

CONSTITUTION OF THE PIT RIVER TRIBE

PREAMBLE

The Pit River Tribe, a Tribe of eleven (11) autonomous bands of Indians that adopted a formal written Constitution on August 16, 1964, for the purpose of securing our Rights & Powers inherent in our Sovereign status as reinforced by the laws of the United States, developing and protecting Pit River (Ajumawi-Atsugewi) ancestral lands and all other resources, preserving peace and order in our community, promoting the general welfare of our people and our descendants, protecting the rights of the Tribe and of our members, and preserving our land base, culture and identity, does hereby establish this revised Constitution.

ARTICLE I - NAME

The name of this entity is the Pit River Tribe (Ajumawi - Atsugewi Nation) comprised of the eleven (11) autonomous bands: Ajumawi, Atsugewi, Atwamsini, Ilmawi, Astarawi, Hammawi, Hewisedawi, Itsatawi, Aporige, Kosalektawi and Madesi, that since time immemorial have resided in the area known as the 100-mile square, located in parts of Shasta, Siskiyou, Modoc, and Lassen Counties in the State of California, as referred to in Pit River Docket No. 347, (7 ICC 815 at 844), Indian Claims Commission.

ARTICLE II - TERRITORY AND JURISDICTION

Section 1. Territory. The territory of the Tribe consists of all ancestral lands recognized by the Indian Claims Commission in its July 29, 1959, (7 Indian Claims Commission, 815-863 Appendices A & B pages 1-49) findings of fact and opinion in Docket No. 347, i.e., the 100-mile square as described in Docket No. 347, and specifically including, but not limited to, the XL Ranch, Montgomery Creek, Roaring Creek, Big Bend, Burney, Lookout and Likely Rancherias, the 13 acres deeded to the United States by the State of California in trust for the Pit River Home and Agricultural Cooperative Association as trustee for the Tribe, Modoc County Assessor's parcels 013-172-07 and 013-191-01, and any other property that hereafter may be acquired by or for the Tribe.

Section 2. Jurisdiction. The jurisdiction of the Tribe under this Constitution shall extend throughout its territory. Nothing in this Article shall be construed to limit the ability of the Pit River Tribe (Ajumawi-Atsugewi Nation) to exercise its jurisdiction to the fullest extent permitted by Federal law, including but not limited to, lands, waters, properties, air space, fish and wildlife and other resources.

ARTICLE III - MEMBERSHIP

Section 1. Membership Criteria. Membership in the Pit River Tribe (Ajumawi-Atsugewi Nation) shall be open to all persons who meet the following criteria:

- a. He/She is at least 1/4 Pit River Indian blood and is not enrolled in any other federally recognized Tribe.
- b. Any child born to enrolled members regardless of blood quantum and as long as he/she is not enrolled in any other federally recognized Tribe.

Section 2. Base Membership Roll. There shall be a Base Membership Roll which shall consist of the persons who are deemed to have met the criteria set forth in Section 1 hereof by virtue of any one of the following:

- a. He/She was accepted into Tribal membership under the Constitution adopted on August 16, 1964, or
- b. He/She was listed by the Bureau of Indian Affairs as eligible to register to vote in the election of the Constitution Drafting Committee held on December 10, 1983, or
- c. He/She was listed as a Pit River Indian on the 1928 Census roll and is at least 1/4 Indian blood or descendant thereof.

Section 3. Enrollment of Additional Members. All other persons who hereafter meet the criteria set forth in Section 1, and Section 2, shall be eligible to enroll for membership under an ordinance hereafter enacted by the Tribal Council.

Section 4. Revocation of Membership by Enrollment in another Federally Recognized Tribe. Membership in the Nation shall be automatically revoked upon a person's enrolling as a member of any other federally recognized Indian Tribe. Any person whose membership is revoked for this reason may be reinstated as a member of the Pit River Tribe (Ajumawi-Atsugewi Nation) upon his/her submission of proof to the Tribal Council that he/she has withdrawn his/her enrollment in all other federally recognized Indian Tribes or, in the alternative, that he/she has taken all necessary and reasonable steps to effectuate a withdrawal of his/her enrollment in all other federally recognized Indian Tribes.

