

Robert A. Rosette (CA SBN 224437)
Richard J. Armstrong (CA SBN 225191)
Alex A. Lozada (CA SBN 275416)
ROSETTE, LLP
ATTORNEYS AT LAW
193 Blue Ravine Rd., Suite 255
Folsom, California 95630
(916) 353-1084 (Office)
(916) 353-1085 (Fax)
rosette@rosettela.com
armstrong@rosettela.com
alozada@rosettela.com

*Attorneys for Defendant
Paskenta Band of Nomlaki Indians*

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA**

STATE OF CALIFORNIA,

Plaintiff,

v.

PASKENTA BAND OF NOMLAKI
INDIANS, a federally recognized Indian
tribe;

Defendants.

Case No.: 2:14-cv-01449-KJM/CMK

**DECLARATION OF ANDREW
FREEMAN IN SUPPORT OF
DEFENDANT'S OPPOSITION TO
THE LOHSE FACTION'S
SUPPLEMENTAL BRIEF
REGARDING EXPANSION OF
EXISTING INJUNCTIVE RELIEF**

I, ANDREW FREEMAN, hereby declare as follows:

1. I am over the age of eighteen, am competent and of sound mind, have personal knowledge of the facts set forth below and, if called as a witness, I can and will testify truthfully to each of the following.

2. I currently serve as the Chairman of the Tribal Council of the Paskenta Band of Nomlaki Indians, a federally-recognized Indian tribe ("Tribe"). I have served in elected office in

1 the role of either Chairman or Vice-Chairman for the past eight years.

2 3. The Tribe ratified its Constitution on April 18, 1998 and operates its government
3 pursuant to its Constitution, ordinances, regulations, policies, customs, traditions, and bylaws.
4 See Constitution of the Paskenta Band of Nomlaki Indians, attached hereto as **Exhibit A**. It has a
5 five-member Tribal Council with broad governing authority as is necessary to carry out its
6 powers.

7 4. The General Council is comprised of all enrolled members of the Tribe over the
8 age of eighteen (18) and exercises its powers through the election of a Tribal Council,
9 referendum, initiative, amendment and such other powers as may be reserved to them pursuant to
10 its Constitution. *Id.* at Art. III, § 2. The Tribal Council is made up of five Tribal members
11 elected from the General Council, and consists of a Chairperson, Vice-Chairperson, Secretary,
12 Treasurer, and Member-at-Large. *Id.* at Art. III, § 1.

13 5. The Tribe's Constitution gives concurrent authority to the Tribal Council and the
14 General Council to enact binding legislation on behalf of the Tribe. *See id.*, Art. IX, § 2.
15 Legislation enacted through the General Council initiative process has the force of law pursuant
16 to the Tribe's Constitution, custom, and practice.

17 **The April 12, 2014 General Council Meeting**

18 6. On April 12, 2014, the General Council met at a duly called, noticed, and
19 convened annual meeting at the Rolling Hills Casino on the Tribe's Reservation. One hundred
20 and three (103) Tribal members were in attendance out of the total General Council of two
21 hundred and sixteen (216) adult enrolled members, thus constituting a quorum. *See* Art. VII, §
22 2(c).

23 7. After the quorum of the General Council was announced by then-Secretary
24 Geraldine Freeman, the issue of Tribal membership eligibility was presented at this meeting, as is
25 customary at General Council meetings.

26 8. The General Council did not adjourn this meeting, despite attempts from then-
27 Treasurer Leslie Lohse and then Vice-Chairman David Swearinger to do the same. I informed
28

David Swearinger, Leslie Lohse, and Geraldine Freeman that they had no authority to end the General Council meeting. I further advised them that if they left the meeting, they would be deemed to have abandoned their positions on the Tribal Council, thus subjecting themselves to immediate removal from the Tribal Council by the General Council and replacement pursuant to Article VIII, § 6¹ of the Constitution.

9. Notwithstanding these warnings, Leslie Lohse, David Swearinger, and Geraldine Freeman walked out of the General Council meeting. Shortly thereafter, the General Council, voted to immediately remove Leslie Lohse, David Swearinger, and Geraldine Freeman from office. Their temporary replacements were appointed pursuant to Tribal law.

Events Subsequent to the April 12 Meeting

10. In the wake of the April 12 meeting, Leslie Lohse used her political connections to spread doubt amongst outside parties regarding the legitimacy of the General Council's actions taken on April 12. In grossly mischaracterizing the events of April 12, she was able to obtain non-decision letters from the Bureau of Indian Affairs ("BIA") and the National Indian Gaming Commission ("NIGC") expressing concerns about the General Council's actions. Of course, when issuing these letters, the BIA and NIGC did not yet have a full understanding of the events that transpired on April 12.

11. Based on the confusion created by the Lohse Faction, the General Council sought to clarify the will of its membership related to the Tribe's governance. Pursuant to Article VII, § 2(b), I distributed to the membership of the Tribe a "Notice of a Special Meeting of the General Council to be Held on May 10, 2014 to Start Initiative Process and Conduct Other Business" ("Notice"). Attached as **Exhibit B** is a true and correct copy of the Notice of the Special Meeting of the General Council sent to one of the Tribal members.

12. The Notice explains that a special meeting of the General Council was being called so that the General Council can revisit the issues that were the subject of the April 12 meeting.

¹ The section numbers of Article VIII are numbered incorrectly. Reference to Article VIII, Section 6 in this Declaration is as numbered but if sequential numbering were used, it would be Section 8.

1 These issues included the removal of Leslie Lohse, David Swearingner, and Geraldine Freeman
2 from Tribal Council and the appointment of their replacements. Although the General Council's
3 actions on April 12 were entirely consistent with the Tribe's laws and thus binding on all parties,
4 in light of Leslie Lohse's accusations and gross mischaracterization of the facts, the Tribe deemed
5 reassurance of the actions taken on April 12 to be in the best interests of the membership as a
6 whole. I personally invited federal officials to attend the May 10 meeting in order to assuage any
7 concerns that I was acting alone or outside my constitutional authority. Attached hereto as
8 **Exhibit C** is a letter sent to Michael Black, Director of the BIA, on May 6, 2014, inviting him
9 and any other BIA officials to attend the meeting.

10 13. In the wake of the April 12 meeting, Leslie Lohse organized her group as a rogue
11 tribal council ("Lohse Faction"). This illegal council has made, and continues to make,
12 representations to the general membership and to outside parties that it is in fact the governing
13 body of the Tribe. It has even created its own shadow "tribal court."

14 14. On May 6, 2014, the Tribe sent cease and desist letters to the illegal faction
15 ordering that they cease working together as a "Tribal Council" or otherwise making
16 representations that they are the lawful governing body of the Tribe. Attached as **Exhibit D** is the
17 letter sent to David Swearingner on May 6, 2014.

18 15. As stated above, sometime between April 28 and May 8, 2014, the illegal faction
19 created an entirely unauthorized shadow tribal court, and on May 8, 2014, the illegal faction filed
20 suit in this shadow court in an action identified as "Case No. PCTV-14-001," seeking a temporary
21 restraining order against myself, Ambrosia Rico, Andrew Alejandre, Latisha Miller, and a
22 number of other individuals.

23 16. By establishing a shadow tribal court and purporting to obtain judgment from that
24 illegal court, the illegal faction took concerted steps to prevent the General Council from
25 exercising its democratic will, pursuant to the Tribe's Constitution. This shadow tribal court has
26 not been recognized by any state or federal agency, or by any outside business or entity
27 conducting business with the Tribe.
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The May 10, 2014 General Council Meeting

17. On May 10, 2014, the General Council held a special meeting at the Rolling Hills Casino. There were 115 members present out of 216, thus constituting a quorum.

18. Because the shadow tribal court created by Leslie Lohse has no authority, the injunction issued by that “court” had no legal significance and did not restrain my activities. I attended the May 10 meeting along with fellow Tribal Council members Latisha Miller, Ambrosia Rico, and Andrew Alejandre. Although they were expressly invited, none of the members of the illegal faction attended the May 10 meeting.

