Mr. Alph Secakuku  
Acting Superintendent, Colorado River Agency  
Bureau of Indian Affairs  
Route 1, Box 9C  
Parker, Arizona 85344

Dear Mr. Secakuku:

We have received the results of the election held on January 9, 1993, by the qualified voters of the Chemehuevi Indian Tribe. The election was called in accordance with an order issued on November 5, 1992, by the Assistant Secretary - Indian Affairs, which permitted the qualified voters of the tribe to vote on the adoption or rejection of a proposed revised constitution.

As evidenced by the Certificate of Results of Election, the Constitution of the Chemehuevi Indian Tribe was duly adopted by a vote of 118 for and 9 against in an election in which seventy-eight percent (78%) of the 165 members registered and entitled to vote cast their ballots.

The Constitution of the Chemehuevi Indian Tribe as adopted on January 9, 1993, is hereby approved pursuant to the authority granted to the Secretary of the Interior by the Act of June 8, 1934 (48 Stat. 984), as amended, as delegated to me by 230 D.M. 2.4. Please deliver the enclosed approved original document to the tribe.

We note that Article V of the Constitution requires the Superintendent to call a general membership meeting to elect an Election Board within sixty (60) days from the date of approval of this Constitution. Thereafter, the Election Board shall within sixty (60) days of being seated conduct a special election to elect nine (9) members to the Tribal Council.

Sincerely,

[Signature]
Assistant Secretary - Indian Affairs

Enclosure
CERTIFICATE OF APPROVAL

I, Eddie F. Brown, Assistant Secretary - Indian Affairs, by virtue of the authority granted to the Secretary of the Interior by the Act of June 18, 1934 (48 Stat. 984), as amended, and delegated to me by 230 D.M. 2.4, do hereby approve the Constitution of the Chemehuevi Indian Tribe. This Constitution is effective as of this date; PROVIDED, That nothing in this approval shall be construed as authorizing any action under this document that would be contrary to Federal law.

Assistant Secretary - Indian Affairs

Washington, D.C.

Date: January 27, 1993
CONSTITUTION
OF THE CHEMHEUVI INDIAN TRIBE

PREAMBLE

We, the Chemehuevi Indians of the Chemehuevi Reservation, in order to establish a legally recognized tribal government, to protect our property and civil rights, and promote the general welfare of the Chemehuevi Indians, do establish this Constitution for the Chemehuevi Indian Tribe pursuant to the Act of June 18, 1934 (48 Stat. 984), as amended, which shall revoke and replace the Constitution of the Chemehuevi Indian Tribe approved on June 5, 1970, and December 9, 1976, and this Constitution shall henceforth constitute the governing document of the Chemehuevi Indian Tribe.

ARTICLE I - PURPOSE

The purpose of this organization is to promote the development of the Chemehuevi Reservation and its people, and to place the development under the management of the Chemehuevi Indian Tribe. The Tribe shall effect this development through the utilization of all powers and benefits available to Indian tribes in the United States.

ARTICLE II - TERRITORY

This Constitution shall apply to all territory belonging to the Chemehuevi Indian Tribe and such lands as may be hereafter adjudicated in favor of or acquired by or for the Chemehuevi Indian Tribe.

ARTICLE III - MEMBERSHIP

Section 1. Members. The members of the Chemehuevi Indian Tribe shall be all persons of Chemehuevi blood who are or shall be enrolled as members of the Chemehuevi Indian Tribe pursuant to Sections 2, 3 and 4 of this Article.

Section 2. Categories of Members. There shall be two categories of membership in the Chemehuevi Tribe:

(a) Non-Voting Members. All enrolled Chemehuevi tribal members possessing less than one-sixteenth (1/16) degree of Chemehuevi blood are non-voting members.

(b) Voting Members. All enrolled Chemehuevi tribal members possessing one-sixteenth (1/16) or more degree of Chemehuevi blood are voting members.

(c) Rights of Members. Both categories of membership shall have the same rights, exclusive of the privilege of voting and of holding office.
Section 3. Membership in the Tribe. Membership in the Chemehuevi Tribe shall be determined in accordance with the following procedures:

(a) Base Enrollees. All persons, including children, who are enrolled as members of the Chemehuevi Tribe as of the date of the approval of this Constitution shall be members of the Chemehuevi Tribe and shall be known as "base enrollees".

(b) Descendants of Members. All descendants of base enrollees (other than descendants over the age of twenty-one (21) who are not base enrollees as of the date of adoption of this Constitution) and all descendants of any persons who become members of the Tribe subsequent to the adoption of this Constitution shall automatically become members of the Tribe at birth.

(c) Adoption as a Member. Any person of Chemehuevi blood may be adopted as either a voting or non-voting member of the Chemehuevi Indian Tribe, depending upon that person's blood quantum, by a two-thirds (2/3) majority vote of the Tribal Council meeting at a regular meeting, subject to approval by a two-thirds (2/3) vote of those voting at the next annual general meeting. Prior to each of the aforementioned meetings at least thirty (30) days notice must be given of a proposed adoption. The proposed member shall not be considered adopted prior to the affirming vote of the general membership.

Section 4. Membership in Other Tribes. Any person who is enrolled as a member of the Chemehuevi Indian Tribe and who is also a member of another Tribe must relinquish membership in the other Tribe on the effective date of his or her enrollment as a member of the Chemehuevi Indian Tribe. However, nothing in this provision shall be construed in any way to require relinquishment of any property previously acquired through purchase, allotment, bequest, inheritance, assignment, or other manner of acquisition.

