A. 465; (d) All unallotted land, Agency and School reserves, old Day School sites, and any and all other land or interest in land heretofore hereafter be acquired by or for the benefit of the Minnesota Chippewa Tribe, and all other land of the Tribe in any portion of Indian Country, as defined in 18 U.S.C. Sec. 1151, including any and all such lands held in fee by the Minnesota Chippewa Tribe.

Section 204-2 - "Tribal lands" include any buildings, fixtures or other permanent improvements not specifically excluded by agreement, and the natural resources situated on any tribal lands.

Section 204-3 - "Natural resource" means any resource related to the lands held in fee or trust which would be subject to trust protection when such lands are held in trust for the Band or Tribe by the Federal Government.

Section 205 - "Land Assignment" means the granting of a limited right to occupy or use land for residential or community purposes only. Assignments shall be limited to Tribal members, Tribal groups and Tribal Associations.

Section 206 - "Land Lease" means an agreement of a specified duration between the Minnesota Chippewa Tribe and another party for a specified use of tribal lands.

Section 207 - "Public Use" means a use benefitting an entire reservation or an identifiable group or association of the resident tribal members.

Section 208 - "Secretary of the Interior Approval" means the approval required by Tribal or Federal Law for any actions affecting property held in trust by the United States for the Minnesota Chippewa Tribe.

Section 209 - "Restricted Areas" means any portion of areas of Indian Country, as defined in 18 U.S.C. Sec. 1151, of which a majority of the land is owned in fee by, or held in trust for the benefit of the Minnesota Chippewa Tribe and/or its constituent Bands and members, such lands having been designated under Tribal or Band statute, ordinance or regulation as being for the exclusive use and benefit of the Band and its members in furtherance of, and essential to, the Tribe or Band's self-government and conduct of internal relations, and over which the Band government may exercise exclusive regulatory authority.

Chapter 3 - "Duties and Powers of Tribal Executive Committee and Band Governments"

Section 301 - Pursuant to the Constitution of the Minnesota Chippewa Tribe, all tribal lands shall be managed, conserved and developed so as to promote the general welfare of members of the Tribe.

The Tribal Executive Committee shall retain, subject to the provisions of Sections 302 and 303, the authority to approve, reject or amend all assignments, leases, encumbrances, and other uses of tribal lands. All such decisions shall be final.

Section 302 (a) - Pursuant to the authority contained in the Constitution of the Minnesota Chippewa Tribe, Article V, Section I (f) and Article VI, Section 1 (c), the Band government shall have the option to manage, lease, permit, or otherwise deal with tribal lands within the Band's jurisdiction. Any Band government intending to obtain the benefits of this Section shall allow the Tribal Executive Committee sufficient notice of its intentions so that an orderly transition of records and management responsibility may occur. A Band government may upon thirty (30) days written notice, relinquish any responsibility and authority obtained under this Section.

Section 302 (b) - A Band government may, at its exclusive option, include any and all Tribal lands in a Band designated Restricted Area regardless of whether such lands are included in the provisions of Sec. 302(a).

Section 303 - Any person, group or other entity with an actual interest in the land, who is aggrieved by a decision of a Band government made pursuant to the authority granted under Section 302 may appeal to the Reservation Court of competent jurisdiction, or in the absence of such Court, appeal may be had to the Housing Subcommittee of the Tribal Executive Committee, or other Tribunal designated by the Band government for the purpose of hearing such appeals. Appeals shall be presented by the party appealing. Written notice of appeal specifying the grounds thereof from a Band government decision must be served and filed with the appropriate Court or Tribunal of jurisdiction, the Band government and The Tribal Executive Committee within fifteen (15) calendar days of the decision appealed.

Chapter 4 - "Land Assignments and Escheat"

Section 401 - Band governments may, at their option, choose to use either "Land Assignments", or "Leases" as the means of assigning property rights over Band or Tribal lands on or near the Band's Reservation. Leases shall be the preferred form for land transactions involving Tribal property rights with non-Tribal members.

Section 402 - Land assignments may be made to individual members of the Tribe for residential purposes only, or to tribal or non-profit reservation groups or associations for public use. In no event shall a profit-making activity be construed as a residential or community use.

Section 403 - Land assignments for residential purposes shall not exceed three (3) acres. The Tribal Executive Committee or Band government may for good cause grant a variance to authorize a residential land assignment that exceeds three (3) acres. All land assignments shall be subject to Tribal and Band Zoning and Land Use Ordinances.

Section 404 - Land assignments to tribal or reservation groups or associations for public purposes shall be limited in area in accordance with public purpose served.

Section 405 - Land assignments, may be for a stated period of time and revocable in accordance with the terms and conditions of a land assignment agreement; provided, that land assignments to individual members of the Tribe may be for as long as they shall occupy the land but for no longer than their natural lives.

Section 406 - All land assignment agreements shall be subject to the following restrictions and conditions:

- A. Any land assignment or rights or interests arising thereunder, shall not be reassigned or sold by the assignee.
- B. Any person who is not an enrolled member of the Minnesota Chippewa Tribe shall not be eligible to receive a land assignment, except as provided in Section 405, Subd. (D).
- C. Unless otherwise provided, buildings, improvements or fixtures placed upon Tribal lands pursuant to assignments shall be the separate property of the assignee, permittee or party to the contract, and shall be regarded as personal property regardless of the manner in which the same is affixed to the land. However, the Tribe shall be under no obligation to purchase such building improvements or fixture in the event they are not or cannot be removed.
- D. Preferences in the assignments of land to qualified Indians shall be as follows:

In the event of death of an assignee, and subject to the provisions of 25 U.S.C. Secs. 2201 et. seq., the surviving spouse, if an enrolled member, shall have a right to preference to such assignment, provided a claim for preference is filed in writing with the Tribal Executive Committee or Band Government within ninety (90) days after the death of the assignee. Where the surviving spouse is a non-member and there are minor children, the surviving spouse may be assigned the land until the youngest child reaches the age of majority.

- E. Breach of any terms of an assignment shall be grounds for termination of the assignment.

Section 407 - The Tribal Executive Committee or Band government shall develop a standard form for all land assignments.

Section 408 - In the event of the termination or the expiration of an assignment and the improvements are not removed within the period prescribed in the assignment then they shall become the property of the Tribe or the Band government administering the assignment.

Section 409 - Insofar as title to any allotted lands may escheat to the Tribe by operation of law or through condemnation or consolidation of fractionated interests on such lands, the Tribe shall transfer the title to the land to the Band government of the Reservation on which the land is located.

Chapter 5 - Subdivision, Platting and Public Uses.

Section 501 - Subject to the provisions of Section 102 of this Ordinance, the Band government shall

have power to subdivide or plat lands within the jurisdiction of the Band or within designated Restricted Areas. This includes the power to determine the acreage to be assigned for all purposes, to classify the use of any land, to set aside specific areas and otherwise reserve any and all lands for the benefit of the reservation or the Tribe, as it deems advisable; to classify agricultural and forest lands, to set aside and reserve land for woodlots, community and public use, recreation campgrounds or business sites, or other purposes.

Section 502 - In assigning acreage for either public or private use, the Tribal Executive Committee or the Band government shall take into consideration the amount of land available, the number of applicants, the least amount of acreage required in each case for actual use and shall also consider at all times the general welfare of the Tribe.

Section 503 - Land purchased, acquired or heretofore otherwise designated as wild rice camp, maple gathering camp, or in any other way designated as an area for the benefit and sustenance of the membership of the Minnesota Chippewa Tribe shall be subject, at all times, to the jurisdiction of the the Band government. Such lands shall be administered consistent with the purpose for which the same was reserved by Acts of Congress. However, if the Tribal government with jurisdiction should find it expedient to issue permits for certain portions of such land for residential or other purposes, the granting of such permits shall be in accordance with this Ordinance and shall require any assignee to make available to campers for harvesting, the portion of such campsite not actually occupied or used by the assignee.

Section 504 - A Band government may use its inherent sovereign powers of condemnation over any lands held in trust by the federal government for the benefit of Indians or subject to a restriction on alienation on or near its Reservation, including lands held in trust for the Minnesota Chippewa Tribe, *provided*,

- (A) the Band receives Secretary of the Interior Approval;
- (B) the condemnation is in the public interest; and,
- (C) just compensation and due process is afforded.

For purposes of this Ordinance, just compensation shall be, unless otherwise agreed between the Band and the owner, an amount equal to the fair market value of the land.