19. After the quorum was announced, one of the first matters undertaken by the General Council was to address Allen Swearingen’s failure to attend the special General Council meeting as required pursuant to the above noted Article VIII, Section 6. An overwhelming majority of the General Council—108 of the 115 present—voted to remove Allen Swearingen from the Tribal Council. The Tribal Council then voted unanimously to appoint Natasha Magana to complete Allen’s term on the Tribal Council, such term ending in September 2014. The General Council approved this appointment.

20. At the May 10 meeting, the General Council approved four initiatives. The first of these initiatives, #2014-01, reaffirmed the General Council’s actions from April 12, 2014. In doing so, the General Council also expressly recognized the Tribe’s governing body as being comprised of the following individuals: Andrew Freeman, Chairman; Latisha Miller, Vice-Chair; Ambrosia Rico, Treasurer; Andrew Alejandre, Secretary; and Natasha Magana, Member-at-Large. Initiative #2014-01 was overwhelmingly approved, with 104 tribal members in favor, 5 against, and 6 abstaining.

21. On May 12, 2014, Initiative #2014-01 was unanimously approved by the Tribal Council pursuant to Article IX, § 2 and is now binding Tribal law. Attached as **Exhibit E** is a true and correct copy of the Tribal Council resolution adopting Initiative #2014-01, with the Initiative attached thereto.

1 **Continuing Illegal Activity by the Lohse Faction**

2 22. The Lohse Faction, along with a number of other individuals, have, and upon
3 information and belief continue to unlawfully exercise control over several assets rightfully
4 belonging to the Tribe, including bank accounts, a private jet, and silver and gold bullion.

5 23. The Lohse Faction continues to make representations to the general membership,
6 local, state, and federal regulators, and law enforcement that they are the lawful governing body
7 of the Tribe.

8 24. On or around May 15, 2014, the Lohse Faction carried out a cyber-attack on the
9 Casino. This cyber-attack resulted in the Casino's electronic records becoming effectively wiped
10 clean. This not only injured the Tribe (as owner of the Casino) and Casino employees, but it also
11 injured the Casino patrons, as all records of the rewards points were instantly and permanently
12 destroyed.

13 25. The Lohse Faction has publicly taken credit for the illegal cyber-attack. *See*
14 Declaration of David Swearinger, ¶ 12, ECF 8-1; *see also Paskenta Tribal Dispute Goes Cyber*,
15 Red Bluff Daily News (May 22, 2014), *available at* http://www.redbluffdailynews.com/news/ci_25814173/paskenta-tribal-dispute-goes-cyber, a true and correct copy of which is attached
16 hereto as **Exhibit F**.

17
18 26. On June 9, the Lohse Faction arranged for an armed "Tribal Police" force to
19 attempt a takeover of the Casino. This illegitimate tribal police force parked their sport utility
20 vehicles on the road leading to the Casino.

21 27. The Tribe's legitimate security force did not permit the Lohse Faction's fake tribal
22 police to gain entry, and the situation eventually dissolved without violence. However, the
23 attempted takeover was widely publicized.

24 **The BIA Administrative Cease and Desist Order**

25 28. On June 9, 2014, the Superintendent of the BIA Pacific Regional Office, Troy
26 Burdick, issued an "Administrative Cease and Desist Order" ("Order") in response to the activity
27 initiated by the Lohse Faction. The Order was addressed to both the Tribe and the Lohse Faction
28

(despite misrepresentations made by the Lohse Faction that the Order was directed to myself, specifically). Attached hereto as **Exhibit G** is a true and correct copy of the Administrative Cease and Desist Order.

29. The Order proceeds on the false assumption that an “internal tribal dispute” exists and fails to recognize that the Tribe’s General Council had already taken action related to the composition of the Tribe’s governing body. Instead, Superintendent Burdick chose to recognize an interim Tribal Council comprised of the following individuals, as elected following the Tribal election in 2010: Andrew Freeman, Chairman; David Swearinger, Vice-Chairman; Leslie Lohse, Treasurer; Geraldine Freeman, Secretary; and Allen Swearinger, Member-at-Large. Mr. Burdick states that this group will continue to be recognized by the BIA “until this internal dispute can be resolved by the Tribe, pursuant to the Tribe’s own governing documents and processes.” In doing so, Mr. Burdick effectively ignored the actions of the General Council taken on April 12 and May 10.

30. On June 9 2014, the Tribe formally appealed the Order, staying the effectiveness of this decision pursuant to 25 C.F.R. § 2.6. Attached as **Exhibit H** is a true and correct copy of the Notice of Appeal.

The Executive Order, the Temporary Restraining Order, and the Peaceful Operation of the Casino

31. On June 11, in response to the Lohse Factions obstructive actions, and to protect the health, safety, and welfare of the Tribe and the public at large, I issued an Executive Order prohibiting the carrying of firearms on Tribal land. Attached as **Exhibit I** is a true and correct copy of the Executive Order.

32. On June 18, 2014, the U.S. District Court for the Eastern District of California issued a temporary restraining order (“TRO”), pursuant to a request from the State of California, to protect and preserve public safety and welfare and providing that the status quo remain.

33. The Tribe was and remains wholly supportive of the State’s efforts in obtaining the TRO and keeping its terms in place.

1 34. Since the TRO and Executive Order were issued, operations at the Casino continue
2 to run smoothly, with these legal orders preventing any threats of hostility.

3 35. Representatives of the NIGC have conducted regular site visits since June 9. They
4 have found only that the Casino is being run properly, and have therefore issued no notices of
5 violations or closure orders.

6 **The Casino's Importance to Tribal Self-Government and Self-Sufficiency**

7 36. The Tribe relies heavily on Casino revenues to fund its tribal health clinic
8 program, which provides important services to Tribal members. In addition, a significant amount
9 of Casino revenue is donated to a Tehama County community charity called Expect More
10 Tehama. Expect More Tehama focuses primarily on education and positive youth development;
11 it provides educational programs encouraging local high school students to go to college as well
12 as free to low-cost summer camps. Altogether, through Expect More Tehama and other charities,
13 the Tribe has donated over \$600,000 in Casino revenues to the county. If the Casino is shut
14 down, the Tribe's health clinic will either be forced to also shut down completely or will suffer a
15 funding shortfall that will make the clinic substantially less beneficial to the tribal members.
16 Additionally, donations to Expect More Tehama and other charities will no longer be possible.

17 37. In addition to the Casino's importance regarding the funding of tribal
18 governmental programs, the Casino is the fourth largest employer in the County and employs
19 over 500 people—both tribal members and non-tribal members—who rely on their Casino
20 salaries to support their families.

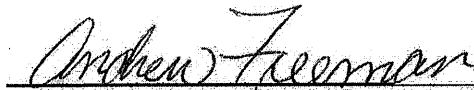
21 38. The Casino is also a significant driving force behind the local economy. A gas
22 station, various hotels, a golf course, and other businesses all rely heavily on the Casino's
23 customer base. If the Casino is shut down, these surrounding businesses will almost certainly be
24 forced to shut down as well.

25 39. Closing the Casino would be economically devastating to the Tribe and its
26 members, the 500-plus Casino employees and their families, the entire local community, and the
27 surrounding businesses. Because the Casino is being run lawfully pursuant to IGRA, NIGC
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1 regulations, tribal law, and the Tribal-State gaming compact; there is no basis for this Court to
2 expand the TRO to close down the Casino entirely.
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5 I declare under penalty of perjury under the laws of the State of California that the
6 foregoing is true and correct.
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8 Dated: June 30, 2014
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10 Andrew Freeman
11 Chairman
12 Paskenta Band of Nomlaki Indians
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EXHIBIT A

CONSTITUTION
of the
PASKENTA BAND OF NOMLAKI INDIANS

PREAMBLE

The Paskenta Band of Nomlaki Indians, hereinafter referred to as the "Band," enacts this Constitution in order to establish a Tribal government through which we may exercise our inherent sovereign powers and privileges, and preserve and maintain our unique cultural and ethnic heritage.

