

Deanna Francis

IN THE TRIBAL COURT OF THE NOOKSACK TRIBE OF INDIANS FOR THE  
NOOKSACK INDIAN TRIBE

ELEANOR J. BELMONT, et al.

Case No. 2014-CI-CL-007

Plaintiff-Appellees,

v.

ROBERT KELLY, Chairman of the Nooksack  
Tribal Council, et al.

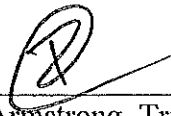
Defendant-Appellants.

**NOTICE OF COMPLIANCE WITH  
DECISION AND ORDER GRANTING  
PLAINTIFFS' MOTION FOR  
PRELIMINARY INJUNCTION**

COPY

Nooksack Defendants hereby provide notice that an ordinance setting out the time, place and manner of disenrollment hearings has been approved by the Department of the Interior, as required by this Court's Decision and Order. A copy of the Tribal Council's Resolution #14-112 and the October 24, 2014 and January 13, 2015 letters of Acting Superintendent Don Chambellan are attached.

Respectfully submitted this 1<sup>st</sup> day of February, 2015.

  
Rickie Armstrong, Tribal Attorney #54099  
Attorneys for Defendants  
Office of Tribal Attorney  
Nooksack Indian Tribe

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5 IN THE TRIBAL COURT OF THE NOOKSACK TRIBE OF INDIANS FOR THE  
NOOKSACK INDIAN TRIBE

6 ELEANOR J. BELMONT, et al.

Case No. 2014-CI-CL-007

7 Plaintiff-Appellees,

8 v.

**DECLARATION OF SERVICE**

9 ROBERT KELLY, Chairman of the Nooksack  
Tribal Council, et al.

10 Defendant-Appellants.

COPY

11  
12 I Declare:

13 That I am over the age of 18 years and competent to be a witness.

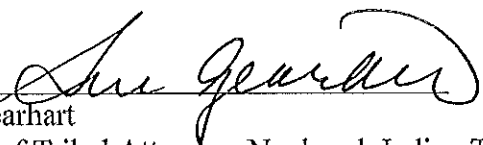
14 On February 3, 2015, I duly mailed by first class mail, a copy of the following documents:

- 15 1. Notice of Compliance with Decision and Order Granting Plaintiffs' Motion for  
16 Preliminary Injunction  
17 2. Tribal Council Resolution #14-112  
18 3. October 24, 2014 Letter of Acting Superintendent Don Chambellan  
19 4. January 13, 2015 Letter of Acting Superintendent Don Chambellan

20 to Galanda Broadman PLLC, Attn: Gabriel Galanda, P.O. Box 15146, Seattle, WA 98115. Also  
21 on February 3, 2015, I emailed Gabriel S. Galanda at [gabe@galandabroadman.com](mailto:gabe@galandabroadman.com) a courtesy  
22 copy of the above-referenced documents.

23 I declare under penalty of perjury, under the laws of the Nooksack Indian Tribe, that the  
24 foregoing is true and correct.

Signed at Deming, Washington on February 3, 2015.

  
Sue Gearhart  
Office of Tribal Attorney, Nooksack Indian Tribe



# United States Department of the Interior

BUREAU OF INDIAN AFFAIRS  
Puget Sound Agency  
2707 Colby Ave. - Suite 1101  
Everett, Washington 98201-3665  
(425) 258-2651



October 24, 2014

Honorable Robert Kelly, Jr.  
Chairman  
Nooksack Indian Tribe  
P.O. Box 157  
Deming, WA 98244

Dear Chairman Kelly:

We are in receipt of Nooksack Tribe Resolution No. 14-112, a resolution approving an amended Title 63 -- Enrollment Ordinance of the Nooksack Indian Tribe.

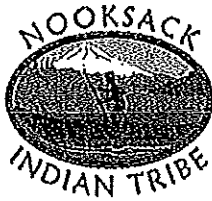
Resolution No. 14-112 was adopted by the Nooksack Tribal Council on October 10, 2014, and received by us on October 14, 2014. It was reviewed and approved by the Acting Superintendent on October 24, 2014. In accordance with the Nooksack Constitution, it will be forwarded for review by the Secretary of the Interior.

If you have any questions, please call Connie Johnston at (425) 258-2651. Thank you.

Sincerely,

Don Chambellan  
Acting Superintendent

Enclosure



## NOOKSACK TRIBAL COUNCIL

4979 Mt. Baker Hwy, Suite G.  
PO Box 157  
Deming, WA 98244

BRANCH OF TRIBAL OPERATIONS  
PUGET SOUND AGENCY

OCT 14 2014

RESOLUTION #14- 112  
October 10, 2014

OFFICIAL TRIBAL ACTION  
RECEIVED

**TITLE: APPROVING ATTACHED AMENDED TITLE 63, THE ENROLLMENT ORDINANCE, OF THE NOOKSACK INDIAN TRIBE AND REQUEST FOR APPROVAL OF THE SECRETARY OF THE INTERIOR**