ARTICLE IV - BILL OF RIGHTS

The Pit River Tribe (Ajumawi-Atsugewi Nation) in exercising its powers shall guarantee to all persons subject to its jurisdiction the applicable protections set forth in the Indian Civil Rights Act of April 1, 1968, (82 Stat. 77) except as may be inconsistent with the exercise of the Tribe's right to its traditional form of Tribal Government.

ARTICLE V - OCCUPANCY PRIVILEGES OF EXISTING RESIDENTS OF TRIBAL LANDS

Section 1. XL Ranch. There are on the XL Ranch certain lands and structures which have been assigned to specific persons under revocable permits issued by the Bureau of Indian Affairs and/or the Pit River Home and Agricultural Cooperative Association. Said revocable permits did not create or confer upon any individual any vested rights to XL Ranch lands or improvements, and the Tribe does not recognize the existence of any such rights. However, in order to avoid the imposition of undue hardship upon Tribal members who in good faith have lived on the XL Ranch pursuant to and in compliance with such revocable permits, the Tribe hereby establishes the following procedure to ensure that said members receive preference in the assignment of such Tribal lands as they heretofore have used and occupied under and in compliance with revocable permits:

- a. Each person holding revocable homesite and farm/pasture field permits on February 3, 1975, shall be entitled to apply for a lifetime, non-inheritable assignment of the same homesite and farm/pasture field, subject to the same terms and conditions as his/her revocable permit in effect on February 3, 1975, and such application shall be granted in accordance with procedures established pursuant to Section 3 of this Article;
- b. If the permit-holder as of February 3, 1975, is deceased, his/her resident spouse or an adult Indian member of the deceased permittee's immediate family who was an actual and permanent resident of the deceased permittee's household on the XL Ranch on February 3, 1975, shall be entitled to apply for the non-inheritable lifetime assignment for which the deceased permittee would have been eligible if living. No further or other preferences in the assignment of Tribal lands shall be given;
- c. No permittee as of February 3, 1975, shall be entitled to the preferential assignment of more than one homesite and/or farm/pasture field; no permittee or successor of a deceased permittee shall be entitled to the preferential assignment of any land not actually permitted to him/her or his/her predecessor on February 3, 1975;
- d. Each permittee to whom a lifetime assignment is made and who actually was engaged in raising cattle on the XL Ranch on February 3, 1975, shall be entitled during the duration of his/her assignment to continue to use the XL Ranch grazing lands to raise his/her own cattle, provided that the Tribal Council shall have full authority to assign all grazing lands and to determine the number of cattle which may be pastured on each grazing unit.

Section 2. Rancherias. This section shall include the unallotted Pit River trust lands known as Big Bend, Montgomery Creek, Roaring Creek, Likely, Lookout and the forty (40) acres acquired adjacent to Montgomery Creek in 1984. Each Pit River Indian head-of-household who is an actual resident on the effective date of this Constitution and who has resided thereon for at least three (3) years prior to the date or has moved off the Rancheria for socio-economic reasons with the intent to re-establish residency shall be guaranteed continued use and occupancy of such residence and other real property upon application to the Tribal Council. All others who are residents on the effective date of this Constitution have the right to apply for a homesite. The Tribal Council retains the right to accept or deny all applications subject to the right of appeal to the Tribal court established pursuant to Section 1(o) of Article VII.

Section 3. The Tribal Council shall enact a tribal ordinance governing the use, assignment, permitting, lease or other disposition of lands, interests in lands and resources of the Tribe consistent with this Constitution and Federal law.

ARTICLE VI - LEGISLATIVE & EXECUTIVE

Section 1. Legislative Department. The Legislative Department of the Tribe shall be the Tribal Council, composed of the elected Representatives of the eleven (11) component Bands. Candidates for Band representatives to the Tribal Council (Councilperson) shall be nominated from among and elected by the majority vote of those band members in attendance at the annual Tribal election meeting in August, or at a specially-called band meeting within thirty (30) days after the annual meeting. All Council positions will be for the term of one (1) year.

