

June 9, 2014

VIA FEDEX AND HAND DELIVERY

Amy Dutschke
Regional Director, Pacific Region
Bureau of Indian Affairs
2800 Cottage Way
Sacramento, CA 95825

Re: **NOTICE OF APPEAL** of *Administrative Cease and Desist Order*

Dear Regional Director Dutschke:

In accordance with 25 C.F.R. § 2.9, the Paskenta Band of Nomlaki Indians (the "Tribe"), having a legitimate Tribal Council led by Chairman Andrew Freeman (the "Tribal Council"), hereby files its Notice of Appeal of the Bureau of Indian Affairs' ("BIA") of Central California Agency Superintendent Troy Burdick's letter titled "Administrative Cease and Desist Order" and dated June 9, 2014 (the "Order"),¹ in which he improperly states that the Tribe's operations on trust land is illegal and unauthorized and orders the Tribe to cease and desist from such operations. In addition, in this Order, the Superintendent incorrectly recognizes the wrong individuals as comprising the Tribe's governing body.

The Superintendent's Administrative Cease and Desist Order, and its incorrect and improper recognition of individuals as comprising the Tribe's governing body, must be reversed for the following reasons, which are offered here in summary, but which are offered here in summary and will be explained in greater detail in the Tribe's forthcoming "Statement of Reasons" to be filed in accordance with 25 C.F.R. § 2.10.

First and foremost, the Superintendent's letter states in relevant part: "[A]s a past practice, when internal tribal disputes arise, the BIA has recognized the last uncontested tribally elected Council [consisting of]: (1) Andrew Freeman, Chairman; (2) David Swearingen, Vice Chairman; (3) Leslie Lohse, Treasurer; (4) Geraldine Freeman, Secretary; (5) Allen Swearingen, Member at large. The BIA will continue to recognize these individuals as the tribe's elected leadership and Tribal Council until this internal dispute can be resolved by the Tribe, pursuant to the Tribe's own governing documents and processes."

¹ A true and correct copy of the June 9, 2014 Administrative Cease and Desist Order is attached hereto as **Exhibit A**.

Contrary to the assertions set forth in the Superintendent's letter, however, no internal tribal dispute exists. Any such dispute has been resolved by the Tribe pursuant to its own governing documents and processes, as the composition of the Tribal Council has changed pursuant to Tribal law since April 12, 2014. To briefly summarize, at the April 12, 2014 General Council meeting, then-Tribal Council members David Swearinger, Leslie Lohse, and Geraldine Freeman walked out, thereby abandoning their duties as Tribal Council members, warranting immediate removal pursuant to the Tribe's Constitution. The General Council then voted to remove those members from the Tribal Council, who thereafter lawfully appointed their replacements: Latisha Miller, Ambrosia Rico, and Andrew Alejandre, respectively. Chairman Freeman subsequently noticed a Special Meeting of the General Council, held on May 10, 2014, in order to further clarify and identify the true and lawful governing body of the Tribe. In total, 115 General Council members attended the Special Meeting, far exceeding the number constitutionally required to reach a quorum. Allen Swearinger, however, failed to attend, warranting immediate removal from the Tribal Council. On this basis, an overwhelming majority of the General Council voted to immediately remove him from office, and the Tribal Council appointed his replacement, Natasha Magana.²

The General Council then presented four initiative measures, the first of which re-affirmed the actions of the General Council on April 12 and May 10, 2014, removing the aforementioned Tribal Council members, and confirming that the current Tribal Council members, including Ms. Magana, constituted the Tribe's proper governing body.³ This initiative was overwhelmingly approved by the General Council, with 104 voting in favor, 5 against, and 6 in abstention. Subsequently, on May 12, 2014, the Tribal Council held a duly called and noticed special meeting at which they unanimously adopted the initiatives passed by the General Council on May 10.⁴

Therefore, the Tribe's General Council has made it resoundingly clear that it recognizes the governing body only as comprised of the following individuals: Andrew Freeman, Chairman; Latisha Miller, Vice-Chairwoman; Ambrosia Rico, Treasurer (Interim); Andrew Alejandre, Secretary; and Natasha Magana, Member-at-Large. Accordingly, any contrary actions taken by either the BIA or the illegal faction are in violation of the general council's directives and the Tribe's laws. The Department of the Interior and the Bureau of Indian Affairs must recognize the General Council Resolutions *because such Resolutions demonstrate the will of the Tribal members* whose Constitution expressly gives them an authoritative voice in their government equal to that of the Tribal Council's governmental mandate.

Pursuant to 25 C.F.R. § 2.10(c), Appellants "shall file a separate statement of reasons in the office of the official whose decision is being appealed within 30 days after the notice of

² A true and correct copy of General Council Resolution #2014-05-10 is attached hereto as **Exhibit B**.

³ A true and correct copy of General Council Initiative #2014-01 "Reaffirming the Actions of the April 12, 2014 General Council and Recognizing the Lawful Tribal Council" is attached hereto as **Exhibit C**.