Section 5. Citizenship Requirement. Persons who become members of the Chemehuevi Indian Tribe after the approval of this Constitution must be citizens of the United States of America.

ARTICLE IV - GOVERNING BODY

Section 1. Name. The governing body of the Chemehuevi Indian Tribe shall be known as the Chemehuevi Tribal Council.

Section 2. Powers. The Tribal Council shall exercise all powers of tribal government stated in Article VI and otherwise vested in the Tribal Council by this Constitution.
Section 3. Membership. The Tribal Council shall consist of nine (9) voting members, including the Chairman, Vice-Chairman, and Secretary-Treasurer.

Section 4. Qualifications. Any voting member of the Chemehuevi Indian Tribe who has reached the age of twenty-one (21) years shall be qualified to be a candidate for election to the Tribal Council.

Section 5. Eligible Voters. Any voting member of the Chemehuevi Indian Tribe who has reached the age of eighteen (18) years shall be entitled to vote in tribal elections.

ARTICLE V - ELECTION AND TERMS OF OFFICE

Section 1. Election of Members. Voting for members of the Tribal Council under this Constitution shall be held on the same day as the annual general membership meeting but shall not be considered as business of the meeting. Within sixty (60) days from the date of approval of this Constitution there shall be a general membership meeting called and conducted by the Superintendent of the Colorado River Agency of the Bureau of Indian Affairs. The Superintendent shall mail notices of the meeting to all members of the Tribe eighteen (18) years of age or older at least thirty (30) days prior to the meeting. The notice shall specify the time, date and exact location of the general membership meeting to be held on the reservation. The general membership meeting shall be held on any Saturday of any month. The costs incurred by the Superintendent to mail out the notices required by this section shall be paid for out of tribal funds by the Tribal Council. The purpose of the general membership meeting shall be to elect an Election Board to fulfill the duties set forth in Section 2 of this Article. The Election Board shall, within sixty (60) days of being seated, conduct a special election to elect nine (9) members to the Tribal Council. Those persons serving on the Tribal Council at the time of approval of this Constitution shall remain in office until the results of the special election are announced by the Election Board and the nine (9) candidates receiving the highest number of votes have been seated in office. The Election Board shall conduct all aspects of this special election, including but not limited to issuing, receiving, and verifying signatures on nomination petitions; mailing out election notices; establishing a form of ballot; selecting and monitoring poll sites for voting; and tallying all ballots or votes. Upon the announcement of the results of the special election by the Election Board, the nine (9) candidates receiving the highest number of votes shall be considered as seated in office and recognized by the United States and all tribal members as the Chemehuevi Tribal Council.

Section 2. Election Board. At the first general membership meeting following the adoption of this constitution and at any annual general membership meeting thereafter, the general membership shall in accordance with the provisions of this Article, elect the members of the Election Board. Notwithstanding any other provisions of this Constitution to the contrary, all tribal elections including, but not limited to referendum and recall elections, shall be supervised and conducted by the Election Board in accordance with this Article.
(a) Qualifications. The Election Board shall be composed of five (5) members of the Tribe who are eighteen (18) years of age or older and who reside on the Chemehuevi Indian Reservation, PROVIDED, HOWEVER, that no member of the Election Board shall be at the same time a member of the Tribal Council or a candidate for any other tribal office.

(b) Election of Election Board. Any qualified member of the Tribe interested in being elected to a position on the Election Board may submit his or her name in writing to the presiding officer at the start of the general membership meeting. The presiding officer shall read the names out loud to the general membership and then ask for additional nominations for the positions from the floor. All persons nominated for the positions must be present and must state to the presiding officer out loud that he/she accepts the nomination in order to be considered by the general membership for a position on the Election Board. After asking for further nominations for the positions, no further nominations shall be considered from the floor at that general membership meeting. At the close of nominations, the presiding officer shall conduct an election by secret ballot to elect five (5) persons to the Election Board. Each voting member present at the meeting shall receive a blank piece of paper by the presiding officer. The blank paper shall constitute the ballot and the presiding officer shall instruct the voting members to write no more than five (5) names of those persons nominated for a position on the Election Board on the ballot. After the voting members cast their ballots, the presiding officer and her/his designated appointee(s) shall count the ballots in the presence of the general membership and declare the winners. Any dispute regarding an Election Board election shall be resolved by a majority vote of the general membership present and voting on the issue and its decision shall be final.

The five (5) candidates receiving the highest number of votes for the positions shall be elected to the Election Board. In the case of a tie, the general membership shall vote to break the tie.

(c) Terms of Office. The initial terms of office of the three (3) members of the Election Board who receive the highest number of votes shall expire two (2) years after the first annual general membership meeting following the Board members election. The initial term of office of the remaining two (2) Board members shall expire one (1) year after the first annual general membership meeting following the remaining Board members election. After the terms of office of all Board members have expired the terms of office of all Board members shall be three (3) years or until his or her successor is elected. If a vacancy on the Election Board occurs, the candidate receiving the next highest number of votes in the most recent election shall fill the vacancy.
(d) **Compensation.** For serving on the Election Board, members of the Election Board shall receive reasonable compensation in an amount to be set by the Tribal Council from time to time by resolution.

(e) **Chairperson of the Election Board.** Prior to the conclusion of the general membership meeting, the persons elected to the Election Board shall be seated and shall elect from its members a Chairperson who shall serve for three (3) years or until his/her term of office on the Election Board expires.