ARTICLE I: TERRITORY

The territorial jurisdiction of the Band shall extend to all lands as to which the Band hereafter may acquire legal or beneficial title. 25 USC §1300m et. seq.

ARTICLE II: MEMBERSHIP¹

¹25 U.S.C. §1300 m-4.

(a) Compilation of Tribal membership roll

Within one year after November 2, 1994, the Secretary shall, after consultation with the Tribe, compile a membership roll of the Tribe.

(b) Criteria for membership

- (1) Until a Tribal constitution is adopted pursuant to section 1300m-6 of this section, an individual shall be placed on the membership roll if such individual is living, is not an enrolled member of another federally recognized Indian tribe, is of Nomlaki Indian ancestry, and if-

- (A) such individual's name was listed on the Paskenta Indian Rancheria distribution roll compiled on February 26, 1959, by the Bureau of Indian Affairs and approved by the Secretary of the Interior on July 7, 1959, pursuant to Public Law 85-671;

Section 1.

The membership of the Band shall consist of the following:

- (a) All persons of Nomlaki Indian blood who resided on the Paskenta Rancheria at any time prior to the distribution of the assets of the Rancheria pursuant to the California Rancheria Act;
- (b) All persons who were identified as Indians from Paskenta in any of the official or unofficial rolls of Indians prepared by the Bureau of Indian Affairs;
- (c) All other persons who are direct lineal descendants of persons qualifying as members under subsections (a) or (b) and who have maintained Tribal relations with the Band, together with such other persons who apply for and are accepted into membership pursuant to the adoption provisions of an ordinance enacted under Section (3) of this Article.

Section 2.

Any person who is officially enrolled with or has received an assignment or allotment of land on the reservation of another federally-recognized tribe shall not be eligible for membership in the Paskenta Band of Nomlaki Indians; provided that

-
- (B) such individual was not listed on the Paskenta Indian Rancheria distribution list, but met the requirements that had to be met to be listed on the Paskenta Indian Rancheria list;
 - (C) such individual is identified as an Indian from Paskenta in any of the official or unofficial rolls of Indians prepared by the Bureau of Indian Affairs; or
 - (D) such individual is the lineal descendant of an individual, living or dead, identified in subparagraph (A), (B), or (C).
- (2) After adoption of a Tribal constitution pursuant to section 1300m-6 of this section, such Tribal constitution shall govern membership in the Tribe.
- (c) Conclusive proof of Paskenta Indian ancestry

For the purpose of subsection (b) of this section, the Secretary shall accept any available evidence establishing Paskenta Indian ancestry. The Secretary shall accept as conclusive evidence of Paskenta Indian ancestry, information contained in the census of the Indians in or near Paskenta, prepared by Special Indian Agent John J. Terrell, in any other roll or census of Paskenta Indians prepared by the Bureau of Indian Affairs, and in the Paskenta Indian Rancheria distribution list, compiled by the Bureau of Indian Affairs on February 26, 1959.

(a) interests in Tribally assigned or individually allotted land acquired by gift, devise or inheritance shall not be considered grounds for ineligibility; and

(b) if a person who is officially enrolled with another federally-recognized tribes executes a Notice of Intention to Relinquish Membership on a form approved by the Band, and is otherwise qualified for membership in the Band, he/she shall be deemed a member of the Band until such time as the Band is officially recognized by the United States government. Upon recognition, a member shall not be officially enrolled with the Band until he/she has executed a written relinquishment of his membership in any other federally recognized tribe.

Section 3.

The Tribal Council shall have the power to adopt ordinances, consistent with this Constitution, governing future membership, loss of membership, adoption of members into the Band and the preparation and maintenance of a Tribal membership roll.

ARTICLE III: GOVERNING BODY

Section 1.

The governing body of the Band shall be the Tribal Council, which shall consist of five (5) Tribal members elected from the General Council. The Tribal Council shall consist of a Chairperson, Vice-Chairperson, Secretary, Treasurer, and one other member each elected in an election held in accordance with this Constitution.

Section 2.

The General Council shall consist of all members of the Band who are eighteen (18) years of age or older. 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.

ARTICLE IV: ELECTIONS

Section 1.

The first election under this Constitution shall be held within sixty (60) days after the date on which this Constitution is adopted. At that election, the Chairperson, Secretary, and Treasurer shall be elected to two (2) year terms while the Vice-Chairperson and one (1) Council member shall be elected to one (1) year terms. Thereafter, all terms of office shall be for two (2) years and elections shall be held annually consistent with the constitution.

Section 2.

Any enrolled member of the Band who is at least eighteen (18) years of age at the time of the election shall be eligible to vote. No person convicted of a felony or misdemeanor involving a charge of dishonesty, fraud, theft or moral turpitude shall hold office. Persons convicted of other felonies shall not hold office until ten years have elapsed since completion of their prison term or parole conditions. The Tribal Chairperson, Vice-Chairperson, and Treasurer cannot have felony convictions.

Section 3.

Any eligible voter of the General Council may announce his candidacy for Tribal office or membership on the Tribal Council no later than 30 days prior to an election. The list of candidates shall be announced publicly in the regular Tribal Council meeting immediately preceding the election and shall further be posted that same day at the Tribal office or such other place or places designated by the General Council in an election ordinance. If no person has announced his candidacy for a particular office prior to the Tribal Council meeting immediately preceding the election, nomination may be made from the floor at said meeting. In the event that no candidate is nominated for a particular office, the incumbent shall continue to serve therein until the next election. If there is no incumbent, the Tribal Chairperson shall have the power to appoint an eligible voter from the Band's membership to such vacant office. If the vacant office is that of Tribal Chairperson, the Vice-Chairperson shall serve as Chairperson until the election of a successor.

Section 4.

The candidate receiving the highest number of votes for a particular office shall be elected to that office.

Section 5.

Within thirty (30) days following the approval of this Constitution, the General Council shall elect an Elections Board and enact an election ordinance prescribing procedures for fair elections, absentee balloting, settlement of election disputes, handling of petitions and the conduct of referendum, initiative and recall elections. All elections shall be conducted by secret ballot.

Section 6.

All elections shall be supervised and conducted by an Elections Board composed of five members of the Band who are 18 years of age or older provided, however, that no member of the Elections Board shall be at the same time a member of the Tribal Council or a candidate for any other Tribal office. The initial terms of office for the three members of the Elections Board who receive the highest votes shall expire two years after the first annual General Council meeting following the Board members' election. The initial term of office for the remaining two Board members would expire one year after the first annual General Council meeting following the remaining Board members' elections. After the terms of the initial members of the Elections Board have expired, the terms of office of all Board members shall be three years. At the first General Council meeting following the adoption of this Constitution and at any annual General Council meeting thereafter, the General Council shall elect the members of the Elections Board. The Secretary of the Tribal Council shall update the Tribal roll and provide the Elections Board with a current and accurate roll within 48 hours of receipt of a written request to do so signed by the Chairperson of the Elections Board. The 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 in two (2) working weeks upon receipt of a nominal fee per copy by all Tribal members.

ARTICLE V: VACANCIES, REMOVAL AND RECALL

Section 1.

If a member of the Tribal Council dies or resigns or is absent from three (3) consecutive regular Tribal Council meetings in any twelve (12) month period, the Tribal Council shall declare the position vacant. If a member of the Tribal Council shall be convicted by a court of competent jurisdiction of a crime of moral turpitude while in office, or if a Tribal Council member is determined, based upon a preponderance of the evidence adduced at a duly noticed meeting at which that

member is given a fair and reasonable opportunity to be heard, to have committed acts which are contrary to the best interests of the Band or otherwise to have abused the powers or privileges of his office, the Tribal Council may declare the position vacant by a vote of a majority of the members of the Tribal Council then in office, not including the member whose position is the subject of the vote. If fewer than twelve (12) months remain of the officer's term, the Tribal Council shall, by a majority vote, fill the vacancy by appointing an eligible voter from among the Band's membership to serve the remainder of the term. A special election shall be called to fill vacated positions when more than twelve (12) months remain on an unexpired term.