⁴ A true and correct copy of Tribal Council Resolution 2014-05-12-01 Adoption of General Council May 10, 2014 Initiative #1 is attached hereto as **Exhibit D**.

appeal was filed in that office." Appellants also advise that the legal effectiveness of the decision(s) appealed from is governed by 25 C.F.R. § 2.6(b), which states that "[d]ecisions made by officials of the Bureau of Indian Affairs shall be effective when the time for filing a notice of appeal has expired and no notice of appeal has been filed."

If you should have any questions or comments, please do not hesitate to contact my office at (916) 353-1084.

Sincerely,

ROSETTE, LLP

Alex Lozada, Esq.

Enclosure

cc: Michael Black, Bureau of Indian Affairs
Troy Burdick, Superintendent, Central California Agency, Bureau of Indian Affairs
Kevin Washburn, Assistant Secretary-Indian Affairs, Department of the Interior
Office of the Solicitor, Pacific Southwest Region, Department of the Interior
Eric Shepard, National Indian Gaming Commission
Joe Dhillon, Office of the Governor
Tehama County Sheriff
George Skibine, Dentons
Lohse-Pata-Crosby Faction (VIA U.S. MAIL)
Gabriel Galanda (VIA U.S. MAIL)

EXHIBIT A



IN REPLY REFER TO:
Executive Direction

United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
Central California Agency
650 Capital Mall, Suite 8-500
Sacramento, California 95814

JUN 09 2014

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Paskenta Tribal Council

Paskenta Band of Nomlaki Indians
PO Box 709
Corning, CA 96021

Paskenta Band of Nomlaki Indians
PO Box 785
Orland, CA 95936

ADMINISTRATIVE CEASE AND DESIST ORDER

To Whom It May Concern:

This letter is in regard to information received from the State Attorney General's Office and the Tehama County Sheriff's Office regarding property held in trust by the Bureau of Indian Affairs for the benefit of the Paskenta Band of Nomlaki Indians. The information provided describes an unauthorized use of the trust land for the purposes of preventing any access to businesses located on the Reservation located at 2655 Everett Freeman Way, Corning, California 96021.

In a report by the Tehama County Sheriff Lt. Dave Greer, who is on site at the Rolling Hills Casino, Lt. Greer states that approximately 15 uniformed Sheriff's deputies arrived at the Casino at 6 am this morning. At that point, the Casino security force, including Zak's Security, had barricaded the entrance roads to the Casino. Approximately 15 minutes later, the "Tribal Police" arrived. This consisted of approximately 15 vehicles, most of them marked "police" and many marked "tribal police." There were a total of approximately 30 members of this "tribal police" force – all are uniformed (with markings "Police" or "tribal police"), and all appear to be armed. At this point, the "tribal police" force has covered the entire perimeter of the Casino property. The primary confrontation at the moment is at the main entrance, where there are approximately 10 members from each security force. In addition, growing numbers of tribal members are now

showing up on site, which is increasing the tension.

In addition, Lt. Greer reports that there have been several instances of security members with AR-15's. According to Lt. Greer, the situation is "very volatile", "tensions are high", and there is no indication that the stand-off will conclude at any time soon.

Congress has promulgated legislation codified at 25 U.S.C. § 415(a), which provides that any Indian lands held in trust may be leased with the approval of the BIA. The law is well established that "Indian trust property cannot be permitted, leased, or otherwise encumbered without the written approval of BIA." *Larsen v. Acting Pacific Regional Director*, 39 IBIA 202, 209 (2003). The trust obligation of the BIA is to issue a lease or approve a permit in accordance with 25 U.S.C. § 415 and corresponding regulations found at 25 C.F.R. Part 162. *See United States v. Jicarilla Apache Nation* 131 S. Ct. 2313 (U.S. 2011); *Brown v. United States*, 86 F.3d 1554 (Fed. Cir. 1996).

Based on my review, it is the conclusion of the Bureau of Indian Affairs that you are violating the National Environmental Policy Act of 1969 (NEPA) 42 U.S.C.A. §4321 et seq., and operating a business on Federal Trust land without obtaining authorization to do so pursuant to 25 U.S.C. §415 and 25 C.F.R. 162. Until all regulations are conformed to and a permit or lease is approved, such use and operation is a direct violation of authorized use.

Furthermore, you and your contractors are in violation of 25 C.F.R § 170.813. Indian Reservation Road (IRR) transportation facilities must be open and available for public use. Only the Secretary in consultation with the Tribe may temporally restrict access.

Therefore, based on the facts contained herein, it is my determination that your operations are illegal, and unlawfully located on real property held in trust by the United States of America. I have determined that there is a need to protect against a threat to the public health and safety, and protect a trust resource. Further, it is my decision as delegated, to order you within **24 hours of receipt** of this letter, to **cease and desist** your operation, remove all structures, vehicles and to restore the land to its original state prior to the unauthorized use. Your contractors, as the operator and owner, will be legally responsible for all damages to the land and all consequential damages resulting from unauthorized activity on the land.