(f) **Voter Registration List.** Upon election of the Chairperson to the Election Board, the Secretary-Treasurer of the Tribal Council shall personally hand deliver a certified copy of a list containing the names, addresses, dates of birth, blood degree, and enrollment numbers of all members of the Tribe (tribal roll) to the Chairperson of the Election Board. The Secretary-Treasurer shall update the tribal roll and provide the Election Board with a current and accurate roll within forty-eight (48) hours of receipt of a written request to do so signed by the Chairperson of the Election Board. The Election Board shall maintain a current voter registration list for use in all tribal elections. Said voter registration list shall be available for inspection and copying (upon receipt of a fee not to exceed twenty-five (25) cents per page) by all tribal members. The Tribal Council shall make its copy machine available to the Election Board for making copies of documents necessary to carry out its duties. All money received by the Election Board for making such copies shall be paid to the Tribal Council.

(g) **Funding of Elections.** The Tribal Council shall pay out of tribal funds all costs for the Election Board to call and conduct all tribal elections and otherwise perform their duties as set forth in this Constitution.

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**Section 7. Ballot and Absentee Voting.** Members of the Tribal Council, and all other elective officials of the Tribe, shall be chosen by secret ballot. The Tribal Council shall provide by ordinance provisions for absentee voting, including the use of a secret ballot for this purpose, PROVIDED, HOWEVER, that at least one (1) polling place, open between the hours of 8:00 a.m. to 5:00 p.m. and supervised by the Election Board, shall be maintained on the reservation allowing any tribal member, eligible to vote in any tribal election, to cast his/her vote by secret ballot at the polling place maintained for that purpose. Ten (10) days prior to any tribal election, written notice of the location of each polling place maintained on the reservation shall be posted by the Election Board at the Tribal Council office, and in three (3) or more additional public places specified by the Tribal Council in an election ordinance.
Section 4. Tribal Council Terms of Office. Of the nine (9) candidates elected to the Tribal Council, the three (3) candidates receiving the highest number of votes shall hold that office for a period of three (3) years from the date of the first annual general membership meeting following the special election, or until his/her successor is elected. Those three (3) candidates receiving the least number of votes shall hold office for a period of one (1) year from the date of the first annual general membership meeting, or until his/her successor is elected. The three (3) remaining candidates shall hold office for a period of two (2) years from the date of the first annual general membership meeting following the special election, or until his/her successor is elected. For all subsequent elections for Tribal Council members, the term of office shall be three (3) years.

Section 5. Election of Officers of the Tribal Council. The Tribal Council shall elect from its members a Chairman, Vice-Chairman, and Secretary-Treasurer. The officers shall serve for three (3) years or until their terms as Tribal Council members expire, are declared vacant or are removed from office.

ARTICLE VI - POWERS OF SELF-GOVERNMENT

Section 1. General Powers. The Chemehuevi Indian Tribe possesses and may exercise all powers necessary or advisable to promote the welfare of its people.

Section 2. Enumerated Powers. The Chemehuevi Indian Tribe hereby delegates to its Tribal Council the following enumerated powers subject only to those limitations imposed by this Constitution or by applicable statutes of the United States:

(a) Conduct Governmental Relations. To negotiate with Federal, State, and local governments on behalf of the Tribe; to consult with the Department of the Interior on all activities of the Department which may affect Chemehuevi Indians or the Chemehuevi Indian Tribe; and to advise the Secretary of the Interior on all Federal projects for the benefit of the Tribe or the reservation.

(b) Promote Health, Education and Welfare. To promote the health, education, and general welfare of the members of the Tribe and to administer charity and other services as may contribute to the social and economic advancement of the Tribe and its members.

(c) Foster Traditions. To encourage and foster arts, crafts, traditions, and culture of the Tribe.

(d) Enact Codes and Ordinances. To promulgate codes or ordinances on land, water, and such other subjects as the activity of the Tribe may require and as are not inconsistent with this Constitution subject to any required approvals of the United States Secretary of the Interior; and to enact an election ordinance which shall provide all election procedures, including provisions for voting by secret ballot, for the casting of absentees ballots, and for special elections.

- 6 -
(e) **Manage Tribal Business Affairs.** To borrow money and to provide for the repayment thereof, to manage all economic enterprises and negotiate and contract on behalf of the Tribe and to create tribally owned corporations.

(f) **Manage Tribal Lands.** To initiate, approve, grant, or reject any acquisition, disposition, lease, encumbrance, or condemnation of tribal lands or property; to pledge newly purchased lands as security for loans on such lands; to manage, protect, and preserve all lands, minerals, wildlife, and other natural resources of the Chemehuevi Reservation; to initiate and administer land development projects for the entire reservation; and to make, administer, and revoke assignments of tribal lands to members of the Tribe.

(g) **Administer Tribal Funds.** To create and maintain a reasonable tribal fund for administrative expense of the Tribe and to provide for remuneration of Tribal Council members and tribal officials as may be required; to administer any funds or property within the control of the Tribe for the benefit of the Tribe and its members; to make reasonable expenditures of available funds for tribal purposes including salaries and remuneration of Tribal Council members, officers or employees; and to allocate tribal funds as loans or grants and to transfer tribal property and other assets to tribal organizations for such use as the Tribal Council may determine.

(h) **Levy Taxes and Fees.** To levy taxes or impose fees upon members and those doing business on the reservation.

(i) **Employ Consultants.** To employ legal counsel, the choice of counsel and the fixing of fees to be subject to the approval of the Secretary of the Interior; and to employ consultants for the protection and advancement of the interests of the Tribe and its members.

(j) **Distribution of Property.** To prescribe procedures governing distribution of property and the use of such property by the spouse of a deceased member with no children who are members.