Chapter 6 - Leases and Permits

Section 601 - The Tribal Executive Committee or Band government shall prepare standardized forms which shall be used for all land transactions subject to this Section.

Section 602 - No land transactions subject to this Section shall be made for a term longer than ten (10) years, with provision for a ten (10) year extension or renewal, except that upon special application a twenty-five (25) year lease, with provision for twenty-five (25) year extension or renewal, may be granted in order to secure residential or business financing or to meet any other

special needs of a particular applicant. In no instance, however, shall a twenty-five (25) year land transaction be approved unless adequate documentation of the special need accompanies the application and such documentation demonstrates that the longer term will benefit the tribe generally, a specific tribal member, or a specific tribal or reservation group.

Section 603 - Terms and conditions, including payment provisions, of all land transactions subject to this Section shall be determined by The Tribal Executive Committee or, by a Band government administering Tribal Lands pursuant to Section 302 (a). The rental schedule shall be reviewed and adjusted at least once every five (5) years by the Tribal Executive Committee or Band government and said schedule shall be as uniform as possible within the Reservation on which such lands are located.

Section 604 - Land transactions under this Section for residential purposes shall not exceed three (3) acres. The Tribal Executive Committee may for good cause grant a variance to authorize a residential land lease, permit or contract that exceeds three (3) acres. All land leases, permits or contracts shall be subject to Tribal and Band Zoning and Land Use Ordinances.

Chapter 7 - Prior Assignments, Leases, Permits and Contracts.

Section 701 - No prior land transactions under Chapters 3 or 6 shall be affected by the provisions of this Ordinance. They shall remain governed by the laws applicable at the time granted. *Except that*, the provisions for commencing and enforcing an Unlawful Detainer and Writ of Restitution as contained in Sections 1101 and 1102 shall become immediately effective as to all leases permits or contracts affecting Tribal land. Wherever and whenever feasible, prior leases, permits and contracts should be renegotiated so as to conform to this Ordinance, and every effort must be made to ensure that all interests in Tribal land are recorded. No renewal or extension of any current leases or permits shall be granted except in conformity with this Ordinance.

Chapter 8 - Timber Permits and Contracts.

Section 801 - All leases, permits and contracts for the removal of standing timber attached to Tribal land shall be governed by the Band's Forest Management Plan.

Chapter 9 - Rights of Way Over Tribal Land.

Section 901 - All grants of rights-of-way over Tribal lands shall be in accordance with the regulations of the Department of the Interior and the applicable laws, except that all grants for future rights-of-way over Tribal lands shall be subject to the consent and approval of the officer of the Band government.

Chapter 10

Section 1001 - The waters within the bounds of the six member reservations of The Minnesota Chippewa Tribe will be protected from degradation. Sewage and waste disposal systems located on tribal lands will be constructed and/or maintained so as to effect no degradation of the quality of surface or ground waters. Degradation of water quality is defined as the introduction of any material, into any water system where the introduced material is not in conformance with any applicable Reservation Codes. Failure to comply with the regulations outlined in this Section will be grounds for termination of the granted lease, permit assignment or contract.

Chapter 11 - Unlawful Detainer

Section 1101 - In the event of violation of the terms of any land transaction under Chapter 3, or Chapter 4, an Unlawful Detainer action may be brought in the appropriate Reservation Court of competent jurisdiction, or in the absence of such Court, in the Housing Committee of Tribal Executive Committee, or in any other Tribunal designated by the Band Government.

Section 1102- In the event that an Unlawful Detainer is upheld this Chapter, causing a Writ of Restitution to issue, the occupant of the land and/or the record holder of the affected interest shall be notified in writing, by certified mail of the said decision. Said notice shall specify the grounds of the decision. The Band government shall retake possession of the land in any manner not likely to create a disturbance of the peace. If it is determined that peaceful repossession of the land cannot be accomplished, the Band government may, pursue any and all legal remedies, tribal, reservation, state or federal court, including forcible methods to effect the eviction of the unlawful possessor of such land.

Section 1103 - The termination and repossession provisions of this Section shall be made part of every Tribal land transaction and shall specify that these provisions provide the exclusive remedy for any party aggrieved by the termination of a transaction affecting Tribal land.

Section 1104 - The Unlawful Detainer provisions of the Reservation on which the Action is taken and heard shall control. In the absence of such law, the provisions of this Ordinance, and Ordinance 16, shall control.

We do hereby certify that the foregoing Ordinance was duly presented and acted upon by a vote of 8 For, 0 Against, 0 Silent at a Regular Meeting of the Minnesota Chippewa Tribal Executive Committee, a quorum present, held on October 22, 1997, at Onamia, Minnesota.

Norman W. Deschampe
Norman W. Deschampe, President
THE MINNESOTA CHIPPEWA TRIBE

Attest: Eric O. Hunt
Eric O. Hunt, Secretary
THE MINNESOTA CHIPPEWA TRIBE

RESOLUTION 129-10

RESOLUTION 129-10

WHEREAS, the Minnesota Chippewa Tribal Executive Committee is the duly elected governing body of the Minnesota Chippewa Tribe, comprised of six member reservations (Bois Forte, Fond du Lac, Grand Portage, Leech Lake, Mille Lacs, and White Earth), and

WHEREAS, the Minnesota Chippewa Tribe, Tribal Executive Committee formed a committee to review the Minnesota Chippewa Tribe Constitution; and

WHEREAS, the Constitution Review Committee requested from the Office of Special Trustee an appraisal and listing of all lands held in trust for the Minnesota Chippewa Tribe for possible transfer to the individual bands; and

WHEREAS, in response to the request for an appraisal process for all lands held in trust for the Minnesota Chippewa Tribe, the Tribal Executive Committee was presented an overall land appraisal and market study comparison; and

WHEREAS, the Minnesota Chippewa Tribe, Tribal Executive Committee would like to have a market study comparison done to identify the types of all tribal parcels and update the forestry volumes on all tribal lands;

NOW THEREFORE BE IT RESOLVED, that the Minnesota Chippewa Tribal Executive Committee does hereby approve a proposal in the amount of \$95,000 to identify the types of parcels and update the forest volumes on all tribal lands;

BE IT FURTHER RESOLVED, that the Minnesota Chippewa Tribe, Tribal Executive Committee requests the transfer of \$95,000 to the Minnesota Chippewa Tribe Contract # CTF53T40041 to perform forestry and realty services required herein;

BE IT FURTHER RESOLVED, that the Minnesota Chippewa Tribe, Tribal Executive Committee requested an opinion from the Bureau of Indian Affairs whether a market analysis would be acceptable to the Secretary of Interior as opposed to a full appraisal of each parcel;

BE IT FINALLY RESOLVED, that the Minnesota Chippewa Tribe, Tribal Executive Committee does hereby authorize the Executive Director or his appointed designee to negotiate and sign the contract.

We do hereby certify that the foregoing Resolution was duly presented and acted upon by a roll call vote of 7 For, 0 Against, 5 Silent, at a Regular Meeting of the Minnesota Chippewa Tribal Executive Committee, a quorum present, held on September 8, 2010 at Carlton, Minnesota.


Norman W. Deschampe, President
THE MINNESOTA CHIPPEWA TRIBE


Michael J. Bongo, Secretary
THE MINNESOTA CHIPPEWA TRIBE

**RESOLUTION
FEBRUARY 2014
TABLED**

MCT Beneficial Interest Land Transfer

RESOLUTION _____

Tabled

- WHEREAS,** the Minnesota Chippewa Tribal Executive Committee is the duly elected governing body of the Minnesota Chippewa Tribe, comprised of six member reservations (Bois Forte, Fond du Lac, Grand Portage, Leech Lake, Mille Lacs, and White Earth), and
- WHEREAS,** the Minnesota Chippewa Tribe holds beneficial interest of various parcels of land located within or near the reservations of the six member reservations; and
- WHEREAS,** the Minnesota Chippewa Tribe does not have any land management program or department; and
- WHEREAS,** each member reservation has been responsible for the management and oversight of the Minnesota Chippewa Tribe's beneficial interest in its trust lands for decades; and
- WHEREAS,** the Minnesota Chippewa Tribe determines it to be in the best interest of the member reservations to transfer all beneficial interest in its trust lands, including any and all rights associated therewith, to each member reservation when that land is located within the boundaries of said reservation; and
- WHEREAS,** there are certain parcels of trust lands located adjacent or near to member reservation boundaries, and with respect to those lands, the member reservation nearest to a parcel outside the boundaries of its reservation shall receive all beneficial interest in those lands, including any and all rights associated therewith; and
- WHEREAS,** in order to transfer beneficial title to these lands, federal legislation will be required, and the Minnesota Chippewa Tribe hereby endorses a draft bill to transfer its beneficial interest in lands to each member reservation, a draft and proposed copy of which is attached hereto; and
- WHEREAS,** the Natural Resources Subcommittee discussed this resolution and recommended its approval to the Minnesota Chippewa Tribal Executive Committee.
- NOW THEREFORE BE IT RESOLVED,** that the Minnesota Chippewa Tribal Executive Committee does hereby approve this resolution and authorizes the introduction of federal legislation to accomplish the goal of this resolution.