WHEREAS, the Nooksack Indian Tribe is a party to the Treaty of Point Elliot dated January 22, 1855, 12 Stat. 927, and is a sovereign, federally-recognized Indian Tribe; and

WHEREAS, the Nooksack Tribal Council is the governing body of the Nooksack Indian Tribe in accordance with Article III, Section 1 of its Constitution and Bylaws approved by the Deputy Assistant Secretary of Indian Affairs on September 24, 1973, as amended; and

WHEREAS, the health, safety, welfare, education, economic security, employment and preservation of cultural and natural resources are primary goals and objectives of the Nooksack Indian Tribe; and

WHEREAS, Title 63, the Enrollment Ordinance ("Enrollment Ordinance"), was enacted pursuant to Article II of the Constitution and was approved by the Secretary of the Interior ("Secretary") on April 24, 2006; and

WHEREAS, pursuant to a request by the Nooksack Tribal Council, through Resolution 13-38, the Bureau of Indian Affairs conducted a Secretarial Election on June 21, 2013 in which at least thirty percent (30%) of those entitled to vote ratified the removal of Article II, Section 1(h) of the Constitution, which permitted membership into the Nooksack Indian Tribe of "[a]ny persons who possess at least one-fourth (1/4) degree Indian blood and who can prove Nooksack ancestry to any degree."; and

WHEREAS, the election was certified by the Secretarial Election Board on June 24, 2013, and on August 2, 2013, Amendment Seven (7) was approved by the Northwest Regional Director of the Bureau of Indian Affairs making the amendment effective as of August 2, 2013; and

WHEREAS, the current Enrollment Ordinance approved by the Secretary contains provisions related to the since removed clause from the Constitution, Article II, Section 1(h); and

WHEREAS, the Tribe desires to amend its Enrollment Ordinance to: (1) reflect the latest Constitutional amendment; (2) incorporate additional procedures related to disenrollment as

identified in Title 63, Section 63.10; and (3) make typographical corrections and other formatting changes; and

WHEREAS, the Nooksack Tribal Court of Appeals reaffirmed the constitutional grant of "power to enact ordinances ... governing future membership in the tribe, including adoptions and loss of membership" possessed by the Tribal Council alone (*Lomeli v. Kelly*, 2013-CI-APL-002 at 8 (2014)); and

WHEREAS, the Nooksack Tribal Court of Appeals held that the Tribal Council possesses the constitutional and statutory authority to initiate disenrollment proceedings (*Lomeli v. Kelly*, 2013-CI-APL-002 at 17 (2014)); and

WHEREAS, on August 8, 2013, the Tribal Council adopted Resolution 13-111, which approved Disenrollment Procedures for its membership faced with pending disenrollment proceedings; and

WHEREAS, the Nooksack Tribal Court of Appeals held that the Disenrollment Procedures adopted by the Tribal Council provided adequate due process protections for the membership faced with pending disenrollment proceedings with two exceptions (a shortened notice period and failure to allow a disenrollee to be represented) but also ruled that the Disenrollment Procedures were not approved by the Secretary as required by the Constitution (*Roberts v. Kelly*, 2013-CI-APL-003 at 3, 7-10 (2014)); and

WHEREAS, the amended Title 63, the Enrollment Ordinance contains the procedures described in the Disenrollment Procedures adopted pursuant to Resolution 13-111 but without the two offensive exceptions noted by the Nooksack Tribal Court of Appeals in *Roberts v. Kelly*; and

WHEREAS, on March 21, 2014, the Tribal Council adopted resolution 14-44 amending Title 63, including an unnecessary third sentence in section 63.10.010, which will now be deleted; and

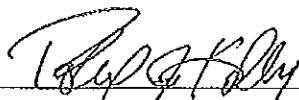
**NOW THEREFORE BE IT RESOLVED**, that the Tribal Council approves the attached Amended Title 63, the Enrollment Ordinance, of the Nooksack Indian Tribe and request for approval of the Secretary of the Interior; and

**BE IT FURTHER RESOLVED**, that the Chairman (or Vice-Chairman in his/her absence) is hereby authorized and directed to execute this resolution and any documents connected here within, and the Secretary (or other councilperson in his/her absence) are authorized and directed to execute the following certification.

## CERTIFICATION

I, the undersigned do hereby certify that the Nooksack Tribal Council is composed of eight (8) members, of which 6 were present, constituting a quorum of a duly called meeting thereof held on this 10 day of October 2014, and that the above Resolution #14- 112 approving the attached Amended Title 63, the Enrollment Ordinance, of the Nooksack Indian Tribe and request for approval of the Secretary of the Interior was duly enacted by the Council Members vote of: 3 FOR, 2 OPPOSED, and 0 ABSTENTIONS, and since its approval this resolution has not been altered, rescinded, or amended in any way.

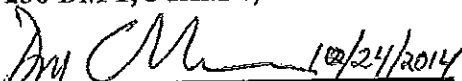
Dated this 10 day of October, 2014.