(k) **Judicial System.** To establish a tribal judicial system.

(l) **Enrollment Procedures.** To establish ordinances, not inconsistent with this Constitution, subject to the approval of the United States Secretary of the Interior where authorized by statute, governing future membership, loss of membership, and adoption of members; and to establish enrollment procedures for membership.

(m) **Special Elections.** To call special elections pursuant to Article IX of this Constitution.
Section 3. General Powers. The Tribal Council shall have all of the appropriate powers necessary to implement specific provisions of this Constitution and to effectively govern tribal affairs. All powers heretofore vested in the Tribe, but not specifically referred to in this Constitution, shall not be abridged, but shall be reserved to the people of the Tribe and may be exercised through appropriate amendments to this Constitution.

Section 4. Delegation of Powers. The Tribal Council may delegate any of its governmental powers to the Executive Committee, which shall be composed of the Chairman, Vice-Chairman and Secretary-Treasurer.

ARTICLE VII - VACANCIES

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

Section 2. Vacancy on Executive Committee. If a vacancy occurs on the Executive Committee for any of the reasons stated in Section 1, then the vacancy on the Council shall be filled in accordance with the procedures established in Section 1. The vacancy on the Executive Committee shall be filled by the Council from among its members, PROVIDED, HOWEVER, That in the case of a vacancy in the Chairmanship, the Vice-Chairman shall automatically fill such vacancy until the next regularly held council meeting when a new Chairman shall be elected.

ARTICLE VIII - REMOVAL AND RECALL

Section 1. Removal. Any member of the Tribal Council charged during his or her term of office with neglect of duty, misconduct in office, or any offense involving dishonesty, may be removed from office as follows:

(a) Written Charges. Any member of the Tribal Council can request removal of any Tribal Council member by submitting a written statement of charges to the Secretary-Treasurer of the Tribal Council, or in the case of a request for removal of the Secretary-Treasurer, to the Chairman of the Council. Such written statement must be received by the accused council member no later than twenty (20) days before the next regular council meeting at which he or she is to appear.
(b) Evidence. At the next regular council meeting following the submission of such written statement, the charging party shall present his or her allegations and proof against the accused member to the Tribal Council, and the accused member shall be given an opportunity to reply to all charges by presenting his or her allegations and proof to the Tribal Council.

(c) Vote. After hearing all of the charges and proof presented by both sides, the Tribal Council shall take a vote on whether the accused member shall be removed from office. If two-thirds (2/3) of the Tribal Council vote to remove the accused council member, his or her seat shall be declared vacant.

Section 2. Recall. Every person elected to a position on the Chemehuevi Tribal Council shall be subject to recall from such office by the eligible voters of the Tribe as follows:

(a) Recall Petition. Any voting member of the Chemehuevi Indian Tribe may circulate one or more petitions among the eligible voters of the Tribe requesting a special recall election, which petition(s) shall contain the name(s) of the person(s) whose recall is sought and shall state the charges being preferred against such person(s). If one-third (1/3) of the eligible voters of the Chemehuevi Tribe shall sign the recall petition(s), such petition(s) shall be presented to the Chairperson of the Election Board.

(b) Call of Election. The Election Board shall then certify the validity of such signatures by comparing them with the voter registration list maintained by the Election Board. If the required number of valid signatures appear on the recall petition, the Election Board shall call and conduct a special recall election within sixty (60) days from the receipt of the petition(s).

(c) Voting. The ballot used at a recall election shall contain the question: "Shall (name of member(s) be recalled from office on the Chemehuevi Tribal Council?" The ballot shall contain a space opposite such question in which the words "Yes - No" shall be printed, so that the voter may indicate with a mark whether he or she wishes to vote for or against the recall of the member(s) so named. In the case of a recall of two (2) or more council members, there shall be a separate ballot for each member being recalled.

(d) Recall. If a majority of the eligible voters voting in a special recall election vote to recall the council member named in the ballot, and PROVIDED, That twenty percent (20%) of all eligible voters of the Chemehuevi Indian Tribe vote in said election, the Election Board shall immediately declare the council member to be recalled from office and his or her seat shall be declared vacant.
Section 3. Vacancies. All vacancies effected by this Article shall be filled in accordance with Article VII.

ARTICLE IX - SPECIAL ELECTIONS

Upon receipt of a petition signed by at least thirty percent (30%) of the eligible Chemehuevi voters requesting a referendum on any code, ordinance, or resolution, the Tribal Council shall call a special election within sixty (60) days from receipt of the petition. If a majority of the members eligible to vote either approve or disapprove the referendum measure, such approval or disapproval shall be binding upon the Tribal Council PROVIDED, That at least twenty percent (20%) of the members eligible to vote in such an election. Should less than twenty percent (20%) of the voting members vote on the referendum measure, the code, ordinance, or resolution shall stand as enacted.

ARTICLE X - MEETINGS

Section 1. Council Meetings. All meetings of the Tribal Council, EXCEPT Executive Sessions, shall be open to tribal members, and shall be held in accordance with the following provisions:

(a) Frequency. Meetings of the Tribal Council shall be held on the Chemehuevi Reservation monthly or as may be fixed by resolution of the Council.

(b) Quorum. A majority of the voting members of the Council shall constitute a quorum at all council meetings.

(c) Proxy Votes. A proxy vote may be approved by the Council for absences caused only by hospitalization or approved tribal business. Requests to the Tribal Council to vote by proxy shall be in writing.