MCT Beneficial Interest Land Transfer

We do hereby certify that the foregoing Resolution was duly presented and acted upon by a vote of ___ For, ___ Against, ___ Silent, at a Regular Meeting of the Minnesota Chippewa Tribal Executive Committee, a quorum present, held on February 6, 2014 at Onamia, Minnesota.

Tabled

Not Approved!

Norman Deschampe, President
THE MINNESOTA CHIPPEWA TRIBE

Donald J. Finn, Secretary
THE MINNESOTA CHIPPEWA TRIBE

RESOLUTION 67-19

RESOLUTION 67-19

- WHEREAS,** the Minnesota Chippewa Tribe is comprised of six-member reservations (Bois Forte, Fond du Lac, Grand Portage, Leech Lake, Mille Lacs, and White Earth); and
- WHEREAS,** the Tribal Executive Committee is the duly elected governing body of the Minnesota Chippewa Tribe and is comprised of the Chairpersons and Secretary/Treasurers from the six bands; and
- WHEREAS,** the Bands, which are organized as the Minnesota Chippewa Tribe under the Indian Reorganization Act, had previously reserved lands for their own use and benefit in land cession treaties with the United States of American; and
- WHEREAS,** pursuant to the terms of the Act of January 14, 1889, 25 Stat. 642, the Bands' treaty reservations were ceded and opened for allotment, sale, and entry under the supervision of the Secretary of the Interior; and
- WHEREAS,** in a Secretarial Order of Restoration dated February 23, 1938, the Secretary of the Interior determined that the remaining undisposed of and vacant lands on the reservations would "be of value to the Indians and restored to tribal ownership, and where practicable, consolidated by exchanges with other landowners"; and
- WHEREAS,** the Order of Restoration restored vacant and undisposed of lands to "tribal ownership for the use and benefit of the Chippewa Indians of Minnesota" and the United States government ruled that the restored lands were to be for the common benefit of the Minnesota Chippewa Tribe even though the lands were within reservations which, by treaty, were intended for the perpetual use and occupancy of the specific Bands which had been parties to the treaties of cession; and
- WHEREAS,** the Minnesota Chippewa Tribe also purchased land from time to time within the reservations of the constituent Bands and beneficial title to those lands is held by the United States in trust for the Minnesota Chippewa Tribe; and
- WHEREAS,** the lands held in trust by the United States for the Minnesota Chippewa Tribe on the six reservations are subject to a Land Ordinance that delegates authority to the respective Band governing bodies to manage, lease, and deal with the Minnesota Chippewa trust lands on the respective reservations; and
- WHEREAS,** although the delegations in the Land Ordinance have enabled the Bands to exercise the attributes of ownership to a considerable extent, the ability of the Bands to do so on a long term basis is inhibited by the fact that both the Land Ordinance and the existing formula for allocation of proceeds for MCT trust lands can be either modified or repealed by the Tribal Executive Committee; and

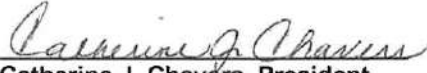
WHEREAS, in Resolution 33-18, the Tribal Executive Committee found that Band ownership of trust lands within the reservations of the constituent Bands would both eliminate uncertainty associated with MCT ownership and enable the fulfillment of treaty promises that were premised on reservations for the use and benefit of the Bands; and

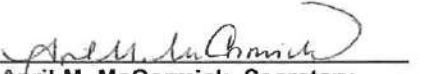
WHEREAS, Resolution 33-18 stated that in order for the constituent Bands to realize the full benefit of the tribal trust lands within their reservation in perpetuity, the Tribal Executive Committee will take such action as may be necessary, including seeking and supporting federal legislation, to transfer beneficial title to all lands that are held in trust for the Minnesota Chippewa Tribe and either located within a reservation created for the use and benefit of a constituent Band or are Indian country over which a constituent Band exercises jurisdiction, to the United States of America in trust for that Band; and

WHEREAS, the Tribal Executive Committee finds that it is necessary to approve language that shall serve as the basis for seeking and supporting legislation transferring beneficial title to lands that are held in trust for the Minnesota Chippewa Tribe or Indian Country over which a constituent Band exercises jurisdiction, to the United States of America in trust for that Band.

NOW THEREFORE BE IT RESOLVED, that the Tribal Executive Committee hereby approves the legislative language attached to this resolution and authorizes the distribution and use of the language to seek and support legislation transferring beneficial title to lands that are held in trust for the Minnesota Chippewa Tribe or Indian Country over which a constituent Band exercises jurisdiction, to the United States of America in trust for that Band.

We do hereby certify that the foregoing Resolution was duly presented and acted upon by a vote of 10 For, 0 Against, 0 Silent, at a Regular Meeting of the Minnesota Chippewa Tribal Executive Committee, a quorum present, held on February 20, 2019 at Vermilion, Minnesota.


Catherine J. Chavers, President
THE MINNESOTA CHIPPEWA TRIBE


April M. McCormick, Secretary
THE MINNESOTA CHIPPEWA TRIBE

RESOLUTION 96-19

RESOLUTION 96-19

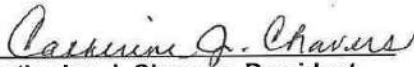
- WHEREAS,** the Minnesota Chippewa Tribe is comprised of six-member reservations (Bois Forte, Fond du Lac, Grand Portage, Leech Lake, Mille Lacs, and White Earth); and
- WHEREAS,** the Tribal Executive Committee is the duly elected governing body of the Minnesota Chippewa Tribe and is comprised of the Chairpersons and Secretary/Treasurers from the six bands; and
- WHEREAS,** the Bands, which are organized as the Minnesota Chippewa Tribe under the Indian Reorganization Act, had previously reserved lands for their own use and benefit in land cession treaties with the United States of American; and
- WHEREAS,** in Resolution 33-18, the Tribal Executive Committee found that Band ownership of trust lands within the reservations of the constituent Bands would both eliminate uncertainty associated with MCT ownership and enable the fulfillment of treaty promises that were premised on reservations for the use and benefit of the Bands; and
- WHEREAS,** Resolution 33-18 stated that in order for the constituent Bands to realize the full benefit of the tribal trust lands within their reservation in perpetuity, the Tribal Executive Committee will take such action as may be necessary, including seeking and supporting federal legislation, to transfer beneficial title to all lands that are held in trust for the Minnesota Chippewa Tribe and either located within a reservation created for the use and benefit of a constituent Band or are Indian country over which a constituent Band exercises jurisdiction, to the United States of America in trust for that Band; and
- WHEREAS,** in Resolution 67-19, the Tribal Executive Committee found it necessary to approve language that shall serve as the basis for seeking and supporting legislation transferring beneficial title to lands that are held in trust for the Minnesota Chippewa Tribe or Indian Country over which a constituent Band exercises jurisdiction, to the United States of America in trust for that Band;
- WHEREAS,** the Tribal Executive Committee approved legislative language that was attached to Resolution 67-19 to serve as the basis for seeking legislation transferring beneficial title to lands that are held in trust for the Minnesota Chippewa Tribe or Indian Country over which a constituent Band exercises jurisdiction, to the United States of America in trust for that Band;

Resolution 96-19
April 24, 2019
Page 2 of 2

WHEREAS, the Tribal Executive Committee received additional input from the constituent Bands regarding legislative language and finds that is necessary and appropriate to adopt a resolution approving the updated legislative language.

NOW THEREFORE BE IT RESOLVED, that the Tribal Executive Committee hereby approves the legislative language attached to this resolution and authorizes the distribution and use of the language to seek and support legislation transferring beneficial title to lands that are held in trust for the Minnesota Chippewa Tribe or Indian Country over which a constituent Band exercises jurisdiction, to the United States of America in trust for that Band.