  
Robert Kelly, Jr., Chairman  
Nooksack Tribal Council

ATTEST:

  
Nadene Rapada, Secretary  
Nooksack Tribal Council

Approved pursuant to 209 DM 8,  
230 DM 1, 3 IAM 4, 4A

  
ACTING Superintendent Date 10/24/2014

TITLE 63  
ENROLLMENT ORDINANCE  
OF THE  
NOOKSACK INDIAN TRIBE



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# Title 63

Enrollment Ordinance of the Nooksack Indian Tribe

Approved by Resolution #14- 112

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63.00.001 Authority

The Tribal Council, pursuant to the provision of Article II, Section 1 of the Constitution and Bylaws of the Nooksack Indian Tribe of Washington, enacts this enrollment ordinance of the Nooksack Indian Tribe.

63.00.002 Purpose

The purpose of this ordinance is to establish guidelines, rules and an orderly procedure to maintain a current membership roll of all persons eligible for membership pursuant to Article II of the Constitution and Bylaws of the Nooksack Tribe of Washington.

63.00.003 Jurisdiction

The Nooksack Tribal Court shall not have subject matter jurisdiction to hear cases under this ordinance. Any reconsideration of Nooksack Tribal Council enrollment decisions are to be made under the procedures set forth in this ordinance.

63.00.004 Definitions

The following terms and phrases, when used in this ordinance shall have the meaning ascribed to them:

- A. Adopted Child: One whose natural parents' parental rights have been terminated by a court and given to another.
- B. Adoption: Either (1) the legal action whereby parental rights of natural parents are terminated by court order and assigned to another, or (2) the granting of membership in a tribe by some special provision to a person who does not meet the basic membership eligibility criteria. The context will show clearly which definition is intended.
- C. Applicant(s): A person who has submitted an application for membership in the Tribe prior to final action on the application.
- D. Base Enrollee(s): Those individuals from whom all persons applying for membership must prove direct descent. For this Tribe, the base enrollees are those persons who are original Nooksack Public Domain allottees and/or all persons of Indian blood whose names appear on the official census roll of the Tribe dated January 1, 1942.
- E. Constitution: The Constitution and Bylaws of the Nooksack Indian Tribe ratified September 24, 1973, and all amendments thereto.

- F. Direct Descent or Direct Lineal Descent: Biological descents where lineage can be traced from parent to child in each generation.
- G. Disenrollment: An official act by the Tribe to deprive a member of the right to tribal membership.
- H. Documentation: The evidence submitted to support a statement of fact. No enrollment action shall be taken without documentation to support the decision.
- I. Family Tree Chart: The form used to show the line of descent of an applicant from a base enrollee.
- J. Incompetent(s): Persons who have been legally determined in any jurisdiction to be unable to take effective actions on their own behalf.
- K. Member(s): An individual who has met the membership criteria of an Indian Tribe and is officially enrolled with that tribe.
- L. Minor(s): A person under the age of eighteen years.
- M. Notarized: A document attested before or authenticated by a public officer (a notary) who witnesses the signature and certifies that the signature is authentic.
- N. Relinquishment: Personal, voluntary action taken by a tribal member or an individual legally authorized to act on the member's behalf to terminate the member's relationship with that tribe.
- O. Resolution: A formal statement of a decision by the Tribal Council.
- P. Sponsor: A parent or legal guardian who has the legal authority to take enrollment actions on behalf of another person because of age or incompetence.
- Q. Tribe: The Nooksack Indian Tribe.
- R. Tribal Council: The governing body of the Tribe authorized to make enrollment decisions pursuant to Article II, Sections 1 through 4, of the Constitution.

63.01.001 Eligibility Criteria

Article II of the Constitution and Bylaws of the Nooksack Indian Tribe of Washington provides:

Section 1. The membership of the Nooksack Indian Tribe shall consist of:

- (a) All original Nooksack Public Domain allottees and their lineal descendants living on January 1, 1942.
- (b) All persons of Indian blood whose names appear on the official census roll of the Tribe dated January 1, 1942, provided that the January 1, 1942 roll may be corrected by the Tribe with the approval of the Secretary of the Interior.
- (c) Lineal descendants of any enrolled member of the Nooksack Indian Tribe subsequent to the January 1, 1942, provided such descendants possess at least one-fourth (1/4) degree Indian blood.
- (d) All persons who received a payment under the Act of April 30, 1965 entitled Nooksack Tribe of Washington, Distribution of Judgment Fund (80 Stat. 906), October 6, 1966, and lineal descendants of any persons so receiving a payment, provided such descendants possess at least one-fourth (1/4) degree Indian blood.
- (e) Official membership roll of the Tribe shall be approved by the Tribal Council and by the Secretary of the Interior or his authorized representative.
- (f) Any persons who possess at least one-fourth (1/4) degree Indian blood, and who is adopted by an enrolled member of the Tribe under the laws of the Nooksack Indian Tribe or any state of the United States.
- (g) Any person who possesses at least one-fourth (1/4) degree Indian blood and who is an adopted member of the Tribe pursuant to the constitution and the ordinances enacted thereon.

Section 2. The Tribal Council shall have the power to enact ordinances in conformity with this constitution, subject to the approval of the Secretary of the Interior, governing future membership in the Tribe, including adoptions and loss of membership.