Due to the notifications from law enforcement and business entities of potentially serious threats to the health and welfare of the Paskenta Band of Nomlaki Indians ("Tribe"), we are issuing this **cease and desist**.

In addition, as a past practice, when internal tribal disputes arise, the BIA has recognized the last uncontested tribally elected Council. (*Alturas Indian Rancheria v. Acting Pacific Regional Director*, 54 IBIA 1, 8 (2011); (quoting *Wasson v. Western Regional Director*, 42 IBIA 141, 158 (2006); *Walter Rosales v. Sacramento Area Director*, 32 IBIA 158 (1998), etc. The last uncontested Tribal Council of the Paskenta Band of Nomlaki Indians is as follows:

- (1) Andrew Freeman, Chairman

- (2) David Swearingner, Vice Chairman
- (3) Leslie Lohse, Treasurer
- (4) Geraldine Freeman, Secretary
- (5) Allen Swearingner, Member at large

The BIA will continue to recognize these individuals as the tribe's elected leadership and Tribal Council until this internal dispute can be resolved by the Tribe, pursuant to the Tribe's own governing documents and processes.

The decision contained in this letter may be appealed to the Regional Director, Bureau of Indian Affairs, Pacific Region, 2800 Cottage Way, Sacramento, California, 95825, in accordance with the regulations in 25 CFR Part 2, a copy of which is enclosed. Your notice of appeal must be filed in *this* office within *30 days of the date you receive the decision*. The date of filing your appeal is the date it is postmarked or the date it is personally delivered to this office. Your notice of appeal must include your name, address, and telephone number. It should clearly identify the decision being appealed. If possible, attach a copy of the decision. The notice and the envelope in which it is mailed should be clearly labeled "Notice of Appeal." Your notice of appeal must list the names and addresses of the interested parties known to you and certify that you have sent them copies of the notice. You must also send a copy of your notice of appeal to the Regional Director, Pacific Region, at the address given above.

If you are not represented by an attorney, you may request assistance from this office in preparation of your appeal.

If no appeal is timely filed, this decision will become final for the Department of the Interior at the expiration of the appeal period. No extension of time may be granted for filing notice of appeal.

If there are any questions with regards to this matter please contact Javin Moore, Acting Realty Officer, at 916-930-3672.

Sincerely,



Troy Burdick

Superintendent

cc: Joe Dhillon, Office of the Governor, California
Olin Jones, Office of the Attorney General, California
Philip Ferrari, United States Attorney's Office

Tehama County Sheriff
Gabriel Galanda, Galanda Law
Rob Rosette, Rosette LLP
Eric Schalansky, National Indian Gaming Commission
George Skibine, Dentons

EXHIBIT B



**RESOLUTION OF THE GENERAL COUNCIL
OF THE
PASKENTA BAND OF NOMLAKI INDIANS**

DATE ADOPTED: May 10, 2014
RESOLUTION NO. #2014-05-10
SUBJECT: Removal of Tribal Council Member Allen Swearinger For Failing to Attend the Duly-Called and Noticed Special Meeting of the General Council on May 10, 2014 and Recognition of Tribal Council Appointment of New Tribal Council Member.

WHEREAS, the Paskenta Band of Nomlaki Indians ("Tribe") adopted its Tribal Constitution and Bylaws ("Tribal Constitution") on April 18, 1998 and the Secretary of the Interior approved said Constitution and Bylaws on May 15, 1998; and

WHEREAS, under Art. III, Sec. 2 of the Constitution, the General Council consists of all members of the Tribe who are eighteen (18) years of age or older, and the General Council "shall exercise its powers through election of a Tribal Council, referendum, initiative, amendment and such other powers as may be reserved to them by this Constitution;" and

WHEREAS, under Art. VII, Sec. 2(b) of the Constitution, a special meeting of the General Council may be called by the Chairperson of the Tribe "for the purpose of bringing special business or issues to the General Council for discussion and enactment," and may be held "no sooner than ten days from the date of mailing written notice of the meeting to all adult Tribal members"; and

WHEREAS, under Art. VIII, Sec. 6 (sic), absent certain enumerated circumstances, all members of the Tribal Council are required to attend all General Council meetings, and the failure of any Tribal Council member to attend a General Council meeting constitutes grounds for that Tribal Council member's immediate removal; and

WHEREAS, under Art. VIII, Sec. 6 (sic), the removal of a Tribal Council member for failing to attend a General Council meeting "shall be decided by a majority vote of the members of the General Council"; and

WHEREAS, under Art. V, Sec. 1, upon a vacancy of a Tribal Council position, and if fewer than twelve months remain in the officer's term, the Tribal Council shall, by majority vote, fill the vacancy by appointing an eligible voter from among the Tribe's membership to serve the remainder of the term; and

WHEREAS, on April 28, 2014, Chairman Andrew Freeman duly called for a Special Meeting of the General Council to be held on May 10, 2014 by mailing a "Notice of A Special Meeting of General Council to Be Held on May 10, 2014 to Start Initiative Process and Conduct Other Business" via U.S. First Class Mail to Allen Swearinger and other members; and

WHEREAS, at the Special Meeting of the General Council held on May 10, 2014, Tribal Council Member Allen Swearinger, failed to attend, thereby constituting grounds for his immediate removal from the Tribal Council; and

WHEREAS, Tribal Council Member Allen Swearinger's term ends in September, 2014 and the Tribal Council by majority vote appointed NATASHA MAGANA to the vacant seat.