We do hereby certify that the foregoing Resolution was duly presented and acted upon by a vote of 10 For, 1 Against (Kevin Dupuis), 0 Silent, at a Regular Meeting of the Minnesota Chippewa Tribal Executive Committee, a quorum present, held on April 24,


Catherine J. Chavers, President
THE MINNESOTA CHIPPEWA TRIBE


April McCormick, Secretary
THE MINNESOTA CHIPPEWA TRIBE

A BILL

A Bill to require the Secretary of the Interior to transfer the beneficial interests in certain lands held in trust for the Minnesota Chippewa Tribe

*Be it enacted by the Senate and House of Representatives
of the United States of America in Congress assembled*

Section 1. Inter-Tribal Transfers of Minnesota Chippewa Tribe Beneficial Interests in Trust Lands.

(a) **TRANSFER OF EXISTING TRUST INTERESTS.**—With respect to lands now held in trust by the United States for the Minnesota Chippewa Tribe, all beneficial interests of the Minnesota Chippewa Tribe in such trust lands located on or near a reservation of a constituent Band of the Minnesota Chippewa Tribe (Bois Forte, Fond du Lac, Grand Portage, Leech Lake, Mille Lacs and White Earth) are hereby transferred to the constituent Band exercising jurisdiction over such trust lands and, as of the date of enactment of this Act, such trust lands shall be held in trust by the United States solely for that constituent Band.

(b) **LEGAL DESCRIPTIONS; RECORDATION.**—No less than 90 days after enactment of this Act, the Secretary of the Interior shall cause a notice to be published in the Federal Register identifying the trust lands and constituent Bands referenced in subsection (a) and shall record the beneficial interests established upon transfer in subsection (a).

(c) **LEGAL LAND DESCRIPTION REVIEW.**—No legal land description review shall be required to make effective the transfer of beneficial interests in existing trust lands made pursuant to this Act.

(d) **CERTAIN RIGHTS NOT AFFECTED.**—Nothing in this Act shall (i) alter, or require the alteration of, any valid rights under any lease, easement, contract assignment or similar instrument entered into or issued prior to the enactment of this Act, or (ii) restrict the authority of the Secretary of the Interior with respect to any such rights.

CURRENT LAND TRANSFER BILL

.....
(Original Signature of Member)

116TH CONGRESS
1ST SESSION

H. R. _____

To transfer beneficial interests in lands held in trust by the United States for the Minnesota Chippewa Tribe to a constituent Band of the Tribe, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. STAUBER introduced the following bill; which was referred to the Committee on _____

A BILL

To transfer beneficial interests in lands held in trust by the United States for the Minnesota Chippewa Tribe to a constituent Band of the Tribe, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. FINDINGS.**

4 Congress finds as follows:

5 (1) The Minnesota Chippewa Tribal Executive
6 Committee is the duly elected governing body of the
7 Minnesota Chippewa Tribe, comprised of the fol-

1 lowing member reservations and constituent Bands:
2 Bois Forte, Fond du Lac, Grand Portage, Leech
3 Lake, Mille Lacs, and White Earth.

4 (2) Trust lands for each constituent Band with-
5 in the reservation of each respective constituent
6 Band will facilitate Band administration of certain
7 leases and other economic development opportuni-
8 ties, eliminate uncertainty associated with owner-
9 ship, and enable the fulfillment of treaty promises
10 premised on reservations for the use and benefit of
11 each Band.

12 **SEC. 2. INTER-TRIBAL TRANSFERS OF MINNESOTA CHIP-**
13 **PEWA TRIBE BENEFICIAL INTERESTS IN**
14 **TRUST LANDS.**

15 (a) IN GENERAL.—The beneficial interests in lands
16 held in trust on the date of the enactment of this Act by
17 the United States for the Minnesota Chippewa Tribe are
18 hereby transferred as follows:

19 (1) Such lands located within the reservation of
20 a constituent Band of the Minnesota Chippewa
21 Tribe to the constituent Band within whose reserva-
22 tion the land is located.

23 (2) Such lands not located within the reserva-
24 tion of a constituent Band of the Minnesota Chip-

1 pewa Tribe to the constituent Band whose reserva-
2 tion is closest to the land.

3 (b) STATUS OF TRUST LAND.—Upon the transfer of
4 the beneficial interests in the trust lands described in sub-
5 section (a), such lands thereafter shall be considered for
6 all purposes to be held in trust by the United States solely
7 for the constituent Band to whom the beneficial interest
8 is transferred.

9 (c) CONSTITUENT BAND OF THE TRIBE.—The term
10 “constituent Band of the Tribe” or “constituent Band”
11 means one of the following Bands of the Minnesota Chip-
12 pewa Tribe:

- 13 (1) Bois Forte.
- 14 (2) Fond du Lac.
- 15 (3) Grand Portage.
- 16 (4) Leech Lake.
- 17 (5) Mille Lacs.
- 18 (6) White Earth.

19 (d) LEGAL DESCRIPTIONS AND DOCUMENTS.—Not
20 later than 90 days after the date of the enactment of this
21 Act, the Secretary of the Interior shall have—

- 22 (1) published in the Federal Register a notice—
23 (A) describing the land subject to the
24 transfer of beneficial interests in the trust lands
25 pursuant to subsection (a); and

1 (B) identifying the constituent Band to
2 which the beneficial interest in that land was
3 transferred; and

4 (2) documented the transfers made by sub-
5 section (a) by appropriate order or other administra-
6 tive action, except that no legal land description re-
7 view shall be required to make effective the transfer
8 of beneficial interests in the trust lands described in
9 subsection (a).

10 (e) CERTAIN RIGHTS NOT AFFECTED.—Nothing in
11 this Act shall—

12 (1) alter, or require the alteration of, any valid
13 rights under any lease, easement, contract assign-
14 ment or similar instrument entered into or issued
15 before the date of the enactment of this Act; or

16 (2) restrict the authority of the Secretary of the
17 Interior with respect to any such rights.

Minnesota Chippewa Tribe Enrollment Ordinance

Minnesota Chippewa Tribe Enrollment Ordinance

I. Authority.

Pursuant to Article II, Membership of the Revised Constitution and Bylaws, the Tribal Executive Committee is responsible for making decisions on applications for enrollment as a member of the Minnesota Chippewa Tribe. As an inherent attribute of that sovereign authority the Tribal Executive Committee finds that it is necessary and appropriate to enact an ordinance governing enrollment.

II. Purpose.

The purpose of this Ordinance is to establish guidelines, rules and an orderly procedure to maintain a current membership roll of the Minnesota Chippewa Tribe. The Tribal Executive Committee recognizes that the process of enrollment is not static but that it evolves as records previously unavailable become known to persons both within and outside of tribal government.

III. Definitions.

- A. **"Another Tribe"** as used in Article II, Section 2 of the Constitution means a tribe on the list of federally-recognized Indian tribes, as published from time to time in the Federal Register, and Canadian tribes.
- B. **"Applicant"** means a living person who has submitted an application for membership in the Minnesota Chippewa Tribe, or on whose behalf such application has been submitted.
- C. **"Band"** means one of the constituent Bands of Minnesota Chippewa Tribe, namely: Bois Forte, Fond du Lac, Grand Portage, Leech Lake, Mille Lacs and White Earth.
- D. **"Band governing body"** means a Reservation Business Committee, Reservation Tribal Council, or other entity recognized by the Tribal Executive Committee as the lawful governing body of a constituent Band of the Minnesota Chippewa Tribe.
- E. **"Base Roll"** means the annuity roll of April 14, 1941, as corrected by the Tribal Executive Committee and ratified by the Tribal Delegates, which is also designated as the official Tribal roll for purposes of determining membership in the Minnesota Chippewa Tribe.
- F. **"Because of an error"** as used in Article II, Section 3 of the Constitution means an error, which led to failure to file a timely application, including errors in applications and errors by any Tribal, Band or federal official.