Section 3. No person shall become or remain a member of the Nooksack Indian Tribe who is a member of any other organized Indian tribe, band, or Indian community which is officially recognized by the Secretary of the Interior, unless that person has relinquished, in writing, his or her membership in such tribe, band or community.

- (a) Any person who, at the time this amendment to the constitution is adopted and enacted, has a dual membership in the Nooksack Indian Tribe and any

other Indian tribe, band or community recognized by the Secretary of the Interior, shall be required to relinquish said membership of the other Indian tribe, band or community, or that person shall lose his or her membership in the Nooksack Indian Tribe.

- (b) Within 60 days of the adoption of this amendment to the constitution, the Tribal Enrollment Officer shall determine which enrolled members of the Tribe have dual membership, as herein defined, and shall send written notices to said members of the requirements or lose his or her membership in the Nooksack Indian Tribe.

Section 4. Loss of Membership: The Tribal Council shall, by ordinance, prescribe rules and regulations governing involuntary loss of membership. The reasons for such loss shall be limited exclusively to failure to meet the requirements set forth for membership in this constitution, including adoption by the Tribe, provided that nothing in this section shall prohibit a member from voluntarily relinquishing membership in the Nooksack Indian Tribe.

63.02.001

Filing and Application for Enrollment

- A. Who Files an Application: Any person wishing to become a member of the Tribe must file an enrollment application. Parents or legal guardians must file applications for minors or incompetents. In cases where parents are divorced or separated, the parent applying for enrollment must provide 1) a parenting plan proving that they have full decision-making authority for the minor; 2) a signed and notarized parental acknowledgment form from the other legal parent; 3) documentation of a good-faith attempt to contact the other parent for a parental acknowledgment form, or 4) other documentation that they have full decision-making authority for the minor.

Each individual seeking enrollment must file a separate application. If it is discovered that any person on the current tribal roll did not file an application and submit documentation before being placed on the tribal roll, that person may be requested to provide such an application and documentation or face disenrollment proceedings. Persons who appear as enrolled members of the Tribe on the January 1, 1942 census roll do not have to submit birth certificates.

- B. When and Where to File an Application: All enrollment applications must be filed with the Enrollment Department of the Tribe. Application forms may be obtained by oral or written request from the Enrollment Department of the Tribe. Written faxed requests will be accepted for requesting applications. The Enrollment Department will not fax requested applications and faxed applications will not be accepted when completed.

The Enrollment Department processes completed enrollment applications on a quarterly basis (every 3 months). All applications must be received by the 25<sup>th</sup> day of the third month in each quarter as follows: March 25<sup>th</sup>, June 25<sup>th</sup>, September 25<sup>th</sup> and December 25<sup>th</sup>. There will be a 30-day processing period after the deadline prior to submission to the Tribal Council for approval.

- C. What the Application Must Contain: Each enrollment application must be completed in its entirety and must contain sufficient personal information to properly determine the applicant's eligibility for enrollment. The enrollment application shall show the following:
1. Full Legal Name of Applicant at the time of application.
  2. Maiden name of female applicants that are married.
  3. Any name changes.
  4. Gender of applicant.
  5. The mailing address of the applicant.
  6. Applicant's social security number/social insurance number.
  7. Date of applicant's birth.
  8. Place the applicant was born (City and State or Province).
  9. Ancestor on base roll through whom enrollment rights are being claimed.
  10. The degree of Indian blood the applicant is claiming.
  11. The requirement of a "yes" or "no" answer to the questions: Are either parents of applicant enrolled in another federally recognized tribe? What parent is the answer pertaining to and what tribe they are enrolled in?
  12. The requirement of a "yes" or "no" answer to the questions: Is applicant an adopted child? Is applicant enrolled with another tribe? Is applicant a direct lineal descendant of a member of the Tribe?
  13. A statement reminding all applicants that they must submit



Photostatic copies of documentation listed.

14. Signature of applicant or sponsor (with relationship to applicant).
15. Date the application was signed.
16. The applicant or sponsor's telephone number.

D. Documentation to Accompany All Applications: Since the burden of proof is on the applicant, the application must be accompanied by the following documentation:

1. Family tree chart (as complete as possible).
2. Applicant's certified birth record, hospital record, baptismal record, affidavit of attending midwife or doctor, or other official record that is approved by the Tribal Council as acceptable documentation.
3. If the father is not listed on the applicant's birth documentation and the father is a descendant of the Tribe, then a signed and notarized paternity affidavit must accompany the applicant's application.
4. If only one of the applicant's parents is a member of the Tribe and the other parent has Indian blood that will be used to decide eligibility, a Certification of Indian blood must be obtained from that parent's tribe or the Indian blood from the parent's tribe will not be counted in the eligibility process.
5. Documentation proving the direct descent of each Nooksack Tribal ancestor from a base enrollee if neither the applicant's father nor mother is an enrolled member of the Tribe.
6. Relinquishment of membership in any other tribe, band or Indian community of which the applicant is a member.