NOW, THEREFORE, BE IT RESOLVED, that a majority of the General Council, acting pursuant to Art. VIII, Sec. 6 of the Constitution, hereby votes to remove Allen Swearinger from the Tribal Council for failing to attend the May 10, 2014 Special Meeting of the General Council, and affirms and acknowledges that Allen Swearinger no longer represents the Tribe in any capacity; and

NOW THEREFORE FURTHER RESOLVED, the General Council recognizes and affirms that the Tribal Council, acting pursuant to Art. V, Sec. 1, can appoint, NATASHA MAGANA, a qualified Tribal Member to replace Allen Swearinger on the Tribal Council and serve the remaining part of the term in office.

CERTIFICATION

THE PASKENTA BAND OF NOMLAKI INDIANS GENERAL COUNCIL CERTIFIES THAT A SPECIAL MEETING OF THE GENERAL COUNCIL WAS DULY CALLED, NOTICED AND CONVENED ON THE 10TH DAY OF MAY 2014, WHERE A QUORUM WAS PRESENT AND THAT THIS RESOLUTION WAS ADOPTED BY MAJORITY VOTE OF THE MEMBERS OF THE GENERAL COUNCIL WITH A VOTE OF 108 FOR AND 5 AGAINST, 0 ABSTAINING AND 0 NOT VOTING.

GENERAL COUNCIL MEMBER SIGNATURES ATTESTING TO THIS RESOLUTION:

Brenden Pova

B. Pova

Lorine T. Orr

Lorine T. Orr

CERTIFICATION OF THE GENERAL COUNCIL

THE PASKENTA BAND OF NOMLAKI INDIANS GENERAL COUNCIL CERTIFIES
THAT AT A SPECIAL MEETING OF THE GENERAL COUNCIL DULY CALLED,
NOTICED AND HELD ON MAY 10, 2014 WHEREIN A QUORUM WAS PRESENT,
THE AFORESAID ACTION WAS ADOPTED BY A VOTE OF 108 FOR,
5 AGAINST, 0 ABSTAIN, 0 NOT VOTING.

Heather Pickering

Heather Pickering

David Simmons

David Simmons

Anthony Chavez

Anthony Chavez

Jason Simmons
Jason Simmons for
Darrel Simmons

Jason Simmons
Jason Simmons for
Darrel Simmons

Rebecca M. Swearengen

Rebecca M. Swearengen

Natasha Hernandez-Magana

Natasha H. J. Magana

Ambrosia Rico

Ambrosia Rico

CERTIFICATION OF THE GENERAL COUNCIL

THE PASKENTA BAND OF NOMLAKI INDIANS GENERAL COUNCIL CERTIFIES
THAT AT A SPECIAL MEETING OF THE GENERAL COUNCIL DULY CALLED,
NOTICED AND HELD ON MAY 10, 2014 WHEREIN A QUORUM WAS PRESENT,
THE AFORESAID ACTION WAS ADOPTED BY A VOTE OF 108 FOR,
5 AGAINST, Ø ABSTAIN, Ø NOT VOTING.

Natasha Hernandez-Magana

Natasha H-f-Magana

Latisha Miller

Latisha Miller

Andrew Freeman

Andrew Freeman

Andrew Alejandro

Andrew Alejandro

Lisa Hernandez

Lisa Hernandez

EXHIBIT C



INITIATIVE OF THE GENERAL COUNCIL OF THE PASKENTA BAND OF
NOMLAKI INDIANS

INITIATIVE NUMBER: 2014-01

DATE PROPOSED: May 10, 2014

SUBJECT: **Re-Affirming the General Council Actions of April 12, 2014, to Remove Three Tribal Council Members, Leslie Lohse, David Swearinger and Geraldine Freeman; Removal of Tribal Council Member Allen Swearinger; General Council Expression of Support and Confirmation of Current Tribal Council Members.**

BRIEF SUMMARY: During a duly-called and noticed annual General Council Meeting on April 12, 2014, Tribal Council members Leslie Lohse, David Swearinger, and Geraldine Freeman walked out of the General Council meeting and abandoned their Tribal Council positions. The General Council, acting in accordance with Tribal law, then immediately removed these individuals and subsequently supported and affirmed the new Tribal Council appointments of Latisha Miller, Andrew Alejandre, and Ambrosia Rico. These lawful actions taken at the April 12, 2014 General Council Meeting have been called into question by those individuals who were removed, and this has caused outside parties to become unsure as to the rightful composition of the Tribal Council. The purpose of this Initiative, then, is to re-affirm through the General Council all actions taken during this April 12, 2014 Meeting and to identify the proper Tribal Council as a matter of Tribal law.