- G. **“Child born to a member”** means the biological child of a person who at the time of the child’s birth was an enrolled member of or eligible for membership and, subsequent to the child’s birth, enrolled in the Minnesota Chippewa Tribe.
- H. **“Constitution”** means the Revised Constitution and Bylaws of the Minnesota Chippewa Tribe, as amended.
- I. **“Enrollment Office”** means the person or entity designated by a Band governing body as having authority and responsibility for processing enrollment applications.
- J. **“Incompetents”** means persons who have been determined by a court of competent jurisdiction to be unable to act on their own behalf.
- K. **“Minnesota Chippewa Indian Blood”** and **“Minnesota Chippewa Tribe Indian Blood”** mean blood derived from the six (6) Bands comprising the Minnesota Chippewa Tribe: Bois Forte, Fond du Lac, Grand Portage, Leech Lake, Mille Lacs, and White Earth.
- L. **“Minor”** means a person under the age of eighteen (18) years.
- M. **“Relinquishment”** means a personal, voluntary action taken by an applicant or another person legally authorized to act on behalf of the applicant to terminate the applicant’s membership with another tribe. A relinquishment on behalf of a minor must be signed by both parents or by the parent with legal custody.
- N. **Review Committee”** means the committee authorized by this ordinance to hear requests for reconsideration of denials of applications for enrollment.

IV. **Eligibility Criteria.**

- A. Article II of the Constitution provides that the membership of the Minnesota Chippewa Tribe shall consist of the following:
 - 1. Basic Membership Roll. All persons of Minnesota Chippewa Indian blood whose names appear on the annuity roll of April 14, 1941, prepared pursuant to the Treaty with said Indians as enacted by Congress in the Act of January 14, 1889 (25 Stat. 642) and Acts amendatory thereof, and as corrected by the Tribal Executive Committee and ratified by the Tribal Delegates, which roll shall be known as the basic membership roll of the Tribe.
 - 2. All children of the Minnesota Chippewa Indian blood born between April 14, 1941, the date of the annuity roll, and July 3, 1961, the date of

approval of the membership ordinance by the Area Director, to a parent or parents, either or both of whose names appear on the basic membership roll, provided an application for enrollment was filed with the Secretary of the Tribal Delegates by July 4, 1962, one year after the date of approval of the ordinance by the Area Director.

3. All children of at least one quarter (1/4) degree Minnesota Chippewa Indian blood born after July 3, 1961, to a member, provided that an application for enrollment was or is filed with the Secretary of the Tribal Delegates or the Tribal Executive Committee within one year after the date of birth of such children.
- B. No persons born after July 3, 1961, shall be eligible for enrollment if enrolled as a member of another tribe, or if not an American citizen.
- C. Any person of Minnesota Chippewa Indian blood who meets the membership requirements of the Tribe, but who because of an error has not been enrolled, may be admitted to membership in the Minnesota Chippewa Tribe by adoption, if such adoption is approved by the Tribal Executive Committee, and shall have full membership privileges from the date the adoption is approved.

V. **Filing an Application.**

- A. **Who must file?** All persons not enrolled as members of the Tribe on the effective date of this Ordinance must file an application on the form prescribed by the TEC (Appendix 1). Applications for minors or incompetents must be filed by a parent, guardian or other person legally authorized to act on behalf of the applicant, provided that a Band governing body may by official action adopt a requirement that when none of these persons is a Band member the application must also be signed by a sponsor who is a Band member. A sponsor may be an extended family member or other person designated by the Band governing body.
- B. **When and where to file an application.** Applications may be filed with the Tribal Operations Office of the Tribe or an Enrollment Office. Applications must be filed within one year after the birth of an applicant born after July 3, 1961.
- C. **What the application must contain.** Applications must be completed and must contain sufficient information to determine eligibility for enrollment.
- D. **What documents must be filed with the application.**
 1. The application must be accompanied by information establishing that the applicant is a child born to a member of the Minnesota Chippewa Tribe. If the applicant's biological mother is not a tribal member, then the

biological father must be a tribal member and paternity can be demonstrated by:

- a. the birth certificate (a certified copy); or
 - b. an affidavit of paternity from a tribal member, except that an affidavit which is limited by its terms to use for enrollment purposes is not acceptable; or
 - c. results of a DNA or genetic marker test determining the probability that a specific tribal member is the biological father of the applicant to be not less than 97%.
2. If the applicant was not born in the United States, proof of United States citizenship.
 3. If the applicant is a member of another tribe, proof of relinquishment of that membership. An applicant may submit a relinquishment that is conditioned upon enrollment in the Minnesota Chippewa Tribe.
 4. In the case of "adopted out" applicants, the decree of adoption, original birth certificate, or certification by the Secretary of the Interior under the Indian Child Welfare Act of 1978.
 5. In the absence of a birth certificate, other documents may be relied upon to establish any fact necessary to determine eligibility, provided that each fact must be demonstrated by a preponderance of the evidence.
 6. A Band governing body may by official action prescribe the circumstances in which paternity must be established by a DNA or genetic marker test as set out in 1(c) above.

VI. **Processing an Application.**

Initial review of applications shall be done by the Enrollment Office of the Band with which the application is filed. If the application is filed with the Tribal Operations Office of the MCT, it will be referred to the appropriate Enrollment Office for initial review.

- A. At all steps of the process, the burden of proof is on the applicant to demonstrate that each of the eligibility criteria for enrollment in the Minnesota Chippewa Tribe has been met.
- B. The Enrollment Office shall review the application and make a recommendation as provided in the Enrollment Policies and Procedures (Appendix 2).

- C. Upon completion of its review by an Enrollment Office and recommendation by resolution of the Band governing body to approve or deny the application, the Tribal Executive Committee shall consider the application.
- D. Upon the denial of an application by the Tribal Executive Committee the applicant will be given notice of the denial and of the right to request reconsideration of the denial by the Review Committee as provided in Section X of this Ordinance.
- E. In the event the applicant does not file a timely request for reconsideration or if the Review Committee recommends that the denial of the application be sustained, the applicant will be given notice of the denial and of the right to appeal to the Secretary of the Interior as provided in Article II, Section 4 of the Constitution.
- F. Denial of an application shall not preclude a subsequent application if it is based on documentation not available and submitted with a prior application.

VII. Computing Degree of Minnesota Chippewa Tribe Indian Blood.

The following principles shall apply to the computation of blood degree:

- A. Indian blood shown on the Base Roll shall be considered to be Minnesota Chippewa Tribe Indian blood.
- B. The blood degrees shown on the Base Roll shall be used in computing the degree of Minnesota Chippewa Tribe Indian blood for applicants.
- C. Applicants will assume one-half (½) of the Minnesota Chippewa Tribe Indian blood of both the applicant's father and mother, even if one is not enrolled in the Minnesota Chippewa Tribe. The blood degree of a non-enrolled parent must be supported by the same level of documentation as is required of the enrolled parent.
- D. When determining the blood degree of persons with the same birth parents, all full siblings will be considered as having the same degree of Minnesota Chippewa Tribe Indian blood and that degree shall be the highest degree of any of the siblings on the Base Roll, provided, however, that this method of computation shall not apply in cases where the TEC determines that the degree of Minnesota Chippewa Tribe Indian blood of the siblings on the Base Roll was the result of fraud or administrative error.

VIII. Changing Blood Degrees.

The degree of Minnesota Chippewa Tribe Indian Blood of a member may be changed only upon completion of one of these procedures:

- A. If the change does not involve a change on the Base Roll:
 - 1. A member must make a written request to the appropriate Enrollment Office, must indicate the basis for the proposed change, and must provide supporting documentation.
 - 2. The Enrollment Office will research the matter and provide its results to Tribal Operations Office of the Minnesota Chippewa Tribe.
 - 3. The recommendation of the Enrollment Office and Tribal Operations Office shall be presented to TEC and any change must be authorized by resolution. In the event a change is authorized, the Enrollment Office and the Tribal Operations Office shall make the change for all persons affected by the change.

- B. If the change does involve a change in the Base Roll:
 - 1. A base enrollee or a descendent of a base enrollee must make a written request to the appropriate Enrollment Office, must indicate the basis for the proposed change, and must provide supporting documentation.
 - 2. The Enrollment Office will research the matter and forward its results to the Tribal Operations Office of the Minnesota Chippewa Tribe.
 - 3. The recommendations of the Enrollment Office and the Tribal Operations Office shall be presented to the TEC and change must be authorized by resolution. In the event a change is authorized, the Enrollment Office and Tribal Operations Office shall make the change for all persons affected by the change.

IX. Correcting the Base Roll.

- A. If an applicant demonstrates by a preponderance of all available evidence that he or she was eligible to be on the Base Roll, the Base Roll may be corrected by adding the applicant's name.