E. Additional Documentation to Accompany Application of Applicant Who is Adopted: In addition to those items identified in subsection D above, an applicant who has been adopted must also submit documentation proving that a natural parent is of a Native American bloodline. Usually this documentation will consist of a copy of the adoption decree together with either the original birth certificate showing the natural parent(s) or a legal document identifying the natural parent(s). However, a certification from the Secretary of the Interior or his/her authorized representative pursuant

to the Indian Child Welfare Act of 1978 (P.L. 95-608) shall be conclusive evidence of the relationship to the natural parent(s).

The responsibility of researching and obtaining documentation of eligibility is the applicant's. The burden of proof is upon the applicant to prove eligibility for membership.

63.03.001     **Processing an Application for Enrollment**

- A.     **By Tribal Enrollment Department:** The Tribe shall hire an employee to fill the position of the Tribal Enrollment Officer, as well as designate one or more alternates. All applications for membership shall be received by or routed to the Tribal Enrollment Officer, who shall take the following actions:
1.     Stamp the application form and all enclosures with the date on which they were received and acknowledge receipt of them.
  2.     Make a folder for the application or a means of keeping the application and documents together.
  3.     Make sure the application is complete. A copy will be made of an incomplete application and the original will be sent back to the applicant to be completed. The date the incomplete application was returned to the applicant will be noted. The copy will be retained in the applicant's folder along with the supporting documents pending the return of the completed original application.
  4.     A completed application submitted without supporting documents will be retained in the applicant's folder. A letter will be sent requesting the needed documents. Applicants only have thirty (30) days from the date of the letter to respond. If no response is received after thirty (30) days then the application is disregarded and the applicant must reapply.
  5.     Contact the enrollment office of any other tribes, bands or Indian communities from which the applicant is descended to verify whether or not the applicant is a member of any of those groups.
  6.     Examine each application with its supporting documents within 30 days of receipt.
  7.     Determine whether additional information, documents or research

are required. If so, prepare appropriate correspondence requesting information or documents.

8. Compute the applicant's degree of Indian blood of the Tribe. The Tribe counts all Indian blood. If Certification of Indian Blood forms were submitted for a parent enrolled with another tribe, add the Indian blood.
9. Recommend for membership the applicants who have proven they fulfill the membership requirements as shown in the constitution.
10. Prepare resolutions accepting eligible applicants and forward the resolutions to the Tribal Council for action.
11. Recommend for rejection the applicants who have not proven they fulfill the membership requirements as shown in the constitution.
12. Recommend to the applicant additional documentation that might help in establishing eligibility.
13. Keep accurate records of resolutions, roll book changes and applications.
14. All applicants will receive a certified letter providing notification about the end result of his/her application.

B. By the Tribal Council

1. Adopt and revise provisions of an enrollment ordinance.
2. Adopt resolutions approving eligible applicants, relinquishing members, and authorizing blood quantum corrections.
3. Direct the Enrollment Department to notify the accepted applicants by certified mail of their acceptance into membership.
4. Direct the Enrollment Department to notify the rejected applicants by certified mail of their rejection, giving them their right to appeal the rejection to the Tribal Council as provided in section 63.04.001(C) of this ordinance. Such rejected applicants shall also be advised that a new application may be submitted when the needed documentation of eligibility has been obtained.

63.04.001     Loss of Membership

There are two ways in which membership in the Tribe may be lost. One is voluntary and is called relinquishment; the other is involuntary and is called disenrollment.

A.     Relinquishment

1.     By an adult member: Any adult member of the Tribe may voluntarily relinquish his/her membership. Such relinquishment must be in writing and the member's signature must be notarized. The documentation from the tribe listed on the relinquishment form proving acceptance into their tribe and a resolution passed by Tribal Council will make a relinquishment effective. The process is as follows:
  - a.     The Enrollment Department receives a signed and notarized relinquishment form.
  - b.     Notification is sent to the other tribe that is listed on the relinquishment form stating that documentation is needed showing the acceptance of the person into their tribe prior to formal relinquishment in the Tribe.
  - c.     Once documentation is received, a relinquishment resolution is prepared by the Tribe's Enrollment Department and submitted to Tribal Council.
  - d.     Tribal Council passes the resolution.
  - e.     Notification and a copy of the resolution passed by Tribal Council is sent to the tribe the member relinquished to enroll at, showing the date the member was removed from the Nooksack rolls.
  - f.     If the member does not become enrolled in another tribe, the relinquishment form is noted by the date and the member is notified that, based upon action taken by the other tribe, no action will be taken by the Tribe regarding his/her relinquishment.
  - g.     Once a relinquishment has been completed, the individual will not be eligible to re-enroll in the Tribe, with the exception of minors or incompetents, as stated in the next

section.

2. By minors or incompetents: Parents or legal guardians must file relinquishment forms for minors or incompetents. In cases where parents are divorced or separated, the parent applying for relinquishment must provide 1) a parenting plan proving that they have full decision-making authority for the minor; 2) a signed and notarized parental acknowledgment form from the other legal parent; 3) documentation of a good-faith attempt to contact the other parent for a parental acknowledgment form; or 4) other documentation that they have full decision-making authority for the minor.