Section 2. Recall.

Upon receipt of a petition signed by at least forty (40) percent of the eligible voters of the Band setting forth specific reasons for recalling any member(s) of the Tribal Council and demanding the recall of any member(s) of the Tribal Council, the Election Board shall call a special election on the question of the recall within thirty (30) days from the date of the filing of the valid petition with the Board. The election shall be held in the manner prescribed in the Tribe's election ordinance adopted in accordance with Article IV, Section 5, of this Constitution. The decision of a majority of the voters voting in the recall election shall be final, provided that at least thirty (30) percent of the eligible voters voted in the election. Should the Election Board fail to call an election within thirty days, the position shall be declared vacant and filled in accordance with Article V, Section 1; and the Election Board may be removed by the General Council for failure to comply with the provisions of this Constitution. If removal occurs, the General Council shall appoint new Board members to serve the remainder of the recalled Board members' terms. No recall election shall be held to recall any member(s) of the Council on the same grounds or for the same reasons that were rejected by the voters within the twelve-month period preceding the submission of the petition therefor.

ARTICLE VI: POWERS AND DUTIES OF THE TRIBAL COUNCIL

Section 1. Enumerated Powers.

The Tribal Council shall exercise the following powers and responsibilities subject only to those limitations imposed by this Constitution and applicable federal law:

(a) To negotiate contracts or conclude agreements with Federal, State, local and Tribal governments, private entities and individuals on behalf of the Band; to consult with the Department of the Interior on all activities of the Department which might affect the Band or the Paskenta Indian Reservation or Rancheria; and to advise the Secretary of the Interior and other federal officials on all federal projects for the benefit of the Band or the Reservation/Rancheria.

(b) To promote the health, education and general welfare of the members of the Band and to administer charity and such other services as may contribute to the social and economic advancement of the Band and its members.

(c) To encourage and foster arts, crafts, traditions and culture of the Band.

(d) To promulgate and enforce resolutions and ordinances providing for the manner of making, holding and revoking assignments of the lands on the Paskenta Reservation/Rancheria, providing for the levying of taxes and fees and the appropriation of available Band funds for public and other lawful purposes; providing for the licensing of business and other activities by any and all persons subject to the Band's jurisdiction; for the exclusion of persons from Band lands; and on such other subjects as the activity of the Band may require that are not inconsistent with this Constitution.

(e) To borrow money and provide for the repayment thereof, manage all economic affairs and enterprises, create Tribally-owned and/or chartered corporations or other business entities and employ and discharge Tribal employees.

(f) To initiate, approve 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 Band; and to initiate and administer land development projects for the Band on Tribal lands.

(g) To create and maintain a reasonable Tribal fund for administrative expenses of the Band and to provide for remuneration for Tribal Council members and Tribal officials as may be required; to administer any funds or property within the control of the Band for the benefit of the Band and its members, officers or employees; and to allocate Tribal funds as loans or grants and to transfer Tribal property and other assets to Tribal organizations for such use as the Tribal Council may determine to be appropriate.

(h) To choose and employ legal counsel and/or other consultants and

representatives and to fix fees for such counsel, consultants, and/or representative(s), subject to the approval of the Secretary of the Interior or his delegate as required by law.

(i) To initiate such administrative proceedings and/or legal action on behalf of the Band as may be necessary to protect the interests of the Band and its members.

(j) To form or join Tribal courts/consortia/Indian organizations now existing or yet to be formed for the purpose of exercising the Band's civil and criminal jurisdiction and protecting the rights and interests of the Band's members, including those under the Indian Child Welfare Act. 25 U.S.C. § 1901 et seq.

(k) To create and regulate subordinate organizations; and to delegate to such organizations, or to any subordinate boards or officials of the Band any of the foregoing powers, reserving the right to review and rescind any action taken under such delegation.

(l) To preserve, protect and uphold this Constitution.

Section 2. General Powers.

The Tribal Council shall have all of the appropriate powers necessary to implement specific provisions of this Constitution and to effectively govern the affairs of the Band. All other powers heretofore vested in the Band and not specifically referred to in this Constitution, including the waiver of the Band's sovereign immunity to unconsented suit, are reserved to the General Council, and may be exercised through initiative, referendum or amendment to this Constitution.

ARTICLE VII: MEETINGS

Section 1. Tribal Council Meetings.

(a) **Regular Meetings.** Regular meetings of the Tribal council shall be held on the first Saturday of each month at a place and time designated by the Tribal Council or at such other times as the Tribal Council shall provide by resolution, provided, however, that once the Band acquires Tribal trust land and a building on its trust land suitable to hold Tribal Council meetings, all Tribal Council meetings shall be held on the Band's trust land. Within 30 days from enactment of this

Constitution the Tribal Council shall enact an ordinance establishing rules of procedure for conducting Tribal Council meetings. The ordinance shall provide that all council meetings shall be open to Tribal members except those items that are designated by the Council in the ordinance as appropriate for executive session. The ordinance shall also specify when a Council member is disqualified from participating or voting on issues because of a conflict of interest.

(b) **Special Meetings.** Special meetings of the Tribal Council may be called by the Chairperson at his discretion, and shall be called by the Chairperson upon receipt of a petition signed by three (3) Council members, provided the reason for the meeting is stated in the petition. Upon refusal of the Chairperson to call a special meeting, the petitioners may proceed to call and conduct the special meeting provided that a quorum is present. Twenty-four (24) hours' written or verbal notice shall be given of each special meeting.

(c) **Quorum.** No business shall be transacted at any meeting of the Tribal Council unless a quorum is present. A quorum of the Tribal Council shall consist of three (3) members.

(d) **Conflict of Interest.** No Tribal Council members who reside in the same household as a person having a direct financial interest shall participate in the discussion or determination of any matter in which he/she has a direct financial interest, or any matter directly affecting any person who resides in that Council member's household. Such members shall withdraw from any such matter, and the minutes shall indicate such withdrawal. Any member required to withdraw from a matter under this section shall still be counted present for purposes of establishing a quorum.

(e) **Order of Business.** The order of business at special meetings shall be as stated in the notice or petition by which the meeting is called. The order of business at regular meetings shall be as follows:

- A. Call to order;
- B. Roll call;
- C. Reading, correction and/or approval of minutes of previous meeting;
- D. Consent calendar;
- E. Public hearings;
- F. Petitions, communications and appeals;
- G. Unfinished business;
- H. Staff recommendations;

- I. Officers' and Committee reports;
- J. New business;
- K. Executive session;
- L. Adjournment.

Section 2. General Council meetings.

(a) **Annual Meetings.** The General Council shall meet at least annually on the third Saturday of April, beginning at 10:00 a.m., at a place designated by the Tribal Council upon thirty (30) days written notice to all adult Band members.

(b) **Special Meetings.** A special meeting of the General Council may be called by the Chairperson of the Tribal Council or shall be called by the Chairperson upon receipt of a valid petition signed by at least 25% of the qualified voters of the Band, for the purpose of bringing special business or issues to the General Council for discussion or enactment. A special meeting may be held no sooner than ten days from the date of mailing written notice of the meeting to all adult Tribal members by first class mail, provided that the reason for the meeting is stated in such notice and that a quorum is present. If, upon validation of the petition by the Secretary, the Chairperson does not call and give notice of the meeting within seven (7) days after validation, the next highest ranking officer shall exercise such authority, and upon failure of any of the Tribal Council to call and give notice of the special meeting, the petitioner spokesperson shall proceed to call, give notice of and conduct the special meeting; provided that a quorum be present. A special meeting of the General Council shall not be canceled after the seven-day notice is given. In any special meeting the General Council shall have the same power to transact business as in a regular meeting, including but not limited to removing any Council member from office and declaring their position vacant for failing to perform any of their duties required under this Constitution.

(c) **Quorum.** No business shall be transacted at any meeting of the General Council unless a quorum is present. A quorum of the General Council shall consist of thirty per cent (30%) of its members, provided that once a quorum has been established the General Council can continue to transact business so long as at least 20% of the members thereof are in attendance at the meeting. A quorum shall be required for the election of Tribal officers.