(d) Meeting Notice. At least ten (10) days notice shall be given by the Secretary-Treasurer, unless a regular time is specified by Council resolution.

(e) Absences. Absences from regular meetings must be excused by a majority vote of the council members present. As provided in Article VII, Section 1, unexcused absences shall be cause for removal of a council member from office.

(f) Special Meetings. Special meetings of the Council may be called by the Chairman or by any four (4) members of the Council. The notice in regard to any special meeting shall be given at least seven (7) days prior to the meeting and shall specify the purpose of the meeting. Emergency meetings may be provided for in a council ordinance.
(g) **Voting.** Each member of the Tribal Council shall have one vote on all matters, and all matters to be acted on at a Tribal Council meeting shall be approved or disapproved by a majority vote of those present and voting unless provided to the contrary in this Constitution.

(h) **Executive Sessions.** Executive Sessions of the Council and invited guests may be held to discuss any matter which should be kept confidential for the welfare of the Tribe.

**Section 2. Meetings of the General Membership.** All meetings of the general membership shall be open to all members of the Tribe, and shall be held in accordance with the following provisions:

(a) **Frequency.** The general membership shall meet at least once (1) every year on the last Saturday of April on the Chemehuevi Indian Reservation ("annual meeting").

(b) **Notice.** Thirty (30) days prior to the date of the annual meeting, written notice of the meeting and the agenda for the meeting shall be mailed to each member of the Tribe eighteen (18) years of age or older setting forth the day, time, place or exact location on the reservation that the annual meeting will be held. Mailing of the notice and the agenda as set forth herein shall be done by the tribal Chairman.

(c) **Voting/Quorum.** Each voting member of the general membership has one (1) vote on all matters considered at any meeting of the general membership. A voting member must be present at a general membership meeting to vote. All matters to be acted on at a general membership meeting shall be approved or disapproved by a majority vote of those present and voting. There shall be no quorum requirement for a general membership meeting, PROVIDED, HOWEVER, that a minimum of fifty (50) voting members are in attendance.

(d) **Tribal Council Attendance.** All members of the Tribal Council shall attend all the general membership meetings and report on those items on the agenda as provided by subsection (e) below. Failure of any council member to attend a general membership meeting, except for illness, the death of a member of the council’s member’s immediate family (i.e., spouse, grandparent, parent, uncle, aunt, sibling, first cousin, children and grandchildren), or the serious illness of a council member’s parent, spouse, or child, shall be grounds for immediate removal. The removal of a council member under this section shall be decided by a vote of the general membership.
Duties of the Tribal Council. The Chairman of the Tribal Council shall:

1. preside over the meetings of the general membership and vote on all issues before the general membership. In the absence of the Chairman, the Vice-Chairman of the Tribal Council shall preside over the general membership meetings. In the absence of the Chairman and Vice-Chairman, the Tribal Council shall vote to appoint a Tribal Council member to preside over the general membership meetings. If no Tribal Council members are present, the general membership shall vote to appoint a voting member of the Tribe to preside over the general membership meetings.

2. prepare and cause to be published at least thirty (30) days before a general membership meeting, an agenda for the meeting. The items on the agenda shall include, but not be limited to: (1) presentation of the Tribe’s annual audit for all tribal enterprises, including but not limited to the Havasu Landing Resort, by the Tribe’s accountant and/or bookkeeper/financial officer; (2) a written report presented by the Secretary-Treasurer of the Tribal Council: (a) on the finances of the tribal government and (b) listing the names of all person(s) enrolled, disenrolled, or who relinquished membership in the Tribe during the fiscal year immediately preceding the meeting; (3) a written report presented by the tribal Chairman on all laws enacted by the Tribal Council during the four quarters immediately preceding the meeting, with a short summary explaining each law; (4) a written report presented by the Vice-Chairman of the Tribal Council on the status of all tribal land leases, including but not limited to, the amount, if any, of all lease payments paid to the tribal government for each lease.

ARTICLE XI - DUTIES OF OFFICERS

Section 1. Chairman. The Chairman of the Tribal Council shall preside at all meetings of the Council, shall perform all duties of the Chairman and shall exercise any authority delegated to him or her by the Council.

Section 2. Vice-Chairman. The Vice-Chairman shall, in the absence of the Chairman, perform all duties and assume all responsibilities vested in the Chairman. The Vice-Chairman shall, upon the request of the Chairman, assist in carrying out the duties of the Chairman.
Section 3. Secretary-Treasurer. The Secretary-Treasurer shall:

(a) Minutes. Keep the minutes of all regular and special meetings of the Tribal Council and of the general membership meetings and make copies available to the members upon request.

(b) Membership Rolls. Maintain the general membership rolls.

(c) Tribal Funds. Act as custodian of all tribal funds, disburse funds in accordance with orders and resolutions of the Council, account for receipts and disbursements and report the same in writing to the Council at all regular meetings, and be bonded in such amount as the Council may provide.

The Treasurer’s records shall be subject to audit or inspection upon request of the Tribal Council at any time. An annual financial statement shall be prepared in a manner prescribed by the Council and made available to the general membership.

ARTICLE XII - AMENDMENTS

This Constitution may be amended by a majority vote of those voting in an election called for that purpose by the Secretary of the Interior, PROVIDED, That at least thirty percent (30%) of those entitled to vote shall vote at such election. An amendment shall become effective only upon approval of the Secretary of the Interior. The Secretary of the Interior shall call an election on any proposed constitutional amendment at the request of the Tribal Council or upon receipt of a petition signed by one-third (1/3) of the eligible voters of the Tribe.