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WHEREAS, Article VIII, Section 6 of the Tribe's Constitution provides that "[a]ll members of the Tribal Council shall attend all General Council meetings" and that "[f]ailure of any Council member to attend a General Council meeting . . . shall be grounds for immediate removal"; and

WHEREAS, Article VIII, Section 6 further provides that "removal of a Council member under this section shall be decided by a majority vote of the members of the General Council in attendance, provided that the quorum requirements . . . are met"; and

WHEREAS, under Article V, Section 1, when a Tribal Council member is removed from office and there is less than twelve months remaining in his or her term, the Tribal Council may appoint his or her successor from among the Tribe's membership to serve the remainder of the term; and

WHEREAS, Article V, Section 1 further provides that when a removed Tribal Council member has more than twelve months remaining in his or her term, the vacancy shall be filled by special election; and

WHEREAS, Article VII, Section 2(c) provides that a quorum of the General Council "shall consist of thirty per cent (30%) of its members"; and

WHEREAS, on April 12, 2014, a General Council meeting was duly called, noticed, and held, with a quorum of 103 members present; and

WHEREAS, then-Tribal Council members Leslie Lohse, David Swearinger, and Geraldine Freeman purposefully walked out of the General Council meeting despite being warned by Chairman Andrew Freeman that doing so would be grounds for immediate removal from Tribal Council pursuant to the Constitution; and

WHEREAS, pursuant to Article VIII, Section 6, the General Council voted to immediately remove Leslie Lohse, David Swearinger, and Geraldine Freeman from office for failure to attend the General Council meeting; and

WHEREAS, prior to their removal from Tribal Council, David Swearinger and Geraldine Freeman both had less than twelve months remaining in their terms of office, and Leslie Lohse had more than twelve months remaining in her term; and

WHEREAS, pursuant to its authority under Article V, Section 1, the Tribal Council lawfully appointed Latisha Miller to the position of Vice-Chair previously held by David Swearinger; Andrew Alejandre to the position of Tribal Secretary previously held by Geraldine Freeman; and until a special election is held, Ambrosia Rico, on a provisional (interim) basis, to the position of Tribal Treasurer previously held by Leslie Lohse; and

WHEREAS, Allen Swearinger, the Tribal Council member-at-large, abstained from voting on the Tribal Council appointments, and therefore Chairman Freeman's sole vote on each of the aforementioned Tribal Council appointments constituted a majority vote by the Tribal Council; and

WHEREAS, although the Constitution does not require General Council approval of Tribal Council appointments made pursuant to Article V, the General Council unanimously approved by acclamation vote all three appointments made on April 12, 2014, and it was therefore established that the Tribal Council consists of:

1. Andrew Freeman, Chairperson
2. Latisha Miller, Vice-Chairperson
3. Ambrosia Rico, Treasurer
4. Andrew Alejandre, Secretary
5. Allen Swearingner; and

WHEREAS, since April 12, 2014, Leslie Lohse has used her political connections to grossly mischaracterize events and cause outside parties to become unsure as to the rightful composition of the Tribal Council; and

WHEREAS, the Tribe reached an agreement with Cornerstone Community Bank ("Bank") that the Chairman will call a Special Meeting of the General Council to "vote to confirm or determine the composition of the Tribal Council," and that if the composition of the Tribal Council becomes uncertain and such vote is not held, the Bank may freeze tribal accounts; and

WHEREAS, it is critical that the General Council reaffirm the actions taken at the April 12, 2014 General Council Meeting and confirm the correct composition of the Tribal Council for the Bank in order to prevent Tribal bank accounts from being frozen; and

WHEREAS, on April 28, 2014, Chairman Freeman, pursuant to the Tribe's Constitution, Article VII, Section 2(b), notified members that he was calling a special General Council Meeting to discuss important tribal matters including, but not limited to, having the General Council affirm the vote to remove Leslie Lohse, David Swearingner, and Geraldine Freeman from Tribal Council at the April 12, 2014 General Council meeting, and an initiative process by which the General Council could put forward initiatives for the Tribal Council's review and action; and

WHEREAS, on May 10, 2014, the special General Council meeting was duly called and convened and a quorum was present; and

WHEREAS, at the May 10, 2014 General Council meeting, after the quorum was announced, one of the first matters undertaken by the General Council was the matter that Tribal Council member Allen Swearingner was not in attendance at the special General Council Meeting as required by the Tribe's Constitution, Article VIII, Section 6 and, according to the Tribe's Constitution, Tribal Council attendance is required and failure to attend shall be "grounds for immediate removal" from the Tribal Council by a majority vote of the General Council; and

WHEREAS, the General Council voted overwhelmingly in favor of the removal of Allen Swearingner from Tribal Council, with one hundred eight (108) votes "For" removal and five (5) votes "Against"; and

WHEREAS, following the General Council vote to remove Allen Swearingner, the Tribal

Council voted unanimously to appoint Natasha Magana to the Tribal Council to complete Allen Swearinger's term in office; and

WHEREAS, this is an initiative measure pursuant to Article IX, Section 2, which provides that the General Council has the power to propose legislation for the Tribe to the Tribal Council.