Minors whose tribal membership was relinquished by a parent or legal guardian will not be prohibited from re-enrolling after they have turned 18 years of age.

- B. Disenrollment: The burden of proof in disenrollment actions rest with the Tribe. However, at no time will staff employed in the Enrollment Department purposely initiate a reason for loss of membership. Any tribal member requesting loss of membership of another tribal member will need to present written documentation on how the information was obtained that warrants disenrollment. The Tribal Council will have the final say on loss of membership.

1. Who may be disenrolled: A tribal member shall be disenrolled when it is discovered that he/she:
  - a. was erroneously enrolled in that he/she did not submit adequate documentation proving he/she met the constitutional membership criteria at the time of enrollment. This "erroneous enrollment" may have resulted from fraudulent submissions, mistakes in blood degree computations or inadequate research or
  - b. is found to be currently enrolled with another Indian tribe and does not relinquish the membership in the other tribe within thirty (30) days of receipt of a certified letter from the Enrollment Department informing him/her of the necessity to submit the required relinquishment form.
2. Procedure for disenrollment: A member identified as subject to disenrollment pursuant to the above sub-section shall be notified by certified mail, return receipt requested, of the intent to disenroll.

Included in the notice shall be the option to request a meeting with the Tribal Council within thirty (30) days of the receipt of the letter. If no request is received within thirty (30) days the person is automatically removed from the roll book by resolution. If a meeting is requested with the Tribal Council, the meeting shall be held in accordance with Section 63.10 of this Ordinance. The Tribal Council shall determine if the member is to be disenrolled. The decision of the Tribal Council is final.

3. Persons who have been disenrolled may submit new applications for membership when adequate documentation of eligibility has been obtained. Such applications will be processed as though the individual had not previously been a member.

C. Request for Reconsideration

1. Eligible parties: The following persons shall be eligible to file a request for reconsideration:
  - a. Any applicant who has been rejected for membership or
  - b. Any person who has been involuntarily disenrolled.
2. Each notice of rejection for membership or involuntary disenrollment will provide notice that a request for reconsideration must be received within thirty (30) calendar days of the receipt of the notice in order to be considered. The date stamped on the receipt of the certified letter shall be considered the beginning of that thirty (30) day period.
3. The request must clearly state the grounds for the request, as well as any additional evidence or documentation the eligible party will present. The Tribal Council Secretary will notify the eligible party of the Tribal Council's decision whether or not to grant reconsideration within fourteen (14) calendar days of receipt of the request.

63.05.001 Records

- A. Contents of Individual Folders: An individual folder shall be established for each tribal member and applicant. The folder shall contain the following items:

1. Application.

2. Family Tree Chart.
3. Birth certificate.
4. Correspondence.
5. All other documents on the person pertinent to membership in the Tribe, i.e. blood quantum verifications from other tribes for relatives.
6. Address updates.
7. Copy of social Security cards (optional).
8. Death certificate.

B. Access to Records

1. A roll of the tribal membership will be kept in the Enrollment Department that may be reviewed by any member of the Tribe who requests. This roll will contain only the names of the current tribal members. Enrollment staff, the Tribal Council as a whole, and the Tribal Attorney may only view any other records in the Enrollment Department.

Neither the roll nor any portion thereof may be copied and/or distributed to any person or organization except upon written permission of the Tribal Council. The Tribal Council may adopt policies governing the using and/or releasing enrollment data for the benefit of tribal members or tribal programs.

2. Individual Enrollment Files: Information in individual folders shall be considered confidential. It shall not be available to anyone except that individual member (or his/her parent or guardian) and to the Enrollment Department, the Tribal Council as a whole, the Tribal Attorney, and the tribal court when such examination is necessary in considering enrollment decisions.
3. Special concern regarding adopted individuals: An adopted person's eligibility for enrollment is determined through one or both of the natural parents. Documentary evidence submitted to support an adopted person's application must show relationship to the natural parent through whom eligibility for enrollment is

determined. The information concerning adopted persons shall be recorded as confidential and shall not be made available to any other person. This information shall be stored in locked file cabinets and adequate safeguards shall be installed to ensure that the confidentiality of these records shall not be violated.

- C. Updating Records: Upon receipt of appropriate documentation, the Enrollment Department is authorized to update the information on the tribal roll. The following documentation is deemed adequate for such actions to be taken:
1. Name change: based on receipt of marriage license, divorce decree, court order changing name or state-issued identification showing name change.
  2. Address change: Address changes in the enrollment data will be made upon receipt of a written statement signed by tribal member over eighteen (18) years of age. If the address change is being made for a Minor, the parent or legal guardian making the change must show documentation that they are the individuals with legal authority over the Minor.
  3. Death: any of the following may be used to document the death of a tribal member: receipt of death certificate, Bureau of Indian Affairs records, mortuary records, hospital records, obituary notice from newspaper, notarized statement from an individual who attended the funeral or who saw the grave marker and can provide date of death or funeral home leaflet.