Section 2. Executive Department. The Executive Department of the Tribe shall be the Tribe's Officers, and shall consist of the Tribal Chairman, Vice-Chairman, Secretary, Recording Secretary, Treasurer and Sergeant-at-Arms. It shall be the responsibility of the Executive Department to carry out the laws and policies enacted by the Tribal Council. The Tribal Chairman shall be elected for a term of two (2) years; all other officers shall be elected for a term of one (1) year. These positions shall be filled from and elected by the general membership at the annual meeting in August.

ARTICLE VII - POWERS

Section 1. Tribal Council. The Tribal Council shall have the following powers:

- a. To negotiate, consult and contract with Federal, State and Tribal governments, private enterprises, individuals and other organizations.

- b. To employ and discharge legal counsel; the choice of counsel and fixing of fees are subject to the approval of the Secretary of the Interior as long as such approval is required by Federal law.
- c. To prevent the sale, disposition, lease or encumbrance of Tribal lands, interests in land or other Tribal assets that are not in the best interest of the tribe.
- d. To Charter and regulate independent organizations, subordinate organizations, committees and boards of officials of the Tribe and delegate powers as appropriate, retaining the right to supervise and rescind delegated powers.
- e. To plan and manage all economic affairs and enterprises of the Tribe.
- f. To regulate the use of Tribal privileges and property.
- g. To disburse Tribal funds as the Council deems appropriate for the benefit of the Tribe.
- h. To promote and protect the health, peace, morals, education, safety and welfare of the Tribe, its members and all other persons within its jurisdiction, and govern the conduct of Tribal members while on Tribal property.
- i. To regulate all Administrative and Legislative bodies of the Tribe, Tribal agencies, officers and organizations.
- j. To levy such taxes as may be deemed appropriate on persons, property and business enterprises that are under Tribal jurisdiction. The Tribal Council shall determine the rate and use of such taxes.
- k. To provide for the exclusion of persons from Tribal property or membership for good cause. Such exclusion shall be pursuant to a Tribal ordinance that provides for due process of law.
- l. To assign, lease or regulate Tribal lands, interests in lands or other Tribal assets, subject to such approval for leasing as may be required by Federal law.
- m. No single Council member or group of Council members can act on behalf of the Tribe without the approval of a quorum of the Council.
- n. To form or join Tribal courts, consortiums and other Indian organizations for the purpose of asserting and protecting the rights of the Tribe and its members under the Indian Child Welfare Act of 1968 (25 U.S.C. Section 1901, et seq.), and reassuming jurisdiction over Indian child custody proceedings as authorized by the Indian Child Welfare Act (25 U.S.C. Section 1918).
- o. To establish a Tribal judicial system and promulgate Tribal Court rules.

- q. To sue on behalf of the Tribe.
- r. To enact on Ordinance providing for the establishment of an appointed advisory committee of elders to consult with the Council on matters pertaining to Tribal lands, membership and traditions.
- s. To enact all ordinances and resolutions which shall be necessary and proper for carrying into effect the foregoing powers.
- t. To exercise all powers vested in it by existing law, Tribal traditions and applicable Federal and State law, and such further powers as may in the future be granted to the Tribal Council by members of the Tribe, the United States or the State of California.

Section 2. Band Powers. Each Band shall have the following powers:

- a. The Band is to approve its own membership subject to eligibility requirements as set forth in Article III - Membership, and to keep a current band roll so as not to allow dual enrollment in other ancestral bands.
- b. To have priority approval/disapproval in matters of individual Band religious, cultural and/or archaeological concerns, provided that such concerns are not a detriment to the Tribe as a whole.
- c. To form a cultural resource committee to protect and promote its individual heritage.
- d. To chose and elect a person of its choice to represent the band on the Tribal Council, and to elect an alternate Council person who may sit in the absence of the Council person.
- e. The Band is an autonomous unit within the Tribe and has the right to choose not to participate in Tribal affairs; provided that a majority of the registered voters of that particular Band votes not to participate at a specially-called, duly-petitioned and noticed meeting conducted for that purpose by the Tribe's Election Committee. A Band which has elected not to participate in Tribal affairs may rescind that election by the vote of a majority of the registered voters of the Band at a specially-called, duly-petitioned and noticed meeting conducted for that purpose by the Tribe's Election Committee.

Section 3. Reserved Powers.