NOW, THEREFORE, BE IT RESOLVED, the General Council hereby approves and reaffirms through this initiative that the General Council removes Tribal Council members Leslie Lohse, David Swearinger, and Geraldine Freeman for abandoning their Tribal Council positions at the April 12, 2014 General Council Meeting, and that these individuals no longer represent the Tribe in any capacity whatsoever, and

NOW, THEREFORE, BE IT FURTHER RESOLVED, the General Council hereby reaffirms and supports the Tribal Council's appointments of Ambrosia Rico as Treasurer, Latisha Miller as Vice-Chair, and Andrew Alejandre as Secretary; and the General Council witnessed the Tribal Council appointments to be constituted by a majority vote under Article V, Section 1 of the Constitution because Tribal Council Member Allen Swearinger abstained from voting, and

NOW, THEREFORE, BE IT FURTHER RESOLVED, that at the May 10, 2014 special General Council Meeting, the General Council removed Allen Swearinger from his position and seat on Tribal Council for his failure to attend the General Council Meeting as required by the Tribe's Constitution, and affirmed the Tribal Council's appointment of Natasha Magana to serve on the Tribal Council until the September 2014 tribal election for that seat; and

NOW, THEREFORE, BE IT FURTHER RESOLVED, for the avoidance of doubt, and to be crystal clear—as a matter of Tribal law through this Initiative—the General Council recognizes the current Tribal Council as consisting of the persons below:

1. Andrew Freeman, Chairperson
2. Latisha Miller, Vice-Chairperson
3. Ambrosia Rico, Treasurer
4. Andrew Alejandre, Secretary
5. Natasha Magana, Member-at-Large

NOW THEREFORE, BE IT FINALLY RESOLVED, in presenting this initiative measure to the Tribal Council, accompanied by a petition signed by at least thirty percent (30%) of the Tribe's qualified voters, the General Council desires that the Tribal Council enact the proposed legislation by passing a resolution such that said legislation becomes Tribal law.

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Initiative #2014-01: Re-affirming the General Council actions of April 12, 2014 to remove three Tribal Council members: and General Council expression of support and confirmation of current Tribal Council members.

CERTIFICATION OF THE GENERAL COUNCIL

THE PASKENTA BAND OF NOMLAKI INDIANS GENERAL COUNCIL CERTIFIES THAT AT A SPECIAL MEETING OF THE GENERAL COUNCIL DULY CALLED, NOTICED AND HELD ON May 10, 2014 WHEREIN A QUORUM WAS PRESENT, THE AFORESAID ACTION WAS ADOPTED BY A VOTE OF 104 FOR, 5 AGAINST, 6 ABSTAIN, 0 NOT VOTING.

Richard Garnica

Richard Garnica

Deborah Simonsen

Deborah Simonsen

Darla Simmons

Darla Simmons

Natasha Hernandez-Magana

Natasha H. Magana

Latisha Miller

Latisha Miller

Andrew Freeman

Andrew Freeman

Andrew Alexandre

Andrew Alexandre

Ambrosia Rico

Ambrosia Rico

Initiative #2014-01: Re-affirming the General Council actions of April 12, 2014 to remove three Tribal Council members: and General Council expression of support and confirmation of current Tribal Council members.

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[Signature]
[Signature]
Jason Simmons
Jason Simmons for
Earl Wood Simmons

David Simmons
Anthony Chavez
Jason Simmons
Jason Simmons for
Darrel Simmons

Phyllis Dalton

Phyllis Dalton

Lewis L. Simmons

Lewis L. Simmons

Joseph Gutierrez

Joseph Gutierrez

Todd Thomson

Todd Thomson

Summer Th

Summer Thomson

Initiative #2014-01: Re-affirming the General Council actions of April 12, 2014 to remove three Tribal Council members: and General Council expression of support and confirmation of current Tribal Council members.

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Gliseo Carranza

Gliseo Carranza

Karen James

Karen James

Lolita Carrillo

Lolita Carrillo

Marisol Carranza

Marisol Carranza

Antonio Carranza

Antonio Carranza

Andy Dalsen Jr

Andy Dalsen Jr

Kimberly McCloud

Kimberly McCloud

Ann Dalsen

Ann Dalsen

Heather Pickering

Heather Pickering

Initiative #2014-01: Re-affirming the General Council actions of April 12, 2014 to remove three Tribal Council members: and General Council expression of support and confirmation of current Tribal Council members.

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Christine Pickering

Britney Pickering

Daniel Vansickle

Michael Vansickle

Rachel Ann Kree

Wayne Vansickle

Darryl Swearingen

IAN Freeman

Mary Zaragoza

Christine Pickering

Britney Pickering

Dan Vansickle

Mike Vansickle

Rachel Kree

Wayne Vansickle

Darryl Swearingen

Ivan Freeman

Mary Zaragoza

Initiative #2014-01: Re-affirming the General Council actions of April 12, 2014 to remove three Tribal Council members: and General Council expression of support and confirmation of current Tribal Council members.