Any change for which none of the above documents is available must be authorized in writing by the Tribal Council the reason for the change without usual documentation. A copy of that written authorization shall be placed in the individual's folder.

#### 63.06.001 Computing Degree of Tribal Blood

- A. Initial Computation: Pursuant to Article II, Section 1 of the Constitution, all persons listed on the January 1, 1942 official census roll are members of the Nooksack Indian Tribe. Therefore, the blood listed on the official census roll of 1942 will be used in computing Indian blood for lineal descendants. The Tribe uses all Indian blood when computing blood quantum for members.



B. Changing Blood Degrees: Once the degree of Indian blood has been recorded for a member on the tribal roll, it shall be changed only when one of the following procedures has been completed:

1. If the change does not involve a change in the 1942 base roll and is only a mathematical error:

- a. Whenever a member requests a change in his/her blood degree, the Enrollment Department shall research the request. The Enrollment Department is also authorized to initiate other research into the accuracy of blood degrees shown on the tribal roll as time permits.
- b. If a determination is made that a member's blood degree has been erroneously computed, a letter must be sent to the affected persons explaining the circumstances and giving them thirty (30) days from the date of the receipt of the letter to respond.
- c. If there is no response within thirty (30) days of the date of the receipt of the letter a resolution shall be prepared for Tribal Council action documenting the basis for the change and authorizing the Enrollment Department to make the change for the member and for all other persons affected by the change.
- d. The Enrollment Department shall notify the member and all other persons affected by the change.
- e. The Bureau of Indian Affairs must then be notified of the change in blood quantum.

2. If the change does involve a change in the 1942 base roll:

- a. Changes in the blood quantum shown on the base roll can only be made when requested by the base enrollee or a descendant of a base enrollee. When such a request is received, the Enrollment Department shall research the request.
- b. If a determination is made that a blood quantum shown on the 1942 base roll is incorrect, a resolution shall be prepared for Tribal Council action and documenting the

basis for the requested change. The resolution will request that the Bureau of Indian Affairs recommend the correction for approval by the Secretary of the Interior. Approval by the Secretary of Interior is required for such changes as the 1942 census roll is a BIA official roll adopted by the Tribe as its base roll.

- c. Notice will be given to individuals who would be involuntarily disenrolled should the Secretary of the Interior approve the blood quantum change. The notice will include the information that a request for reconsideration must be received within thirty (30) calendar days of the receipt of the notice in order to be considered. The date stamped on the receipt of the certified letter shall be considered the beginning of that 30-day period.
- d. The request for reconsideration must clearly state the grounds for the request, as well as any additional evidence or documentation the eligible party will present. The Tribal Council Secretary will notify the eligible party of the Tribal Council's decision whether or not to grant reconsideration within 14 calendar days of receipt of the request.
- e. When a determination has been made by the BIA and/or the Secretary of Interior, the Enrollment Department shall notify the member requesting the change and all other persons affected by the change.

63.07.001     Adoption Into Membership

There is a moratorium on Adoption into Membership, which will remain in effect unless the moratorium is lifted by resolution of the Tribal Council.

Being adopted into the Tribe does not ensure children or other family members of an adopted member automatic membership into the Tribe; they too must apply for adoption. The Indian blood quantum of adopted members will not be considered "Nooksack blood" when calculating the blood quantum of their children.

63.08.001     Legally Adopted Individuals

- A. General Provisions: The Constitution allows for any individual who possesses at least one-fourth (1/4) degree Indian blood, and who is legally adopted by an enrolled member of the Tribe under the laws of the Nooksack Indian Tribe or any state of the United States, to become a member of the Tribe.

- B. Blood Degree: A legally adopted person's blood degree is based on the natural parent through whom eligibility for enrollment is determined.
- C. Children of Adopted Members: The children of members who were legally adopted will not be eligible for enrollment unless they otherwise qualify under Article II, Section 1 of the Constitution.

63.09.001 Construction and Amendments

- A. Construction: This ordinance and rules are exempted from the rule of strict construction, and they shall be liberally construed to give full effect to the objectives and purposes for which they were enacted.
- B. Amendments: The Tribal Council, through official action, may amend this ordinance and rules at any time.

63.10.001 Rules for Involuntary Disenrollment Meetings

The purpose of these Rules for Involuntary Disenrollment Meetings, hereinafter "Rules", are to establish additional procedures for a disenrollment meeting. These Rules shall apply to all meetings described in Section 63.04.001(B)(2) and requests for reconsideration under Section 63.04.001(C)(1)(b) of this ordinance.

63.10.002 Additional Definitions

- A. Attendees and Participants: Those persons authorized to participate in or attend the Meeting. These persons are limited to Tribal Council Members, Nooksack Tribe Administrative Officials and Employees approved by the Tribal Council, Disenrollees and their Authorized Representatives.
- B. Authorized Representative: Any of the following (1) an advocate authorized to represent persons in the Nooksack Tribal Court; (2) an attorney licensed in any state of the United States; or (3) a person authorized to appear on behalf of a Disenrollee who has timely submitted a completed Representation Form as required herein.
- C. Disenrollee: A tribal member subject to disenrollment pursuant to Section 63.04.001(B) of this ordinance.
- D. Eligible Party: In Section 63.10 of this ordinance, eligible party means any person who has been involuntarily disenrolled who requests reconsideration of the Tribal Council's decision to involuntarily disenroll the person pursuant to Section 63.04.001(C)(1)(b) of this ordinance.