ARTICLE VIII: DUTIES OF OFFICERS

Section 1. Tribal Chairperson.

The Chairperson of the Tribal Council shall preside at all meetings of said Council and of the General Council. The Chairperson shall execute on behalf of the Band all contracts, leases or other documents approved by the Tribal Council or the General Council.

The Chairperson shall have general supervision of all other Tribal officers, employees and committees of the Band, and shall see that their duties are properly performed. Between sessions of the Tribal Council, he/she shall be the official representative of the Band.

The Chairperson shall prepare and cause to be posted at least three public places at least thirty (30) days before a General Council meeting, an agenda for the meeting. The items on the agenda shall include, but not be limited to: (1) presentation of the Band's annual audit for all Tribal enterprises by the Band's accountant and/or bookkeeper/financial officer; (2) a written report presented by the Treasurer of the Tribal Council: (a) on the finances of the Tribal government and (b) listing the names of all persons enrolled, disenrolled, or who relinquished membership in the Band during the fiscal year immediately preceding the meeting; (3) a written report presented by the Chairperson 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-Chairperson of the Band 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.

Section 2. Vice-Chairperson.

The Vice-Chairperson of the Tribal Council shall assist the Chairperson when called upon to do so. In the absence or incapacity of the Chairperson, the Vice-Chairperson shall preside over meetings of the Tribal Council and/or the General Council, and in that capacity shall be entitled to exercise all of the powers and be obligated to discharge all of the responsibilities of the Tribal Chairperson.

Section 3. Secretary.

The Secretary of the Tribal Council shall keep and file all Tribal correspondence, shall make and transcribe a complete and accurate record of all

matters transacted at meetings of the Tribal Council and/or the General Council and shall attest to the accuracy of all ordinances, resolutions or other enactments by the Tribal Council or the General Council. In the absence or incapacity of both the Chairperson and the Vice-Chairperson, the Secretary shall preside over meetings of the Tribal Council and/or the General Council, and otherwise shall serve as acting Chairperson until the Chairperson or the Vice-Chairperson again is able to exercise the powers and responsibilities of that office.

Section 4. Treasurer

The Treasurer shall accept, receive, receipt for, preserve and safeguard all funds in the custody of the Band and/or the Tribal Council, and shall account therefor. All such funds shall be deposited in such bank(s) or other repository as may be directed by the Tribal Council, and shall not be paid out or disbursed except upon proper authorization by the vote of a majority of the incumbent members of the Tribal Council. All checks drawn on the account(s) of the Band shall be signed by the Treasurer and the Chairperson; the Vice-Chairperson may sign properly authorized checks in the absence of the Chairperson. The books of account and other records maintained by the Treasurer shall be audited at least once per year by a competent auditor. The Treasurer shall be bonded at the expense of the Band.

Section 5. Tribal Records.

At the expiration of each Tribal Council member's term of office, each member shall be required to turn over all official Tribal records and papers in his custody to his successor.

Section 6. Appointed Officers.

The duties of all appointed officers or committees shall be clearly defined by the Tribal Council when and in the enactment by which such officers are appointed. Such officers and/or committees shall report on their activities and decisions as directed by the Tribal Council, and such actions and decisions shall be subject to the review and approval of the Tribal Council.

Section 5. Oath of Office.

Each officer of the Band elected or appointed under this Constitution or any resolution or ordinance shall take an oath of office before assuming the duties thereof, by which oath he/she shall pledge to support and defend the Constitution of the Paskenta Band of Nomlaki Indians. The oath shall be as follows:

I, _____, do solemnly swear that I will support and defend the Constitution of the Paskenta Band of Nomlaki Indians; that I faithfully and impartially will carry out the duties of my office to the best of my abilities; that I will cooperate with, promote and protect the best interests of the Band and its members, in accordance with this Constitution.

Section 6. Attendance at General Council Meetings.

All members of the Tribal Council shall attend all General Council meetings and report on those items provided by Section 1 of this article. Failure of any Council member to attend a General Council meeting, except for illness, the death of a member of the Tribal Council member's immediate family (i.e., spouse, grandparents, parents, uncles, aunts, siblings, first cousins, children or grandchildren), the serious illness of a Council member's immediate family or recognized and official Tribal business shall be grounds for immediate removal. The 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 of Article VII(2)(c) are met.

ARTICLE IX: REFERENDUM AND INITIATIVE

Section 1. Referendum.

The General Council of the Band reserves the power independently to modify any legislation, resolution or policy of the Band. Any proposed referendum measure shall be presented to the Tribal Council accompanied by a petition signed by at least thirty percent (30%) of the qualified voters. The decision of a majority of the voters voting in the referendum shall be final, provided that at least 66% (sixty-six percent) of the qualified voters cast ballots. The Tribal Council shall call the referendum within thirty (30) days from the date of receipt of a valid petition.

Upon receipt of the petition the Secretary shall immediately verify the signatures and separately notify the Election Board of its receipt within twenty-four (24) hours. Upon verification of such petition, the Tribal Council may enact the proposed amendment. If the Tribal Council fails to enact the amendment within fourteen (14) days from the date of receipt of the petition, the Elections Board shall call a special election for the purpose of allowing the eligible voters of the Band to vote on the referendum measure. The election shall be held within forty-five (45)

days after receipt and verification of the petition by the Secretary. The result of the referendum election shall be final, provided that at least sixty-six per cent (66%) of the eligible voters cast ballots. If the Secretary fails to verify the petition or the Elections Board fails to call the election required herein, then, within sixty (60) days from the date that the petition was presented to the Tribal Council, there shall be a General Council meeting called by the Tribal Chairperson for the purpose of voting on the referendum petition. Absentee balloting will be permitted consistent with the Tribe's election ordinance.

Section 2. Initiative.

The General Council of the Band reserves the power independently to propose legislation for the Band. Any proposed initiative measure shall be presented to the Tribal Council accompanied by a petition signed by at least thirty percent (30%) of the qualified voters. Upon receipt of the petition the Secretary shall immediately verify the signatures and separately notify the Election Board of the petition within twenty-four (24) hours. Upon verification of such a petition by the Secretary, the Tribal Council may enact the proposed legislation. If the Tribal Council fails to enact the proposed legislation within fourteen (14) days from the date of receipt of the petition and separately notify the Elections Board of the petition, the Elections Board shall call a special election for the purpose of allowing the eligible voters of the Band to vote on the initiative measure. The election shall be held within forty-five (45) days after receipt and verification of the petition by the Secretary. The result of the initiative election shall be final, provided that at least sixty-six percent (66%) of the eligible voters cast ballots. If the Secretary fails to verify the petition or the Elections Board fails to call the election required herein, then, within sixty (60) days from the date that the petition was presented to the Tribal Council, there shall be a General Council meeting called by the Tribal Chairperson for the purpose of voting on the initiative petition. Absentee balloting will be permitted consistent with the Tribe's election ordinance.

Section 3. Limitations on Initiative and Referendum.

The Tribal Council shall have the power to decline to call a special election on any proposed initiative or referendum which was rejected by the voters within the twelve-month period preceding the submission of the petition therefor. No initiative or referendum shall be set for election which would void, cancel, abrogate, modify or amend any properly approved contract, agreement or compact to which the Band is a party.

Section 4. Secretary Removal.

The Secretary's failure to verify an initiative or referendum petition or notify the Elections Board of its filing shall be grounds for removing him/her from office.

ARTICLE X: BILL OF RIGHTS

Neither the Tribal Council nor the General Council shall exercise any power in such a manner as to deprive any person of rights secured by this Constitution or applicable laws of the United States.

Section 1.

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

Section 2.

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

Section 3.

Individual property rights of any member of the Band, vested prior to the adoption of this Constitution, shall not be altered, abridged, or otherwise affected by the provisions of this Constitution.

Section 4.

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

Section 5.