- B. Applications involving an addition to the Base Roll shall be processed as set forth in Section VI.

X. Requests for Reconsideration .

Any applicant who has been denied enrollment by the Tribal Executive Committee may file a request for reconsideration in accordance with this section.

- A. **Time for Request.** If an application is denied by the Tribal Executive Committee the applicant or a person acting on behalf of the applicant must file a request for reconsideration within thirty (30) days of the date of mailing of the notice of denial.
- B. **Form.** Requests must be written, addressed to the Executive Director of the Minnesota Chippewa Tribe, and state the reason or reasons why the applicant believes the denial was erroneous.
- C. **Processing.** Upon receipt of a timely request the Executive Director shall within ten (10) working days submit the application to the Review Committee, which shall convene within thirty (30) days of such submission to consider the request.
- D. **Consideration/Evidence.** The Review Committee shall notify the applicant of the date, time and place that the Review Committee will convene to hear the request for reconsideration and that the applicant has a right to be heard in person or by representation. The applicant shall be informed that evidence not previously submitted may be presented for consideration, and that the Review Committee will consider all evidence in the application packet. The applicant will be notified that he/she has the burden to demonstrate eligibility by a preponderance of all evidence submitted.
- E. **Extensions of Time.** The Review Committee may extend the time for hearing an appeal upon the request of the applicant and a showing of good cause.
- F. **Report and Recommendation.**
 1. Within thirty (30) days of its hearing on the request for reconsideration, the Review Committee shall issue a written report. The report shall include a recommendation to either sustain or reverse the denial and be sent to the applicant, the Enrollment Office of the appropriate Band, and the MCT Tribal Operations Office and shall become a part of the application file.
 2. If the recommendation of the Review Committee is to sustain the denial of the application, the applicant will be notified of the right to appeal to the Secretary of the Interior as provided in Article II, Section 4 of the Constitution.
 3. If the recommendation of the Review Committee is to reverse the denial of the application, the matter will be remanded to the Band governing body

for action consistent with this ordinance. If the application is ultimately denied by the Tribal Executive Committee following remand, the applicant will be notified of the right to appeal to the Secretary of the Interior.

G. **Composition/Rules.**

1. **Composition of the Review Committee.** The Review Committee shall consist of six (6) persons. Each Band governing body shall appoint one (1) member. No member of a Band governing body shall be appointed. Members of the Review Committee will take an oath to abide by the Constitution and this Ordinance and to hear requests for reconsideration fairly, consistently and without bias.
2. **Rules of the Review Committee.** The Review Committee shall select from its members a person to preside over a hearing on a request for reconsideration. The presiding member shall have the authority to conduct the hearing, to maintain order, and to exclude evidence (oral or written) that is unduly repetitious or plainly irrelevant to the request. The Review Committee will consider all information in the application packet and all information submitted by or on behalf of the applicant.

H. **Exclusive Remedy.** The request for reconsideration provided for in this section is exclusive, and there is no right of review in any court, including any court established by the Tribal Executive Committee or Band governing body.

XI. **Records Management.** Records created or obtained in the enrollment process and possessed by the Minnesota Chippewa Tribe will be used in a manner which prevents unwarranted invasions of personal privacy.

A. **Use or Disclosure of Records.** Except as provided in this section, personal information will not be used or disclosed without the written consent of the individual to whom the record pertains. A disclosure occurs when information identifying an individual is revealed to a third person.

B. **Exception to the General Prohibition Against Disclosure Without Consent.** Written consent to disclose will not be required in the following situations:

1. **Parent or Guardian.** Disclosures may be made to the parent or guardian of minors and incompetents.
2. **Need to Know.** Disclosures may be made to employees of the Minnesota Chippewa Tribe and Band governing bodies who need the information to carry out their duties.

3. **Benefits and Services.** Disclosures may be made for the purpose of determining eligibility for services or benefits available to tribal members.
 4. **Indian Child Welfare Act (ICWA).** Disclosures may be made to a social service agency or other governmental agency charged with responsibility for implementing the ICWA.
 5. **Court Order.** Information may be disclosed pursuant to the order of a court of competent jurisdiction.
 6. **Law Enforcement.** Disclosure may be made to a law enforcement agency, provided that the agency specifies in writing the information sought and the law enforcement activity.
 7. **Health and Safety.** Information may be disclosed when there is an emergency involving compelling circumstances affecting the health or safety of an individual.
- C. **Accounting for Disclosures.** When a disclosure is made under any of the exceptions set out above, the employee making the disclosure will record the date, purpose and recipient of the disclosure.

XII. **Effective Date.**

This ordinance shall be effective on the date of its enactment by the Tribal Executive Committee.

MCT Legislative Subcommittee Report on the 1941 Base Roll

In Secretary/Treasurer Alan Roy's July 8, 2019 statement, an estimated 427,541 Blood Quantum Corrections may be required based upon the 5 sample scenarios in the Enrollment Impact Report Summary. We currently are, and still need to correct the full blood status for these individuals and blood degree corrections for their descendants. Currently, enrollment staff recommends blood quantum corrections on a case by case basis upon discovery of discrepancies such as this through individual Band and TEC resolutions and can take up to two full quarters to get approved. The intent of this proposed resolution is to give authority to enrollment staff to complete the corrections through an administrative correction process which is more timely and effective.

Date, 1961 minimal impact

As an example, correcting an individual listed as 7/8 on the 1941 Base Roll to 4/4, it would impact their third generation descendant(s) blood quantum by 1/36 and correcting a person listed as 15/16 on the 1941 Base Roll to 4/4, would impact their third generation descendant(s) blood quantum by 1/64.

During the past four (4) quarterly TEC meetings dating back to January 2019, there have been one-hundred eleven (111) individuals denied enrollment who fall into the 1/32 category (possess between 21.88% and 24.99% blood quantum). Some of the 111 may be descendants of the 1,089:

January 2019 TEC	April 2019 TEC
Bois Forte – 1	Bois Forte – 2
Fond du Lac – 0	Fond du Lac – 0
Grand Portage – 1	Grand Portage – 0
Leech Lake – 16	Leech Lake – 0
White Earth – 4	White Earth – 5
Mille Lacs – 8	Mille Lacs – 5
Total: 30	Total: 12
July 2019 TEC	October 2019 TEC
Bois Forte – 3	Bois Forte – 0
Fond du Lac – 0	Fond du Lac – 2
Grand Portage – 0	Grand Portage – 0
Leech Lake – 11	Leech Lake – 4
White Earth – 17	White Earth – 10
Mille Lacs – 6	Mille Lacs – 16
Total: 37	Total: 32

For those who submit an appeal to the appeals process kicks in, then enrollment staff does research prior to the appeals hearing. If an error is discovered during the research which results in eligibility for enrollment, a correction is recommended and the denial gets remanded back to the Band. The Band approves a new resolution for approval, then goes forward to TEC for

approval. From the initial application for enrollment to this point, the process can take up to three (3) quarters.

If the proposed resolution was in effect during this time and we found that a descendant of one of the 1,089 was in the 1/36 category, enrollment staff would have been able to make the correction at the time of application review and processed it as an eligible applicant.

It is our recommendation that a blanket TEC resolution be submitted for approval to restore full blood status to the 1,089 original allottees as well as subsequent discovery of other discrepancies relative to full blood status. TEC Resolution 64-03 approved January 30, 2003 established policy to correct blood degree discrepancies of siblings with same birth parents to the highest blood degree. This gives the enrollment staff the ability to do this through administrative corrections. The language of this proposed resolution is similar to 64-03.