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Jessica Gutierrez

Irona Gutierrez

Megan Cortright

Carlos Partida

Angelica Juarez

Cynthia L. Card

TRACY BRITTON

Darren Swearingen

Shirley Swearingen

Irona Gutierrez

Megan Cortright

Carlos Partida

Angelica Juarez

Cynthia L. Card

TRACY BRITTON

Darren Swearingen

Shirley Swearingen

JOHN W. HOFFNER

Initiative #2014-01: Re-affirming the General Council actions of April 12, 2014 to remove three Tribal Council members: and General Council expression of support and confirmation of current Tribal Council members.

CERTIFICATION OF THE GENERAL COUNCIL

THE PASKENTA BAND OF NOMLAKI INDIANS GENERAL COUNCIL CERTIFIES THAT AT A SPECIAL MEETING OF THE GENERAL COUNCIL DULY CALLED, NOTICED AND HELD ON May 10, 2014 WHEREIN A QUORUM WAS PRESENT, THE AFORESAID ACTION WAS ADOPTED BY A VOTE OF 104 FOR, 5 AGAINST, 6 ABSTAIN, 0 NOT VOTING.

Olivia ORR

Betty ORR

Lorine T. ORR

Stuart Blankinship

Olivia ORR

Betty ORR

Lorine T. ORR

Stuart Blankinship

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Jose Rodriguez Luevano

Lisa Simmons

Frances Enriquez

MAURICE JAMES

Tracy Stevens

James Simmons

RYAN RAY

KEITH RAY

Elizabeth A. Norwood

[Signature]

Lisa Simmons

Frances Enriquez

[Signature]

Tracy Stevens

James Simmons

[Signature]

[Signature]

Elizabeth A. Norwood

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Robert Garnica

Crystal Garnica

Chris Garnica

Richard Garnica

Richard H. Garry

Aaron C. Garry

Myron J. Freeman

Tami Freeman

George H Freeman

Robert

Crystal

Chris

RUDOLPH GARRY

AARON C. GARRY

MYRON J. FREEMAN

Tami Freeman

George H Freeman

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Brenda Freeman

Brenda Freeman

Eduardo Lemus Jr.

Eduardo Lemus Jr.

Victor Alvarez Jr.

Victor Alvarez Jr.

Lois Delara

Lois Delara

Gumaro Alvarez

Gumaro Alvarez

ELIZABETH TERRY

ELIZABETH TERRY

Jody Jackson

Jody Jackson

JUAN SIMMONS

JUAN SIMMONS

Jose Delara

Jose Delara

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Priscilla Delara

Priscilla Delara

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Marie Mora

M. Mora

Steven Gonzales

Sten Gonzales

Rebecca M. Swearingen

Rebecca M. Swearingen

Ron Swearingen

Ron Swearingen

Bernyce G. Orr

Bernyce G. Orr

Jessica Farias

Jessica Farias

Bianca Merrifield

Bianca Merrifield

MARIAN MACHADO

Marian Machado

Michelle Elliott

Michelle Elliott

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Madina Elliott

Madina Elliott

Misty Cahalan

Misty Cahalan

Hannah Villavicencio

Hannah Villavicencio

Luisa Hernandez

Luisa Hernandez

Michael Wolden

Michael Wolden

Sierra Robles

Sierra Robles

Kimberly J. Freeman

Kimberly Freeman

Joseph M. Alvarez

Joseph Alvarez

Jesus E. Rodriguez

Jesus E. Rodriguez

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BRANDEN PAYA

Angelina Horne

Alaina Aguilar

[Signature]

Angelina Horne

Alaina Aguilar

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Sierra Thom

Sierra Thomson

Forest H.

Forest Dampier

Yantz Dampier

Yantz Dampier

Christina Hernandez

Christina Hernandez

Jennifer Gonzalez Jones

Jennifer Gonzalez Jones

Bonnie J. Gonzales

Bonnie J. Gonzales

Emma M. Gonzales

Emma M. Gonzales

Angie M. Swearingen-Sutton

Angie M. Swearingen-Sutton

Ronald Orr Jr

Ronald ORR JR

EXHIBIT D

**RESOLUTION OF THE TRIBAL COUNCIL
OF THE
PASKENTA BAND OF NOMLAKI INDIANS**

RESOLUTION #: TC 2014-05-12- 01

DATE ADOPTED: May 12, 2014

SUBJECT: The Paskenta Band of Nomlaki Indians Tribal Council Adoption of General Council May 10, 2014 Initiative # 1 Re-Affirming the General Council's Actions at the General Council Meeting on April 12, 2014; Removing Tribal Council Members for Failure to Attend General Council Meetings; Voting to Affirm the Appointment of Tribal Council Members to the Terms of Removed Tribal Council Members; Assuring Third Parties as to the Lawful Governing Authority of the Tribe