The Band, in exercising its powers of self-government, shall not:

(a) make or enforce any law prohibiting the full exercise of worship or religion, or abridging the freedom of speech or of the press, or the right of any

person peaceably to assemble and to petition for a redress of grievances;

(b) violate the right of any person to be secure in their persons, houses, papers, and effects against unreasonable search and seizure, nor issue warrants, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the person or thing to be seized;

(c) subject any person to be punished twice for the same offense;

(d) require any person in any criminal case to be a witness against himself;

(e) take any private property for a public use without paying the fair market value for the property;

(f) deny to any person in a criminal proceeding the right to speedy trial, to be informed of the nature and cause of the accusation, to confront and cross-examine witnesses, and, at his own expense, to have the assistance of counsel for his defense;

(g) require bail in excess of that necessary, impose excessive fines, inflict cruel and unusual punishments, and in no event impose for conviction of any one offense any penalty or punishment greater than that authorized by federal or Tribal law;

(h) deny to any person within its jurisdiction the equal protection of its laws or deprive any person of liberty or property without notice and an opportunity for a fair hearing;

(i) pass any bill of attainder or ex post facto law; or

(j) deny to any person threatened with imprisonment the right, upon request, to a trial by jury of his peers of not less than six (6) persons. 25 U.S.C. §1301 et seq.

ARTICLE XI: SEVERABILITY

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

ARTICLE XII: AMENDMENT

This Constitution may be amended by a majority vote of the eligible voters of the Band voting in an election called for that purpose, provided that at least two-thirds of those eligible to vote shall vote in such election.

ARTICLE XIII: RATIFICATION

This Constitution shall be effective when ratified by a majority of the eligible voters of the Band voting in a special election in which at least a simple majority of the eligible voters vote consistent with the Paskenta Band's Restoration Act.

C-E-R-T-I-F-I-C-A-T-I-O-N

I, the undersigned, as Secretary of the Paskenta Band of Nomlaki Indians do hereby certify Constitution was ratified on the 18 day of April, 1998 consistent with the terms of Article XIII of this Constitution by a vote of 26 yes, 13 no, and 0 abstaining.

4-18-98
Date

Rebecca Sawaringer
Tribal Secretary

EXHIBIT B



April 28, 2014

VIA U.S. FIRST CLASS MAIL

Alaina Aguilar
P.O. Box 52
Gerber, CA 96035

NOTICE OF A SPECIAL MEETING OF GENERAL COUNCIL TO BE HELD ON MAY 10, 2014 TO START INITIATIVE PROCESS AND CONDUCT OTHER BUSINESS

To Members of the Paskenta Band of Nomlaki Indians:

As you are well aware, at our annual General Council meeting held on April 12, 2014, it was determined that lineal descendants of Ida L. Henthorne-Pata did not meet our Tribal Constitution's ("Constitution") criteria for membership. As the supreme law of the Paskenta Band of Nomlaki Indians ("Tribe"), we are all bound by the Constitution. Unfortunately, the Tribe does not currently have an ordinance or law, other than the Constitution, that provides for a review of the membership criteria to ensure that a person is properly designated as a Tribal member.

Because there is a lack of membership criteria review, **the General Council will hold a Special Meeting on May 10, 2014 at 10:00 a.m. to commence an initiative process as laid out in Art. IX, Sec. 2 of the Constitution to adopt legislation to align the Tribe's membership criteria with the Constitution and to provide due process to those effected individuals. The General Council will also affirm the actions taken by the General Council at its annual General Council Meeting held on April 12, 2014 in suspending the benefits and privileges to individuals who may not possess the constitutional criteria for membership and to affirm the appointment, pursuant to tribal law, of Tribal Council Members Ambrosia Rico, Andrew Alejandro and Latisha Miller, which appointments were confirmed by a vote of the General Council.**

This proposed initiative legislation will allow those individuals whose membership privileges were suspended the opportunity to establish that they meet the Constitution's membership requirements. This initiative process and accompanying legislation will give those individuals affected by the General Council's decisions due process to which they are entitled and further strengthen and unite our Tribe.



Special Meeting Called

As laid out in our Constitution, a special meeting of the General Council may be called by the Chairperson of the Tribal Council “for the purpose of bringing special business or issues to the General Council for discussion or enactment.” *See* Art. VII, Sec.2(b). “A special meeting may be held no sooner than ten days from the date of the mailing written notice of the meeting to all adult Tribal members by first class mail, provided that reason for the meeting is stated in such notice and that a quorum is present.” *Id.* “No business shall be transacted at any meeting of the General Council unless a quorum is present, which is 30% of its members.” *See* Art. VII, Sec. 2(c).

Initiative Process

Under the initiative process, the General Council reserves the power independently to propose legislation for the band. Art. IX, Sec. 2. A proposed initiative measure “shall be presented to the Tribal Council accompanied by a petition signed by at least thirty percent (30%) of the qualified voters.” *Id.* “Upon receipt of the petition the Secretary of the Tribal Council shall immediately verify the signatures and separately notify the Election Board of the petition within twenty four (24) hours.” *Id.* “Upon verification of such petition by the Secretary, the Tribal Council may enact the proposed legislation.” *Id.*

Calling for Special Meeting to Propose an Initiative

As your Tribal Chairperson, I hereby exercise my Constitutional powers and call for a Special Meeting of the General Council on May 10, 2014, at Rolling Hills Casino at 10:00 a.m. for the purposes of proposing a General Council initiative measure to create legislation aligning the Tribe’s membership with the Constitution’s requirements for membership and to conduct such other and further business as the General Council deems just, necessary and appropriate after a quorum is established including the affirmation of the members of the Tribal Council who were sworn into office on April 12, 2014.

Sincerely,

Andrew Freeman, Chairman

EXHIBIT C



May 6, 2014

VIA U.S. MAIL

Michael Black, Director
Bureau of Indian Affairs
1849 C Street NW
MS 4606
Washington, DC 20240

Re: Composition of the Tribal Council of the Paskenta Band of Nomlaki Indians

Dear Director Black:

I am writing to advise the Bureau of Indian Affairs ("BIA") of the current composition of the Tribal Council of the Paskenta Band of Nomlaki Indians ("Tribe") in light of recent actions taken by the Tribe's General Council at a duly-noticed and held annual General Council meeting on April 12, 2014 (the "General Council Meeting"). As set forth in more detail in the attached legal analysis, all actions taken at the General Council Meeting were in accordance with the Tribe's Constitution.

The current composition of the Tribal Council is as follows:

- Andrew Freeman, Chairman
- Latisha Miller, Vice-Chairwoman
- Ambrosia Rico, Treasurer (Interim)
- Andrew Alejandre, Secretary
- Allen Swearingen, Member-at-Large

It has come to my attention that Leslie Lohse (former Tribal Treasurer) has used certain political connections to gain access to government officials and other outside parties to discuss Tribal affairs and, in so doing, has grossly mischaracterized the facts as they occurred at the General Council Meeting.

Please be advised that, to the extent there remains any question concerning the validity or legality of the actions taken at the General Council Meeting, the Tribal Council has noticed a Special Meeting of the General Council to take place on Saturday, May 10, 2014. At this Special Meeting, the General Council will consider whether to reaffirm the actions taken by it during the General Council Meeting. The Tribal Council encourages former Tribal Council members

PO Box 709 | Corning, CA 96021 | (530) 528-3538



David Swearinger and Geraldine Freeman, as well as any other interested parties, to attend and participate in this Special Meeting. We also encourage any BIA officials—both at the Regional and National levels—to attend and witness the legitimacy and validity of the actions taken by the General Council.

Should you have any questions or concerns about the foregoing, or about the attached legal analysis, please do not hesitate to contact the Tribe's legal counsel, Robert Rosette, at (480) 242-9810.