MCT Resolution to Restore Full Blood Status

Restore Full blood Status

RESOLUTION _____

- WHEREAS,** the Minnesota Chippewa Tribal Executive Committee is the duly elected governing body of the Minnesota Chippewa Tribe, comprised of six member reservations (Bois Forte, Fond du Lac, Grand Portage, Leech Lake, Mille Lacs, and White Earth), and
- WHEREAS,** the Tribal Executive Committee of the Minnesota Chippewa Tribe is the governing body that makes final tribal decisions on applications for membership in the Minnesota Chippewa Tribe, and
- WHEREAS,** pursuant to the Revised Constitution and Bylaws of the Minnesota Chippewa Tribe the April 14, 1941 Annuity Roll, as corrected by the Executive Committee and ratified by the Tribal delegates is the basic Membership Roll used as a reference for subsequent enrollment, and
- WHEREAS,** 1,089 original allottees from the White Earth, Mille Lacs, Leech Lake and Fond du Lac Bands of the Minnesota Chippewa Tribe were discovered who lost full blood status from available blood rolls and the 1901 Allotment list; and
- WHEREAS,** the 1,089 original allottees appear as mixed bloods on the April 14, 1941 basic Membership Roll of the Minnesota Chippewa Tribe, and
- WHEREAS** the loss of full blood status of the original allottees has an impact on descendants blood quantum resulting in current applications for membership being denied, and
- WHEREAS,** the Tribal Executive Committee finds that it is in the best interests of the Tribe to apply policies in enrollment that to the greatest extent possible eliminate problems caused by discrepancies in available blood rolls attributed to full blood status, and
- BE IT FINALLY RESOLVED,** that it shall be the policy of the Minnesota Chippewa Tribe to restore full blood status to the 1,089 original allottees including any subsequent discovery of allottees listed as full blood on one blood roll.

We do hereby certify that the foregoing Resolution was duly presented and acted upon by a vote of ___ For, ___ Against, ___ Silent, at a Regular Meeting of the Minnesota Chippewa Tribal Executive Committee, a quorum present, held on October 30, 2019 at Hinckley, Minnesota.

Catherine J. Chavers, President
THE MINNESOTA CHIPPEWA TRIBE

April McCormick, Secretary
THE MINNESOTA CHIPPEWA TRIBE

Assessment of Enrollment Criteria and Candidate Eligibility

BRODEEN & PAULSON, P.L.L.P.

M E M O R A N D U M

TO: Minnesota Chippewa Tribe, Tribal Executive Committee
FROM: Philip Brodeen, Legal Counsel
DATE: October 30, 2019
SUBJECT: Preliminary Assessment of Enrollment Criteria and Candidate Eligibility

On July 9, 2019, the Tribal Executive Committee (“TEC”) of the Minnesota Chippewa Tribe (“MCT”) requested an assessment of the enrollment criteria and candidate eligibility provisions of the Revised Constitution and Bylaws of the MCT. My initial efforts on the project focused on reviewing existing literature and attempting to collect information and data from delegates to the MCT Constitution Convention. I attended a meeting of the Constitution Convention with the intent of discussing enrollment and candidate eligibility with the delegates. The delegates showed little interest in discussing substantive elements of the provisions and instead expressed a strong desire to address the items on their own accord and pursuant to their own schedule and procedures. Therefore, my preliminary recommendation is to allow the delegates the time and freedom to review enrollment and candidate eligibility and formulate proposed language on the topics for consideration by the TEC.

In an effort to effectuate the July 9, 2019, directive of the TEC and respect the wishes of the Constitution Convention, I provide this preliminary assessment of the enrollment criteria and candidate eligibility provisions of the Revised Constitution and Bylaws. This assessment focuses on key considerations and existing gaps in information and data. These key considerations and gaps in data should be addressed before the TEC considers language to amend the Constitution. This memorandum also briefly discussed options for enrollment and candidate eligibility that can be considered by the delegates to the Constitution Convention.

I. ENROLLMENT CRITERIA

Article II of the Revised Constitution and Bylaws of the Minnesota Chippewa Tribe governs enrollment. Section 1 of Article II provides three separate enrollment categories and reads as follows:

- (a) Basic Membership Roll. All persons of Minnesota Chippewa Indian blood whose names appear on the annuity roll of April 14, 1941, prepared pursuant to the Treaty with said Indians as enacted by Congress in the Act of January 14, 1889 (25 Stat. 642) and Acts amendatory thereof, and as corrected by the Tribal Executive Committee and ratified by the Tribal Delegates, which roll shall be known as the basic membership roll of the Tribe.

(b) All children of Minnesota Chippewa Indian blood born between April 14, 1941, the date of the annuity roll, and July 3, 1961, the date of approval of the membership ordinance by the Area Director, to a parent or parents, either or both of whose names appear on the basic membership roll, provided an application for enrollment was filed with the Secretary of the Tribal Delegates by July 4, 1962, one year after the date of approval of the ordinance by the Area Director.

(c) All children of at least one quarter (1/4) degree Minnesota Chippewa Indian blood born after July 3, 1961, to a member, provided that an application for enrollment was or is filed with the Secretary of the Tribal Delegates or the Tribal Executive Committee within one year after the date of birth of such children.

Enrollments processed pursuant to Article II, Sections 1 (a) and (b) of the Revised Constitution and Bylaws occurred primarily in the 1960's. Thus, the enrollment criteria that is of primary concern is contained in Article II, Section 1(c) and relates to blood quantum. Article II, Section 1(c) contains four separate limitations that work to restrict enrollment to a distinct group of individuals. First, the provision requires at least one quarter (1/4) blood degree. Second, the one quarter (1/4) blood degree must be Minnesota Chippewa Indian blood. Third, the individual must be the child of a member born after July 3, 1961. Finally, an enrollment application must be filed within one year of the birth of the child. The four limitations in the enrollment criteria have resulted in projections that show a substantial decrease in enrollment over the next eighty years.

A. KEY CONSIDERATIONS

There are a number of key considerations regarding enrollment that must be addressed before drafting proposed amendments to the Constitution. These considerations touch on foundational elements of the enrollment process and criteria. These key considerations include:

- Should blood quantum continue to be used as an enrollment criterion?
- Should enrollment decisions continue to be made by the TEC or should the individual RBC's have an increased role in making enrollment determinations?
- Should enrollment criteria be uniform across the MCT or should the individual reservations be allowed to set their own enrollment criteria?

Tribal wide data on these topics has not been collected. I recommend that a survey be established and conducted to collect data on these foundational questions. The collection of tribal wide data will help inform the drafting of amendments to the Constitution.

B. ENROLLMENT OPTIONS

1. Blood Quantum

A number of options could be explored if tribal wide polling indicates that blood quantum remains desirable for enrollment purposes.

a) Remain the Same

The report commissioned by the MCT and conducted by Wilder Research shows a precipitous drop in enrollment over the next 80 years if the enrollment criteria remain unchanged. The projected enrollment over the next 80 years under this category are as follows:

2013 – 41,110
2033 – 36,192
2058 – 23,245
2078 – 15,214
2098 – 8,993

b) 1/8 Blood Degree

The report commissioned by the MCT and conducted by Wilder Research shows a slight increase in enrollment over the next 80 years if the enrollment criteria is changed to 1/8 degree Minnesota Chippewa Tribe blood. The projected enrollment over the next 80 years under this category are as follows:

2013 – 41,110 to 65,432
2098 – 42,663 to 53,781

A number of tribes require 1/8 blood degree for enrollment purposes. The following examples could serve as a starting point for the Constitution Convention delegates to consider when drafting proposed constitutional language.

Comanche Nation

All descendants of allottees eligible for membership under the provision of Section 1 (a) of this Article, having one eighth (1/8) or more degree of Comanche Indian Blood.

Jamestown S'Klallam

All lineal descendants of persons who qualify for citizenship under subsection (a), above; provided that such descendants possess at least one-eighth (1/8) degree Jamestown S'Klallam blood.

c) 1/16 Blood Degree

The report commissioned by the MCT and conducted by Wilder Research did not address changing the blood degree to 1/16 degree Minnesota Chippewa Tribe blood. A number of tribes require 1/16 blood degree for enrollment purposes. The following examples could serve as a starting point for the Constitution Convention delegates to consider when drafting proposed constitutional language.

Confederate Tribes of Siletz Indians of Oregon

[Enrollment shall be open to those] who possess one-sixteenth (1/16) or more degree Siletz blood quantum, have filed an application for enrollment with the appropriate tribal body and have been accepted as members in accordance with the tribal ordinance adopted under Article I, Section 2 of this Constitution.

Confederated Tribes of Grand Ronde

[W]ho possess one-sixteenth (1/16) or more degree Indian blood quantum of a federally recognized tribe or tribes, are descended from a member of the Confederated Tribes of the Grand Ronde Community of Oregon, have filed an application for enrollment according to procedures established pursuant to Section 3 of this Article, and have been accepted as members in accordance with the tribal ordinance adopted under Section 3 of this Article.

d) Modify how other Chippewa blood is recognized

The report commissioned by the MCT and conducted by Wilder Research provided an enrollment projection based on the recognition of Chippewa blood from other federally recognized Indian tribes and Canadian First Nations. The projected enrollment over the next 80 years under this category are as follows:

2013 – 41,110 to 58,438
2098 – 10,625 to 19,934

There are a number of unresolved issues regarding taking other tribal and Canadian blood into consideration. Most importantly, the method of calculating degrees of blood quantum may differ among federally recognized Indian tribes. Likewise, calculating degrees of Indian blood for Canadian ancestors would be difficult as well. Uniform mechanisms would need to be developed to calculate blood quantum for individuals that are enrolled in federally recognized Indian tribes with differing methods of calculating blood quantum and for calculating Canadian blood. A number of tribes take other tribal blood into consideration for enrollment purposes. The following language could serve as a starting point for the Constitution Convention delegates to consider when drafting proposed constitutional language.