- a. To waive the sovereign immunity of the Tribe to unconsented suit; however, no waiver of sovereign immunity shall be made except by a majority of the registered voters voting thereon at a meeting duly called, noticed and convened for that express purpose.

- b. To veto decisions of the Tribal Council under the procedures of Article IX, Elections.
- c. To decide issues of land sales, with no provisions for absentee balloting on such issues.
- d. To exercise any rights and powers vested in the Tribe, but not expressly referred to in this Constitution; however, such exercise shall be by vote of a majority of the registered voters voting thereon at a meeting duly called, noticed and convened for that express purpose.

ARTICLE VIII - DUTIES OF OFFICERS

Section 1. Tribal Chairman. The Chairman shall exercise the following powers and such other powers as the Tribal Council may assign:

- a. The Chairman shall preside at all meetings in accordance with the provisions of this Constitution;
- b. The Chairman shall execute for and on behalf of the Pit River Tribe (Ajumawi-Atsugewi Nation) any and all papers, documents and writings authorized by the Council at any annual, regular or special meeting thereof;
- c. The Chairman shall appoint the members of all special committees authorized by the Tribal Council;
- d. The Tribal Chairman shall have general supervision over the executive department of the Tribal government;
- e. The Chairman shall act as the official spokesman or representative of the Tribe, except when the Tribal Council has designated another person for that purpose;
- f. The Chairman shall have the power to appoint an Acting Secretary and/or Acting Recording Secretary if the absence of either officer renders such appointment necessary to conduct Tribal Business.

Section 2. Vice-Chairman. The Vice-Chairman shall act with the power and authority of the Chairman in his/her absence or disability, and may, if authorized by the Chairman, assist the Chairman in the performance of his duties.

Section 3. Secretary. The Secretary shall receive and, upon request of the Chairman, answer or attest to the authenticity of all correspondence for the Tribe and the Council, and shall keep and maintain files thereof, and shall verify enrollment of Tribal members to appropriate agencies as well as to maintain the base roll of the tribe and keep current the tribal membership roll.

Section 4. Recording Secretary. The Recording Secretary shall keep and maintain in a permanent record book a record and minutes of all transactions and meetings of the Tribe and the Tribal Council, and shall upon request of the Chairman, attest to the authenticity thereof.

Section 5. Treasurer. The Treasurer shall receive, deposit and disburse the funds of the Tribe, and shall keep an account and records thereof in a permanent record book, as required and directed by the Council. The Treasurer shall disburse all funds as ordered by the Council.

Section 6. Sergeant-at-Arms. The Sergeant-at-Arms shall keep order at all meetings of the Tribe and the Tribal Council.

Section 7. Other Officers. Persons appointed/elected to such other offices as the Tribal Council hereafter may create shall have and exercise such powers and duties as the Tribal Council may specify, consistent with this Constitution.

ARTICLE IX - ELECTIONS

Section 1. First Election. The first election of officers under this Constitution shall be held at the August annual meeting of the Tribe following the ratification thereof. The officers serving under the Tribe's former Constitution when this Constitution is ratified shall continue in office until their successors are elected hereunder.

Section 2. Election Ordinance. Within 180 days after ratification of this Constitution, the Tribal Council shall enact an Election Ordinance which establishes an Election Committee and the rules and procedures under which that Committee shall conduct and supervise Tribal elections and Band Elections held pursuant to Article VII, Section 2 (e).

Section 3. Qualifications for Office. Any enrolled Tribal member at least eighteen (18) years of age shall be qualified to be elected as a Tribal Officer. Any enrolled Band member at least eighteen (18) years of age shall be qualified to be elected as Councilperson for the Band of which he/she is a member.

Section 4. Voter Qualification. Voting in Tribal elections shall be limited to enrolled Tribal members who are at least eighteen (18) years of age on the date of the election in which they vote.