Sincerely,

Andrew Freeman
Chairman, Paskenta Band of Nomlaki Indians

cc: Amy Dutschke, Regional Director, Pacific Regional Office, BIA
Troy Burdick, Superintendent, Pacific Regional Office, BIA
Hankie Ortiz, Deputy Director, Office of Indian Services, BIA
Laurel Iron Cloud, Chief, Division of Indian Services, BIA
Eric Shalansky, Regional Director, NIGC

EXHIBIT D



May 6, 2014

David Swearinger
23615 Hoag Road
Corning, CA 96021

Dear Mr. Swearinger:

The Tribal Council is in receipt of the letter you sent to the General Council on April 30, 2014 and the letters you have sent to Chairman Andrew Freeman dated April 25, May 4 and May 5, 2014. The purpose of this letter is to demand that you immediately ***cease and desist*** from sending any further correspondence to the General Council, the Chairman, the Tribal Council, or any State or federal agency under the cover or identity as a Tribal Council Member. As you know, Article VIII of the Tribe's Constitution requires your attendance at General Council Meetings, and if you are not in attendance it "shall be grounds for immediate removal." Notably, the Chairman warned you at the April 12, 2014 General Council Meeting that if you left the General Council Meeting you would be abandoning your post on the Tribal Council. Despite the clear warning, you left the General Council Meeting and the General Council acted entirely within their constitutional authority by immediately and unanimously removing you from office.

Please be advised that your unwillingness to immediately adhere to this ***cease and desist order*** may trigger ***grounds for suspension*** of your Tribal Membership privileges pursuant to the Tribe's Membership Act, Article III, Section 3-302, "(h) Disruption of the Tribal government or a Tribal business; (j) Submitting a statement or other information to an Official or Agency of the Tribe, or to an entity of another government, that the Member knew or should have known to be false, fictitious or fraudulent in any material respect; or (k) Any other act that harms, jeopardizes or brings disrepute onto the Tribe, a Tribal Member or a Tribal business or enterprise." Furthermore, if you continue to disrupt the government operations of the Paskenta Tribe of Nomlaki Indians by misrepresenting your status as a Tribal Council Member, it could be ***grounds for termination*** of your Tribal Membership privileges pursuant to the Tribe's Membership Act, Article IV, Section 3-402 "(a) Any act or pattern of conduct that would constitute grounds for suspension and temporary disenrollment from the Tribe under Section 3-302; (d) Interference with the Tribe's business relationships and undertakings; and (e) Conduct significantly detrimental to the Tribe, its Members or its businesses or undertakings."

Finally, as you know, the Chairman and Tribal Council have *voluntarily* called for a General Council Meeting to occur this Saturday, May 10, 2014. This General Council Meeting was called as a direct and proximate result of your gross mischaracterization of the facts as they occurred on April 12, 2014, made to the BIA, NIGC, Congressman LaMalfa, and a myriad of other state and federal agencies, and so we believe it's in the best interest of the Tribe to have a second meeting to *reaffirm* all prior actions of the General Council. We have encouraged representatives from the BIA, NIGC and Congressman LaMalfa's office to be present, and we would encourage you to be present as well and to make any objections you have known directly to the General Council.

Kind Regards,

A handwritten signature in blue ink that reads "Andrew Freeman". The signature is written in a cursive, flowing style.

Andrew Freeman
Chairman

EXHIBIT E

**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

EXHIBIT A



**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 Alejandro 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 Alejandro, Secretary
5. Allen Swearingen; 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 Swearingen, 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 Swearingen 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 Swearingen 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 Swearingen, the Tribal

Council voted unanimously to appoint Natasha Magana to the Tribal Council to complete Allen Swearingner'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 Swearingner, 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 Swearingner 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 Swearingner 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. J. Magana

Latisha Miller

Latisha Miller

Andrew Freeman

Andrew Freeman

Andrew Alexandre

Andrew Alexandre

Ambrosia Rico

Ambrosia Rico

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William

Anthony

Jason Simmons
Jason Simmons for
Earl Ward Simmons

Phyllis Dalsen

Lewis L. Simmons

Joseph L. Thomson

Todd Thomson

Summer Th

David Simmons

Anthony Chavez

Jason Simmons
Jason Simmons for
Darrel Simmons

Phyllis Dalsen

Lewis L. Simmons

Joseph Gutierrez

Todd Thomson

Summer Thomson

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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

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Christine Pickering

Britney Pickering

Daniel Vansickle

Michael Vansickle

Rachel Ann Kree

Wayne Vansickle

Darrel Swearingen

Ivan Freeman

Mary Zaragoza

Christine Pickering

Britney Pickering

Dan Vansickle

Mike Vansickle

Rachel Kree

Wayne Vansickle

Darrel Swearingen

Ivan Freeman

Mary Zaragoza

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Jessica Gutierrez

Iron C. Gutierrez

Megan Cortright

Carlos Partida

Angelica Juarez

Cynthia L. Card

TRACY BRITTON

Darren Swearingen

Shirley Swearingen

Don Dwyer

Chloe L. Dwyer

Megan Cortright

Carlos Partida

Angelica Juarez

Cynthia L. Card

Tracy Britton

Darren Swearingen

JOHN W. HOFFNER

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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]

Keith Ray

Elizabeth A. Norwood

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Robert Garnica

Crystal Garnica

Chris Garnica

Richard Garnica

Phil H. Garry

Henry

Myron J. Freeman

Tammi Freeman

George H Freeman

Robert

Crystal

Chris

RUDOLPH GARRY

ARROW C. GARRY

MYRON J. FREEMAN

Tammi Freeman

George H Freeman

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Brynd Lee

Brenda Freeman

[Signature]

Eduardo Lemus Jr.

Uta Olney

Victor Alvarez Jr.

Jim Pugh

Lois Delara

Anna Alvarez

Gumaro Alvarez

Elizabeth Perry

ELIZABETH Terry

[Signature]

Jody Jackson

Jim Simmons

JUAN SIMMONS

Jose delar

Jose Delara

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Priscilla Delara

Priscilla Delara

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Marie Mora

Steven Gonzales

Rebecca M. Swearingen

Induranger

Bernyce G. Orr

Jessica Farias

Bianca Merrifield

MARIAN MACHADO

Michelle Elliott

M. Mora

Sten Gonzales

Rebecca M. Swearingen

Ron Swearingen

BERNYCE G. ORR

Jessica Farias

Bianca Merrifield

Marian Machado

Michelle Elliott

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Madina Elliott

Madina Elliott

Misty Cahalan

Misty Cahalan

Hannah Villavicencio

Hannah Villavicencio

Luisa Hernandez

Luisa Hernandez

Michael Woods

Michael Woods

Sierra Robles

Sierra Robles

Kimberly J. Freeman

Kimberly Freeman

Joseph M. Alvarez

Joseph Alvarez

Jesus E Rodriguez

Jesus Rodriguez

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.

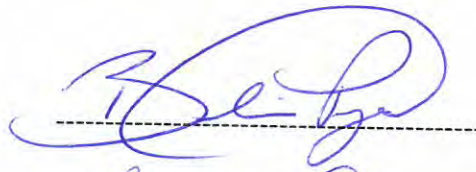
CERTIFICATION OF THE GENERAL COUNCIL

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.

BRANDEN PAYA

Angelina Horne

Alaina Aguilar



Angelina Horne

Alaina Aguilar

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Sierra Thom

Forest H.

Yanza Dwyer

Christina Hernandez

Jennifer Gonzales Jones

Bonnie J. Gonzales

Emma M. Gonzales

Amy M. Swearingen-Sutton

Ronald ORR TR

Sierra Thomson

Forest Hanger

Yanza Dwyer

Christina Hernandez

Jennifer Gonzales Jones

Bonnie J. Gonzales

Emma M. Gonzales

Amy M. Swearingen-Sutton

Ronald ORR TR

EXHIBIT F

Paskenta tribal dispute goes cyber

Case 2:14-cv-01449-KJM-CMK Document 26-1 Filed 06/30/14 Page 61 of 75

By Andre Byik abyik@redbluffdailynews.com @andrebyik on Twitter

Updated: 05/22/2014 07:07:40 AM PDT

RedBluffDailyNews.com

Click photo to enlarge

ORLAND >> The ongoing dispute within the Paskenta Band of Nomlaki Indians has seen allegations of embezzlement, thefts and falsifying of records, and most recently claims of data breaching and cyber attacks on Rolling Hills Casino.