WHEREAS, the Paskenta Band of Nomlaki Indians ("Tribe") adopted its Tribal Constitution and Bylaws ("Tribal Constitution") on April 18, 1998 and the Secretary of the Interior or authorized delegate approved said Constitution and Bylaws on May 15, 1998; and

WHEREAS, Article III, Section 1 of the Tribal Constitution provides that the governing body of the Tribe is the Tribal Council; and

WHEREAS, the Tribe's Constitution provides in Article IX, Referendum and Initiative, Section 2 that the General Council reserves the power independently to propose legislation and any proposed legislation shall be accompanied by a petition signed by at least thirty (30) percent of the qualified voters; and

WHEREAS, on May 10, 2014 at a duly called, noticed and held special meeting of the General Council, the General Council proposed initiatives and petitioned the Tribal Council with signatures from more than thirty (30) percent of the Tribe's qualified voters; and

WHEREAS, according to the Tribe's Constitution, the Tribal Secretary immediately verified the signatures, notified the Election Board of the initiative petitions and conveyed the petition initiatives to the Tribal Council; and

WHEREAS, the Tribal Council finds that it is in the best interests of the Tribe and its membership to adopt as the law of the Tribe the initiatives, each initiative separately as a Tribal Council Resolution; and

WHEREAS, the Tribal Council finds that it is in the best interests of the Tribe and its membership to adopt as the law of the Tribe, Initiative # 1 – Titled:

**Re-Affirming the General Council Actions of April 12, 2014, to Remove Three Tribal Council Members, Leslie Lohse, David Swearinger and Geraldine Freeman;
Removal of Tribal Council Member Allen Swearinger;
General Council Expression of Support and
Confirmation of Current Tribal Council Members.**

A copy of the above set forth Initiative # 1 with Certification is attached hereto and made a part hereof marked as Exhibit A.

NOW, THEREFORE BE IT RESOLVED, that the Tribal Council finds that it is in the best interests of the Tribe and its membership to adopt as the law of the Tribe, Initiative # 1 – Titled:

**Re-Affirming the General Council Actions of April 12, 2014, to Remove Three Tribal Council Members, Leslie Lohse, David Swearinger and Geraldine Freeman;
Removal of Tribal Council Member Allen Swearinger;
General Council Expression of Support and
Confirmation of Current Tribal Council Members.**

A copy of the above set forth Initiative # 1 with Certification is attached hereto and made a part hereof marked as Exhibit A.

#

CERTIFICATION

THE PASKENTA BAND OF NOMLAKI INDIANS TRIBAL COUNCIL CERTIFIES THAT
AT A MEETING THAT WAS DULY CALLED, NOTICED AND CONVENED ON THE 12th
DAY OF MAY, 2014 WHERE A QUORUM WAS PRESENT, THE
AFORESAID RESOLUTION WAS ADOPTED BY A VOTE OF 5 FOR, 0
AGAINST, 0 ABSTAINING AND 0 NOT VOTING.

Andrew Freeman
ANDREW FREEMAN, TRIBAL CHAIRMAN

5-12-14
DATE

ATTEST:

Andrew Alejandre
ANDREW ALEJANDRE, SECRETARY

5-12-2014
DATE

Ambrosia Rico
AMBROSIA RICO, TREASURER

5-12-14
DATE

Latisha Miller
LATISHA MILLER, VICE-CHAIRMAN

05-12-14
DATE

Natasha Magana
NATASHA MAGANA, MEMBER-AT-LARGE

05-12-14
DATE

CERTIFICATE OF SERVICE

I hereby certify that on June 9, 2014, copies of the Appellant Paskenta Band of Nomlaki Indians' Notice of Appeal have been served, via Fed Ex upon the following interested parties:

Michael Black Bureau of Indian Affairs 1849 C Street, N.W. MS-4606-MIB Washington, D.C. 20240	Troy Burdick, Superintendent Bureau of Indian Affairs Central California Agency 650 Capital Mall, Suite 8-500 Sacramento, CA 95814
Joe Dhillon Office of the Governor State Capital Suite 1173 Sacramento, CA 95814	Tehema County Sherriff 22840 Antelope Blvd Red Bluff, CA. 96080
Gabriel Galanda Galanda Broadman, PLLC 8606 35th Ave NE, Suite L1, Seattle, WA 98115	Office of the Solicitor Pacific Southwest Region United States Department of Interior 2800 Cottage Way, Rm E-1712 Sacramento, CA 95825
National Indian Gaming Commission ATTN: Eric Shepard 1441 L. Street NW, Suite 9100 Washington, D.C. 20005	George Skibine Dentons 1301 K Street, NW Suite 600, East Tower Washington, District of Columbia 20005
P.O. Box 785 Orland, CA 95936	Kevin K. Washburn, Assistant Secretary – Indian Affairs United States Department of the Interior MS-4160-MIB 1849 C Street, NW Washington, DC 20240