Section 5. Recall.

a. Tribal Officers. Within thirty (30) days after receipt by the Election Committee of a valid petition signed by at least fifty (50) registered/enrolled adult members of the Tribe, the Election Committee shall schedule and conduct a

special meeting of the Tribe at which the membership shall vote by secret ballot on the recall of any elected Tribal Officer. At least ten (10) days before said meeting, the officer shall be given a copy of the recall petition submitted to the Election Committee, and shall be given an opportunity to address the persons attending the recall meeting before voting begins. Said meeting shall be subject to the quorum provisions set forth in Article XI, Section 2 (a). An elected official may be subjected to recall proceedings only once during any term of office.

b. Councilmembers. Upon representation to the Tribal Council of a petition for the recall of a Council member, validated by the Election Committee as signed by a majority of the enrolled/registered adult members of the Band(s) represented by the Council member named in said petition, that member shall be deemed recalled. Within thirty (30) days after presentation of such a petition to the Tribal Council, the Election Committee shall schedule and conduct among the members of the Band(s) whose Council member was recalled, a duly-noticed special meeting at which the adult Band members shall elect a successor Council member to serve until the next annual general meeting of the Tribe.

Section 6. Initiative. Upon receipt by the Election Committee of a valid petition signed by at least fifty (50) of the enrolled/registered adult members of the Tribe, the Election Committee shall call and conduct within sixty (60) days, an initiative election at a special meeting of the Tribe. Such meeting shall be for the purpose of presenting to the qualified voters for their determination any issue or question except recall, and as otherwise provided by this Constitution. Said meeting shall be subject to the quorum provisions set forth in Article XI, Section 2 (a). A decision by the majority of those voting shall be binding on the Tribal Council until it expires by its own terms or is otherwise changed by action of the voters. Once an initiative issue has been submitted to the voters and rejected, that same issue shall not again be considered for such action for at least six(6) months.

Section 7. Referendum. Upon receipt of a valid resolution supported by an affirmative vote of a quorum of the Tribal Council, the Election Committee shall refer to the voters for their determination, such issue(s) as may be requested by the Tribal Council. The referendum may be conducted at an annual or special meeting of the Tribe. Said meeting shall be subject to the quorum provisions set forth in Article XI, Section 2 (a). A majority of those voting shall decide the issue and such decisions shall be binding on the Tribal Council until otherwise changed by the voters.

ARTICLE X - VACANCIES AND REMOVAL

Section 1. Officers

a. Tribal Chairman. In the event that the position of Tribal Chairman becomes vacant by death, resignation or incapacitation, the Vice-Chairman automatically shall succeed the Chairmanship. The Vice-Chairman shall serve as Chairman until the next regularly scheduled election of Chairman.

b. Other Elected Officers. Vacancies by reason of death, resignation or incapacitation in the offices of Vice-Chairman, Secretary, Recording Secretary, Treasurer and Sergeant-at-Arms shall be filled by appointment by the Tribal Council within fourteen (14) days after the office becomes vacant. Appointees shall serve until the holding of a special general election meeting, or until the next regularly scheduled general election meeting, whichever is sooner.

Section 2. Council Members

a. Vacancies on the Tribal Council shall be filled by an election conducted by the Election Committee among the members of the Band(s) represented by the vacant position, within thirty (30) days after the position becomes vacant. The successor thus elected shall serve until the next regularly-scheduled Tribal general election meeting.

b. The Tribal Council may declare a Council seat vacant if a member misses three (3) consecutive meetings or commits any unlawful act which results in financial loss to the Tribe.

ARTICLE XI - MEETINGS

Section 1. Tribal Council

a. Quorum. Six of the eleven elected members of the Tribal Council, or their alternates, shall constitute a quorum. No enactment of the Tribal Council will be valid in the absence of a quorum. Once a quorum is established at a meeting, it shall continue until the meeting is officially adjourned, provided that at least four Council members are present.

b. Regular Meetings. Regular meetings of the Tribal Council shall be held monthly at a place and date established by ordinance of the Tribal Council. The Tribal Secretary shall be responsible for telephoning or sending written notices to each Council member so as to provide at least one (1) day advance notice of the meeting if the regular meeting date and/or place should have to be changed. The Tribal Council shall have the authority to meet and act in executive session at any Tribal Council meeting for the purpose of discussing and voting upon matters having to do with personnel, and when confidentiality is necessary to protect the rights, interests and positions of the Tribe.

c. Special Meetings. Special meetings of the Tribal Council may be called by the Chairman at his discretion, or shall be called by the Chairman upon the written request of at least three (3) members of the Tribal Council; provided, that the reason for the meeting is stated in the request and that each member of the Tribal Council is given at least 24 hours advance notice of any special meeting. Upon refusal by the Chairman to call a special meeting within 24 hours upon the written request of three (3) members of the Tribal Council, those members who requested the special meeting may proceed to call and conduct the special meeting.