The latter of which demonstrates the deep divide over two factions who claim to be the legitimate governing body of the tribe and the casino it owns and operates.

The casino said in an email Wednesday that it was the victim of an attack Friday on its computer systems.

"(The attack) attempted to destroy accounting data and disrupt casino operations. This attack was a failure," Tribal Council Chairman Andrew Freeman said in a released statement

"The casino remains operational and our guests will only notice minimal, temporary adjustments while this situation is addressed."

Freeman added that the attack was allegedly carried out by members of the tribe who were recently suspended.

The other side in the dispute, in an interview with the Daily News on Tuesday in Orland, said it had begun to remotely disrupt operations at the casino in an attempt and force a sit-down to resolve the issue.

Those three members — David Swearinger, Leslie Lohse and Geraldine Freeman — sat on the five-person Tribal Council when it held its annual General Council meeting April 12, but have since been banned from tribal property. Still, they say they are the duly elected Tribal Council.

April 12 meeting

The April 12 meeting was by all accounts was a raucous affair that had security and law enforcement on site.

At that meeting more than 70 members of the tribe were suspended when their genealogical roots to the tribe were questioned. Those members' roots trace back to one woman: Ida Louella Henthorn Pata. Her descendents included the Henthorn, Pata, Crosby and Lohse families.

Since then, accusations have flown and accounts differ from whether the tribe's constitution was followed and who remains in charge.

Ousted faction

Members who have been ousted from the tribe and their positions on the Tribal Council said the actions taken at the April 12 meeting violates the tribe's constitution.

"We have a process of upholding meetings," David Swearinger said. "So, Andy (Freeman) got up before we did any agendas — and there was nothing on the agendas — but he made it his agenda to suspend, disenroll, remove, or order, the Henthorn, Pata, Crosby, Lohse families out."

David Swearinger, Geraldine Freeman, Allen Swearinger and Lohse, it was said, were not aware before the meeting that any suspensions were planned.

Another point, they said, was that while a roll call at the General Council meeting that comprises all adult members of the tribe who attend, was completed, no quorum of the General Council was established.

Lohse said "no action is taken at the annual meeting, it's always like a 'State of the State'" of the tribe, and a venue to report what happened over the last year.

Additionally, David Swearinger said, a motion to adjourn the Tribal Council was made because the situation didn't feel "right," or "safe." The motion was seconded by Geraldine Freeman and agreed to by a consensus of the Tribal Council.

Chairman Andrew Freeman

Attorney Richard Verri, who says he represents the tribe led by Chairman Andrew Freeman, said David Swearinger and Geraldine Freeman vacated their positions when they left the April 12 meeting. He said Lohse, who was treasurer at the time of the meeting, was asked to leave as she was a member of the Pata family that was suspended.

New appointments were made at the meeting, Verri said, and the fifth member, member-at-large Allen Swearinger, who was said to not have vacated his position at the meeting, also was replaced at a subsequent General Council meeting May 10 called by Andrew Freeman and not attended by Allen Swearinger.

The legitimate Tribal Council, Verri said, comprises Chairman Andrew Freeman, Vice Chair Leticia Miller, treasurer Ambrosia Rico, secretary Andrew Alejandre, and member-at-large Natasha Magana.

Andrew Freeman and others claim that the decisions to suspend the families and replace Tribal Council members were reaffirmed by a General Council May 10 meeting in accordance to the tribe's constitution.

Tension

Armed guards have surrounded Rolling Hills Casino and other tribal properties throughout the dispute. Verri said the guards are there to protect the casino's patrons and operations from alleged threats to take over the casino.

Tribal Courts in both sides of the sides of the dispute have issued their respective restraining orders. And while the Andrew Freeman-led Tribal Council has attempted to keep suspended members away from tribal properties, David Swearinger, Geraldine Freeman, Allen Swearinger and Lohse have attempted to cease casino operations from the outside.

After revoking the casino's gaming facility license, Lohse said, "we have begun to shut down their ability to carry on transactions that are in our purview with the law," because there's illegal activity going on at the

casino.

Case 2:14-cv-01449-KJM-CMK Document 26-1 Filed 06/30/14 Page 63 of 75

What this may look like to patrons at the casino is a delay in payouts from gaming machines, Lohse said, adding that the machines are still operable and working, and that the security of casino's customers has not been compromised. The payout delays could be about 10 minutes.

"For gamblers that's bad," Geraldine Freeman said. "You get these little old ladies there, they're going to get mad pretty soon, they're going to quit going over there if you gotta wait."

Lohse said at some point, the faction that is in control of the casino and other tribal properties will have to come to the table to resolve the tribal rift.

"Hopefully at some point they will understand that this tribal government wants to get back together and talk about how can we make this right," Lohse said. "Because there's some real issues."

Parker, the former sheriff and Red Bluff City Council member hired as the tribal police chief by David Swearinger, Geraldine Freeman, Allen Swearinger and Lohse, said those four want to shut down the casino to cut off the money flowing to the legal counsel representing the faction in control.

"You cut off the money, people will go away," he said, specifically referencing the group of attorneys representing Andrew Freeman's faction. "If that casino gets shut down, he no longer has access to that cash. And then the security will be gone, and he'll be gone. And I think that's the purpose of shutting this casino down."

Verri did not return a call Wednesday before deadline.

A call to the superintendent of the Bureau of Indian Affairs, Central California, which serves the Paskenta Band of Nomlaki Indians, did not return a call Wednesday before deadline. The BIA, in a previous letter to the tribe, said it does not get involved in internal tribal disputes.

EXHIBIT G



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 Swearinger, Vice Chairman
- (3) Leslie Lohse, Treasurer
- (4) Geraldine Freeman, Secretary
- (5) Allen Swearinger, 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 H

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**.

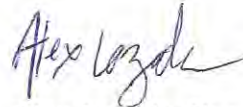
⁴ A true and correct copy of Tribal Council Resolution 2014-05-12-01 Adoption of General Council May 10, 2014 Initiative #1 is attached hereto as **Exhibit D**.

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

A handwritten signature in black ink, appearing to read "Alex Lozada".

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 I



PASKENTA BAND OF NOMLAKI INDIANS

Chairman Andrew Freeman

Executive Order No. 2014-06-11-01-1

WHEREAS, the Tribe is and always has been committed to providing its employees and customers with a safe and healthy working and gaming environment, free from intimidation, harassment, threats, and/or violent acts.

NOW, THEREFORE, I, Andrew Freeman, Chairman of the Paskenta Band of Nomlaki Indians, acting by virtue of the authority vested in me by the Tribe's Constitution, do hereby **ORDER** and **DIRECT**:

That, in order for the Tribe and the Casino to honor its duty to ensure public health and safety, no natural person—with the exception of licensed local, state, and federal law enforcement officials—may garnish, carry or otherwise transfer onto Tribal lands any firearms of any kind until such time as another Executive Order or other Tribal Law is passed revoking the same. For purposes of this Order, "Tribal lands" includes, but is not limited to, the Tribe's reservation as well as the Casino.

This prohibition does not apply to on-duty, non-tribal federal, state, and/or local law enforcement officers.

This prohibition does apply to all individuals not identified above including, but not limited to, security personnel located on Tribal lands.

This prohibition applies equally to any and all persons residing on, or otherwise visiting or travelling into, Tribal lands.


Any person prohibiting from carrying a firearm under this Order found to have a firearm on his or her person will be prosecuted to the full extent of permitted under Tribal law, and the weapon will be confiscated.

It will be the joint responsibility of the Tribe and the Casino will monitor the effective implementation of this policy.

Executive Order No. 2014-06-11-01-1

As the only uncontested member of the Tribal Council recognized by both the General Council and the Bureau of Indian Affairs, this Order shall take effect **immediately**.

Dated in Corning, California this 11 day of June, 2014.


Andrew Freeman, Chairman
Paskenta Band of Nomlaki Indians