ARTICLE XIII - SEVERABILITY

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

ARTICLE XIV - REPEAL AND SAVINGS CLAUSE

Section 1. Repeal Clause. The Constitution of the Chemehuevi Indian Tribe approved June 5, 1970, and December 9, 1976, under the provisions of the Indian Reorganization Act of June 18, 1934, as amended, is hereby repealed and superseded by this Constitution.
Section 2. Savings Clause. All ordinances and resolutions heretofore enacted by the Chemehuevi Indian Tribal Council shall remain in full force and effect EXCEPT to the extent that they are inconsistent with this Constitution.

ARTICLE XV - BILL OF RIGHTS

The Tribal Council, their officers, agents and employees shall not deny to any person within its jurisdiction: (1) freedom of speech, press, religion and/or (2) the right to assemble peacefully and/or (3) the right, as a tribal member, not to be excluded from tribal lands without good cause. The Tribal Council, their officers, agents or employees, shall not deny any person any rights secured to her/him under this Constitution nor deny any person the equal protection of tribal laws or deny any person life, liberty or property without due process of law.

ARTICLE XVI - APPROVAL

This Constitution, when adopted by a majority vote of the Chemehuevi Indian Tribe voting at a special election called by the Secretary of the Interior in which at least thirty percent (30%) of those entitled to vote shall have voted, shall then be submitted to the Secretary of the Interior for his approval and shall be effective from the date of such approval.
Pursuant to an order issued by Eddie F. Brown, Assistant Secretary - Indian Affairs, on November 5, 1992, the Constitution of the Chemehuevi Indian Tribe was submitted to the qualified voters of the Chemehuevi Indian Tribe, and on January 09, 1993 (date), was duly adopted/rejected by a vote of 118 (number) for, and 9 (number) against, and 3 (number) cast ballots found separated or mutilated, in an election in which at least thirty (30) percent of the 165 (number) 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.

[Signatures]
Chairman, Election Board

Tribal Council-No Representation
Election Board Member

[Signatures]
Tribal Council-No Representation
Election Board Member

[Signatures]
Election Board Member

[Signatures]
Election Board Member

Washington, D.C.

Date:
FEB 02 1993

Phoenix Area Director
Tribal Government Services - MS 350

SUBJECT: Chemehuevi Indian Tribe's Revised Constitution - Approved January 27, 1993

TO: Area Director; Assistant Area Directors; Credit and Financing; Law Enforcement Services; Land Operations; Real Estate Services; Rights Protection; and Field Solicitor, Phoenix

Attached for your records is a copy of the revised Constitution of the Chemehuevi Indian Tribe which was adopted by the qualified voters of the Chemehuevi Indian Tribe on January 9, 1993, and approved by the Assistant Secretary - Indian Affairs on January 27, 1993.

Attachment
Honorable Edward Smith
Chairman, Chemehuevi Tribal Council
Post Office Box 1976
Havasu Lake, California 92363

Dear Chairman Smith:

On May 22, 1999, the Chemehuevi Tribal Council enacted Resolution No. 99-05-22-01, asking the Secretary of the Interior to conduct an election pursuant to Article XIII of the Tribe’s Constitution and Bylaws. The purpose of the election was to allow the eligible voters of the Tribe to decide if the Constitution and Bylaws should be amended.

As the election process was being carried out, the definition of what constitutes an “eligible” voter arose as an issue. This was due to only 65 tribal members registering to vote on the proposed amendment. This caused great concern with the Tribal Council and resulted in Resolution No. Chem. R. 00-05-20-05, which outlines the Tribe’s interpretation of its Constitution in terms of what constitutes an “eligible” voter. With the small number of registered voters (65) the Tribal Council asked that the election not be held and withdrew its request for the Secretarial Election.

On September 20, 2000, the Colorado River Agency Superintendent provided you with the Bureau’s interpretation of 25 CFR Part 81, with regard to the definition of “eligible” voter. The Tribe appealed the Superintendent’s interpretation.

I have reviewed all the documents in the file, discussed the matter with the Solicitor’s Office, and reviewed the Tribal Council’s interpretation of its Constitution. As a result of the review I am, overruling the Colorado River Agency Superintendent’s decision. The interpretation as provided in Resolution No. Chem. R. 00-05-20-05, is the main reason for this decision. Resolution No. Chem. R. 00-05-20-05, provides the following:

“NOW THEREFORE, BE IT RESOLVED, in order to clear up any doubts as to who is “entitled to vote” as that term is used in Article IV, of the Tribe’s Constitution, the Chemehuevi Tribal Council...
hereby interprets the language "entitled to vote" contained in the Amendment Section of the Tribe’s Constitution to mean all persons who are eligible to vote under the Constitution, (i.e., all enrolled Chemehuevi Tribal members possessing one-sixteenth (1/16) or more degree of Chemehuevi blood who are 18 years of age or older).

“BE IT FURTHER RESOLVED, that the Tribal Council request that the BIA not conduct the election on the proposed amendment since only 65 voters registered for the election, which is less than the 30% necessary to pass the amendment, thus the amendment fails by operation of law.”

Based on the Chemehuevi Tribal Council’s interpretation, the Bureau will in this instance defer to the Tribal Council’s interpretation of who is eligible to vote in the Secretarial election to amend the Tribe’s Constitution. It is imperative that the Tribal Council understand that the interpretation will play a major factor when processing the Tribe’s future requests for such an election. It will be important for the Tribe to take measures to ensure that tribal voter participation in any future elections meets the Tribe’s interpretation of the requirements of its constitution.