Section 2. General Membership:

a. Quorum of General Membership for purposes of Recall, Article IX, Sec. 5; Initiative, Article IX, Sec. 6; Referendum, Article IX, Sec. 7. Fifty (50) Qualified voters of the tribe shall constitute a quorum at meetings of the general membership for purposes of Recall, Initiative and Referendum. No action of the general membership for purposes of Recall, Initiative or Referendum shall be valid in the absence of a quorum.

b. Annual Meetings. The general membership of the Tribe shall meet annually in August on a date, time and place established by the Tribal Council. The Tribal Secretary shall cause notice of the Annual meeting to be given at least thirty (30) days in advance of said meeting.

c. Special Meetings. Special general meetings may be called at the discretion of the Tribal Chairman; provided, that in each instance, a notice stating the date, time, place and purpose of the meeting shall be posted and published at least three days in advance thereof. Special meeting shall be called by the Tribal Chairman upon his/her receipt of a valid request signed by at least fifty (50) of the Tribe's enrolled/registered adult members, or by resolution of the Tribal Council. The petition or resolution must state the purpose of the meeting. If, upon validation of the petition by the Election Committee, the Tribal Chairman does not call and notice the meeting within fifteen (15) days after validation, the Tribal Vice-Chairman shall exercise such authority.

ARTICLE XII - SEVERABILITY & SAVINGS
AND RATIFICATION OF PRIOR TRIBAL ACTIONS

Section 1. Severability and Savings Clause

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

Section 2. Ratifications of Prior Tribal Actions

The Pit River Tribe (Ajumawi-Atsugewi Nation) hereby ratifies all actions taken by the Tribe and/or the Tribal Council under the Tribe's 1964 Constitution, and such actions as are consistent with this Constitution shall be of continuing effect.

ARTICLE XIII - AMENDMENTS

This Constitution may be amended by a majority vote of the enrolled members of the Tribe voting at an election called for that purpose by the Election Committee pursuant to Article IX, Section 6 and/or 7. It shall be the duty of the Election Committee to call an election on any proposed amendment upon the receipt of a valid petition signed by at least fifty (50) of the Tribe's enrolled/registered adult members, or by a resolution passed by an affirmative vote of a quorum of the members of the Tribal Council.

ARTICLE XIV - ADOPTION

This Constitution shall become effective when adopted by a majority vote of the registered adult Pit River Tribe (Ajumawi-Atsugewi Nation) voters who cast ballots at an election called and conducted pursuant to regulations of the Secretary of the Interior

ARTICLE XV
CERTIFICATE OF RESULTS OF ELECTION

Pursuant to a Secretarial Election authorized by Assistant Secretary - Indian Affairs the attached Constitution was submitted to the qualified voters of the tribe and on August 15, 1987, was duly adopted by a vote of 51 for and 29 against and 11 cast ballots found spoiled or mutilated in an election in which at least 30 percent of the 173 members entitled to vote, cast their ballot in accordance with 25 CFR 81.

Amy L. Putschke
Amy L. Putschke
Chairperson, Election Board

8/16/87
Date

Martha Kaiser
Martha Kaiser
Election Board Member

8/16/87
Date

Jessica Jim
Jessica Jim
Election Board Member

8/16/87
Date

ARTICLE XVI - APPROVAL

I, Paul Sumner, Assistant Secretary of the Interior for Indian Affairs, by virtue of the authority vested in me do hereby approve this Constitution of the Pit River Tribe (Ajumawi-Atsugewi Nation). It shall be come effective upon ratification pursuant to the Article XIV of this Constitution. Nothing in the approval shall be construed as authorizing any action taken under this Constitution which would be contrary to Federal Law.

12/3/87
Date
Washington, DC

Paul Sumner
Assistant Secretary - Indian Affairs