Grand Traverse Band of Ottawa and Chippewa Indians

Descendants of members are eligible for enrollment as members if they are of at least one-fourth (1/4) Indian blood, of which at least one-eighth (1/8) must be Michigan Ottawa and/or Chippewa blood.

Confederated Tribes of Warm Springs

The members of the Confederated Tribes of the Warm Springs Reservation, may by a majority vote, adopt as a member of the Tribe any person of 1/8 or more Indian

blood who is a descendant of a member or former member of the Confederated Tribes: Provided, That any person adopted into membership must have resided at least three years upon the Warm Springs Reservation, and shall not be a member of any other tribe of Indians.

2. Lineal Descent

The report commissioned by the MCT and conducted by Wilder Research provided an enrollment projection based on changing the enrollment criteria to lineal descent from the 1941 MCT base roll. The projected enrollment over the next 80 years under this category are as follows:

2015 – 63,033
2100 – 122,449 to 205,356

A number of tribes require lineal descent for enrollment purposes. The following language could serve as a starting point for the Constitution Convention delegates to consider when drafting proposed constitutional language. Some tribes require additional elements to be taken into consideration along with lineal descent, such as connection to the tribe.

Red Cliff Band of Lake Superior Ojibwe

All children born to any member of the Red Cliff Band after the effective date of this Article II, as amended, PROVIDED, that they have been duly registered with the Tribal Council through the Membership Committee within one year from their birth.

Osage Nation

All lineal descendants of those Osages listed on the 1906 Roll are eligible for membership in the Osage Nation, and those enrolled members shall constitute the citizenry subject to the provisions of this Constitution and to the laws enacted and regulations approved pursuant to this Constitution.

Cherokee Nation

All citizens of the Cherokee Nation must be original enrollees or descendants of original enrollees listed on the Dawes Commission Rolls, including the Delaware Cherokees of Article II of the Delaware Agreement dated the 8th day of May, 1867, and the Shawnee Cherokees of Article III of the Shawnee Agreement dated the 9th day of June, 1869, and/or their descendants.

Lumbee Tribe of North Carolina (descent & contact w/ the tribe)

The general membership of the Tribe shall consist of those persons who apply for enrollment and demonstrate direct descent from a person listed on Source Documents, which are listed on Exhibit A to this Constitution and incorporated herein by reference, and who maintain contact with the Tribe.

II. ELIGIBILITY TO RUN FOR OFFICE

Article IV of the Revised Constitution and Bylaws of the Minnesota Chippewa Tribe governs candidate eligibility. Section 4 of Article IV speaks to and reads as follows:

No member of the Tribe shall be eligible to hold office, either as a Committeeman or Officer, if he or she has ever been convicted of a felony of any kind; or of a lesser crime involving theft, misappropriation, or embezzlement of money, funds, assets, or property of an Indian tribe or a tribal organization.

This language was supplemented by the TEC through Tribal Interpretation No. 13-09 to include "a conviction for an attempt to commit [a lesser crime involving theft, misappropriation, or embezzlement] if the attempt is punishable as an offense under applicable law." Interpretation No. 13-09.

Some individuals have questioned whether the felony disqualification provisions in the MCT Constitution represent an ex post facto law. The Indian Civil Rights Act, which is applicable to Indian tribes, states that no Indian tribe may pass bills of attainder or ex post facto laws.¹ In the case of Article IV of the MCT Constitution, I could find nothing that supports the contention that the current candidate eligibility requirements constitute an unconstitutional ex post facto law. In fact, the opposite is true. Courts have consistently held that the ex post facto clause of the constitution does not apply to laws that are civil in nature.² This is particularly true when eligibility criteria are employed in a statutory schemes that are reasonably related to the qualities sought for that particular position.³

A. KEY CONSIDERATIONS

The primary consideration regarding candidate eligibility that must be addressed before drafting proposed amendments to the Constitution is as follows:

- Should criminal convictions continue to be used as a disqualifying factor to run for office?

I recommend that a survey be established and conducted to collect data on this foundational questions. The collection of tribal wide data will help inform the drafting of amendments to the Constitution.

¹ 25 U.S.C. § 1302.

² *Calder v. Bull*, 3 U.S. 386 (1798); *See also De Veau v. Braisted*, 363 U.S. 144 (1960).

³ *Hawker v. New York*, 170 U.S. 189 (1898).

B. OPTIONS FOR CANDIDATE ELIGIBILITY

The outcome of a tribal wide survey will help inform the drafting of amendatory language to the candidate eligibility provisions of the Constitution.

a) *Time Limitations*

A number of tribes use time limitations when considering criminal convictions as disqualifying factors. The following language could serve as a starting point for the Constitution Convention delegates to consider when drafting proposed constitutional language.

Prairie Band of Potawatomi

No person convicted of a felony within the past 5 years shall be a candidate for any office.

Nez Perce Tribe

No person who has been convicted of a felony by a court of competent jurisdiction may serve as a member of the NPTEC until ten years following his release from confinement.

Nottawaseppi Huron Band of Potawatomi Indians

Must not have been convicted of, or pled guilty or no contest to, any crime involving theft or fraud, any crime involving violence against persons, including sex offenses, or any felony within the last eight (8) years. 3. Must not have been sentenced to a prison term of one (1) year or longer within the last eight (8) years.

b) *Categorizing Crimes Based Upon Federal Law*

A number of tribes use federal law to define criminal convictions that serve as disqualifying factors for candidate eligibility. The following language could serve as a starting point for the Constitution Convention delegates to consider when drafting proposed constitutional language.

Jamestown S'Klallam

Qualified voters of the Tribe are eligible to become candidates for either elective or appointive office, provided that if they have been convicted of a Class A through E felony, as defined in 18 U.S.C. §3559(a), at least five (5) years must have passed since completion of the penalty for such offense (the penalty shall include any period of restriction on civil rights) before they become eligible.⁴

⁴18 U.S.C. §3559(a) CLASSIFICATION.—An offense that is not specifically classified by a letter grade in the section defining it, is classified if the maximum term of imprisonment authorized is— (1)life imprisonment, or if the maximum penalty is death, as a Class A felony; (2)twenty-five years or more, as a Class B felony; (3) less than

c) Categorizing Crimes Based Upon Other Factors

A number of tribes use other factors, such as “violent felonies,” to serve as disqualifying factors. It would be advisable to further define what constituted a “violent felony” for candidate eligibility purposes. The following language could serve as a starting point for the Constitution Convention delegates to consider when drafting proposed constitutional language.

Ione Band of Miwok Indians of California

No person who is a candidate for or elected to any Tribal office, or is to be or has been appointed by the Tribal Council to any position of trust shall have been, at the time of candidacy, election or appointment convicted of any violent felony or any crime involving violence, dishonesty or moral turpitude and every candidate for election or appointment to any Tribal office or position who ever has been convicted of any felony or crime involving violence, dishonesty or moral turpitude shall, upon announcement of his/her candidacy or application for appointment, fully disclose to the Tribal Council the fact and date of each such conviction, the court in which the conviction was entered, the offense for which convicted, the sentence imposed and the place and manner in which the sentence was served or otherwise discharged...

d) Determinations of Rehabilitation

Another option to consider would be to have a group of individuals, such as elders or clan mothers, decide whether the candidate in question has been rehabilitated or should otherwise be deemed eligible to run for office.

twenty-five years but ten or more years, as a Class C felony; (4) less than ten years but five or more years, as a Class D felony; (5) less than five years but more than one year, as a Class E felony; (6) one year or less but more than six months, as a Class A misdemeanor; (7) six months or less but more than thirty days, as a Class B misdemeanor; (8) thirty days or less but more than five days, as a Class C misdemeanor; or (9) five days or less, or if no imprisonment is authorized, as an infraction.