I therefore, overturn the Colorado River Agency Superintendent’s decision of September 20, 2000, and defer to the Chemehuevi Tribal Council’s interpretation of eligible voters to be used in future determination of the 30% requirement for holding a Secretarial election.

Sincerely,

WAYNE C. NORDWALL
Regional Director

Enclosure
cc: Superintendent, Colorado River Agency
Tribal Services, Washington, D.C.
Phoenix Field Solicitor's Office
Field Solicitor's Office, Washington, D.C. Attention: Scott Keep
RESOLUTION NO. CHEM. R. 00-05-20-05

A RESOLUTION OF THE TRIBAL COUNCIL OF THE CHEMENBEVI INDIAN TRIBE INTERPRETING THE AMENDMENT SECTION OF ITS CONSTITUTION AND REQUESTING THE SECRETARY OF THE INTERIOR OR HIS DESIGNATED REPRESENTATIVE NOT TO CONDUCT AN ELECTION PURSUANT TO TITLE 25 OF THE UNITED STATES CODE §476 ALLOWING THE MEMBERS OF THE CHEMENBEVI INDIAN TRIBE TO VOTE ON AN AMENDMENT TO THE CONSTITUTION OF THE CHEMENBEVI INDIAN TRIBE, SINCE LESS THAN THIRTY PERCENT OF THE ELIGIBLE VOTERS OF THE TRIBE FAILED TO REGISTER TO VOTE FOR THE ELECTION.

WHEREAS, the Chemenbevi Indian Tribe is a federally recognized Indian Tribe organized under the provisions of the Indian Reorganization Act ("IRA"), 25 U.S.C. §461 et seq., with a Constitution which has been approved by the Secretary of the Interior with the Tribal Council as its governing body; and

WHEREAS, Title 25 of the United States Code §476 (i.e., Section 16 of the IRA) provides that the Chemenbevi Indian Tribe has "the right to organize for its common welfare, and may adopt an appropriate constitution and bylaws and any amendments thereto"; and

WHEREAS, Title 25 of the United States Code §476(c)(1) provides "the Secretary [of the Interior] shall call and hold an election as required by subsection (a) of this section . . . (B) within ninety days after receipt of a tribal request for election to ratify an amendment to the Constitution and Bylaws . . . "; and

WHEREAS, Title 25 of the Code of Federal Regulations §81.5(a) provides that the "Secretary shall authorize the calling of an election on the adoption of amendments to a constitution . . . when requested pursuant to the amendment article of those documents . . . "; and

WHEREAS, Article XII of the Chemenbevi Constitution provides in part that the "Secretary of the Interior shall call an election on any proposed constitutional amendment at the
WHEREAS, the Tribal Council previously determined that it was in the best interests of the members of the Chemehuevi Indian Tribe to call an election to allow the eligible voters of the Tribe to determine whether to amend the Constitution separating the Secretary-Treasurer’s position into two positions; and

WHEREAS, the Tribal Council sent the appropriate Resolution to the Bureau of Indian Affairs, Colorado River Agency, Superintendent (“BIA”) requesting the election; and

WHEREAS, in response to the Tribal Council’s request, the BIA gave notice to the eligible voters of the Tribe of its intent to call and conduct an election and requested that the eligible voters of the Tribe register to vote in the election; and

WHEREAS, Article III, Section 2(b), of the Constitution of the Chemehuevi Indian Tribe provides: “All enrolled Chemehuevi Tribal members possessing one-sixteenth (1/16) or more of Chemehuevi blood are voting members;” and

WHEREAS, Article IV, Section 5, of the Constitution of the Chemehuevi Indian Tribe, entitled “Eligible Voters,” provides: “Any voting member of the Chemehuevi Indian Tribe who has reached the age of 18 years shall be entitled to vote in tribal elections;” and

WHEREAS, the above two provisions of the Chemehuevi Constitution, taken together, make it clear that any enrolled member of the Tribe that has reached the age of 18 is an eligible voter of the Tribe, and

WHEREAS, at the present time, the Tribe has 421 members who meet the above criteria and are eligible to vote and of those 421 eligible voters, only 65 have registered with the BIA to vote in the upcoming June 10, 2000 election to amend the Constitution; and

WHEREAS, elections called and conducted by the Secretary of the Interior under the provisions of the IRA are federal elections and are governed by federal law (See, Cheyenne River Sioux Tribe v. Andrus, 566 F.2d 1085 (8th Cir. 1977), certiorari denied 439 U.S. 820); and

WHEREAS, Title 25 of the United States Code §476(c)(1) provides: The Secretary shall call and hold an election as required by subsection (a) of this section ... (B) within ninety days after receipt of a tribal request for election to ratify an amendment to the
WHEREAS, Title 25 of the United States Code §476(a) provides:
Any Indian tribe shall have the right to organize for its common welfare, and may adopt an appropriate constitution and bylaws, and any amendments thereto which shall become effective when (1) ratified by a majority vote of the adult members of the Tribe or Tribes at a special election authorized and called by the Secretary under such rules and regulations as the Secretary may prescribe; and (2) approved by the Secretary pursuant to subsection (d) of this section (Emphasis added.); and

WHEREAS, these two provisions of Title 25 of the United States Code §476, when taken together, place a mandatory, nondiscretionary duty on the Secretary of the Interior to call and conduct an election to amend the Tribe’s Constitution within ninety days of receipt of the Tribe’s request and the election shall be conducted in accordance with “such rules and regulations as the Secretary may prescribe.” (See, Coyote Valley Band of Pomo Indians v. United States, 639 F. Supp. 165 (E.D. Cal. 1986)); and

WHEREAS, pursuant to the authority granted to the Secretary of the Interior under Title 25 of the United States Code §476, the Secretary has promulgated regulations establishing the requirements under which a Secretarial election to amend a Tribal Constitution shall be conducted and those regulations are found in Part 81 of Title 25 of the Code of Federal Regulations; and

WHEREAS, Title 25 of the Code of Federal Regulations, §81.7 provides:
“Except as may be further limited by this Part, a constitution and bylaws, amendments thereto, ... shall be considered adopted, ratified, or revoked if a majority of those actually voting are in favor of adoption, ratification, or revocation. The total vote cast, however, must be at least 30% of those entitled to vote, unless with regard to amendments, the Constitution provides otherwise”; and

WHEREAS, under the Regulations promulgated by the Secretary of the Interior governing elections to amend Constitutions adopted under the provisions of the IRA, an amendment is only approved when it is adopted by a majority vote of those tribal members who are eligible to vote, provided however, that at least 30% of those entitled to vote cast a ballot; and

WHEREAS, Title 25 of the Code of Federal Regulations, §81.11(a) provides that “only
registered voters will be entitled to vote, and all determinations of the sufficiency of the number of ballots cast will be based upon the number of registered voters;”
and

WHEREAS, these two sections, §81.7 and §81.11 of the Secretary’s regulations, make it clear that in order for an amendment to pass under the provisions of the IRA, the amendment must be approved: (1) by a majority of those voters who actually vote in favor of the amendment and (2) if at least 30% of those entitled to vote, register and vote in the election; and

WHEREAS, since only 65 eligible voters of the Chemehuevi Indian Tribe have registered to vote, the BIA has raised the question of whether: (1) the majority vote of the 65 registered voters is sufficient to pass the amendment, provided that at least 30% of those 65 registered voters actually vote, or (2) whether 30% of the 421 eligible voters have to register to vote and a majority of those that register, vote in favor of the measure for it to pass; and

WHEREAS, at a duly convened meeting of the Tribal Council, the BIA took the position that the 30% requirement only applies to those eligible voters who actually register, in other words, since only 65 eligible voters registered, if at least 30% or 19 voters actually cast a ballot and a majority of those 19 (i.e., 10 voters) vote in favor of the amendment, the amendment passes; and

WHEREAS, if the BIA were correct then only ten (10) voters of the 421 eligible voters of the Tribe could effectuate an amendment to the Tribe’s Constitution; and

WHEREAS, the Chemehuevi Tribal Council disagrees with the position taken by the BIA at the meeting, in that the position of the Tribal Council is that: they have 421 eligible voters; in order for the amendment to pass, at least 30% of the 421 eligible voters or 126 voters must register to vote in order to meet the 30% voter quorum requirement and of those 126 eligible voters, a majority of them, or 64 voters must vote in favor of the amendment; and

WHEREAS, since only 65 eligible voters have registered to vote, it is the Tribal Council’s position that the amendment by its very terms fails, since the requisite 30% voter quorum will not have been established (i.e., less than 30% of the eligible voters will not have registered to vote and a majority of the 30% of eligible voters will not have voted in favor of the measure); and

WHEREAS, support for the Tribe’s position is found in Title 25 of the Code of Federal
Regulations, §81.6(d) and 25 CFR §81.7; and

WHEREAS, Section 81.6(d) provides: For a reorganized Tribe to amend its constitution and bylaws, "only members who have duly registered shall be entitled to vote; provided that registration is open to the same class of voters that was entitled to vote in the Secretarial election that effectuated its reorganization, unless the amendment article of the existing constitution provides otherwise." (Emphasis added.); and

WHEREAS, Section 81.7 provides that the amendment shall not be considered adopted unless "a majority of those actually voting are in favor of adoption... The total vote cast, however, must be at least 30% of those entitled to vote, unless, with regards to amendments, the constitution provides otherwise." (Emphasis added); and

WHEREAS, Section 81.6(d) and §81.7 make it clear that the Amendment section of the Tribe’s Constitution determines whether eligible voters or registered voters make up the 30% voter quorum requirement; and

WHEREAS, Article VII of the Constitution of the Chemehuevi Indian Tribe entitled “Amendments” provides: “This Constitution may be amended by a majority vote of those voting in an election call for that purpose by the Secretary of the Interior, PROVIDED, that at least thirty percent (30%) of those entitled to vote shall vote at such election. . . .”

NOW THEREFORE, BE IT RESOLVED, in order to clear up any doubts as to who is “entitled to vote” as that term is used in Article VII of the Tribe’s Constitution, the Chemehuevi Tribal Council hereby interprets the language “entitled to vote” contained in the Amendment Section of the Tribe’s Constitution to mean all persons who are eligible to vote under the Constitution, (i.e. all enrolled Chemehuevi Tribal members possessing one-sixteenth (1/16) or more degree of Chemehuevi blood who are 18 years of age or older).

BE IT FURTHER RESOLVED, that the Tribal Council requests that the BIA not conduct the election on the proposed amendment since only 65 eligible voters registered for the election, which is less than the 30% necessary to pass the amendment, thus the amendment fails by operation of law.
CERTIFICATION

The foregoing Resolution was adopted by the Chemehuevi Tribal Council at a regular meeting of the Tribal Council on May 20, 2000, by the following vote:

AYES: 7
NOES: 0
ABSENT: 2
ABSTAIN: 0

Edward "Tito" Smith, Chairman

ATTESTED:

Jacqueline Gordon, Secretary-Treasurer