- E. Meeting: The meeting with the Tribal Council requested by a Disenrollee, pursuant to Section 63.04.001(B)(2) of this ordinance.
- F. Written Response: The written response to the Tribe's Notice of Involuntary Disenrollment.
- G. Representation Form: A completed authorization of representation on a form available from the Enrollment Department, also posted at <http://www.nooksacktribe.org/departments/enrollment/>.

63.10.003 Notice

- A. Notice of Meeting: The Tribal Council shall provide a Disenrollee written notice of the time, date, and method of the Meeting. Prior to or with the notice of the Meeting, the Tribal Council shall provide a Disenrollee the basis of the proposed action. The date and time of the Meeting may be subject to change by the Tribal Council. Notice will be provided by personal service or registered mail, return receipt requested (or its Canadian equivalent), to the last known address of the Disenrollee, no later than twenty-one (21) calendar days prior to the scheduled Meeting date.
- B. Contact Information: Each Disenrollee or Eligible Party shall ensure that his or her address and telephone number on file is correct and shall immediately notify the Tribal Council of any changes of address or telephone number that occurs during the course of proceedings.
- C. Continuing, Rescheduling or Adjourning: After a Meeting has been scheduled it may be continued, rescheduled, or adjourned only at the discretion of the Tribal Council, so long as not to reduce the minimum time limitations identified in this section. A Disenrollee shall not consider a Meeting continued, rescheduled, or adjourned until notified by the Tribal Council.

63.10.004 Response

- A. General Requirements: All response items, including but not limited to the Written Response, Exhibits, and Exhibit Lists, must conform to the following requirements:
  - 1. All submissions and requests must be made in electronic or hard copy form.
  - 2. All submissions and requests must be addressed to:

Nooksack Indian Tribe  
Nooksack Tribal Council  
P.O. Box 63  
Deming, WA 98244

Or

meeting@nooksack-nsn.gov

3. All submissions and requests must clearly identify the Disenrollee by name and enrollment number.
4. Submissions and requests may not address more than one Disenrollee; only individual submissions and requests will be accepted.
5. All submissions and requests must be received by the Tribal Council before the deadline stated in these Rules.

Failure to comply with any General Requirements stated in these Rules may result in rejection of the submission or request.

B. Written Response: A Disenrollee may submit a Written Response to the Tribe's Notice of Involuntary Disenrollment explaining why the proposed action should not be taken against him or her. In addition to the General Requirements above, Written Responses are subject to the following requirements:

1. Format. Responses must be typed; hand written responses may be rejected. The lower, right hand corner of each page of the Response must contain the page number, and the Disenrollee's full name and enrollment number. Written Responses are limited to ten (10) pages, double spaced, twelve (12) font, not including exhibits or evidence.
2. Signed. Written Responses must be signed and dated by the Disenrollee or a Parent or Legal Guardian of the Disenrollee, if the Parent or Legal Guardian will be representing a minor or incompetent. If the Disenrollee has an Authorized Representative, the Authorized Representative must sign the document in addition to the Disenrollee.
3. Time to Submit Response. The Written Response, and if

necessary a Representation Form must be received by the Tribe no later than five (5) calendar days prior to the scheduled Meeting date. Untimely submissions may result in rejection.

- C. Evidence and Time for Submission of Evidence: A Disenrollee may present evidence supporting his or her case. All evidence must be received by the Tribe no later than five (5) calendar days prior to the scheduled Meeting date; untimely submissions may result in rejection. Evidence is subject to the following limitations and requirements:
1. Types of Permissible Evidence. Copies of documentary evidence including affidavits, birth certificates, baptisms and other documents relevant to the Disenrollee's original claim for membership may be submitted.
  2. Required Format of Evidence Submissions.
    - a. Exhibits must be identified in an Exhibit List. The Exhibit List must include the document title and assigned Exhibit number.
    - b. All evidence must be labeled as an individual Exhibit. Exhibits must be marked with an exhibit label on the lower right hand corner. Labels must include the Disenrollee's name and enrollment number, exhibit number, and total page numbers for each exhibit. Example: Member John Doe, #8, Exh. \_\_\_\_, 1 of 2.
    - c. All evidence must be submitted as one complete packet that includes a cover page clearly marked with the Disenrollee's name, enrollment number, and scheduled Meeting date and time.
    - d. Failure to comply with these format requirements will result in rejection of submissions.
  3. Retention of Evidence. The Tribal Council will retain all submitted evidence indefinitely; therefore, a Disenrollee is encouraged to submit copies, and use discretion when submitting original evidence.
  4. Official Notice. Official notice may be taken by the Tribal Council of: (a) any judicially cognizable facts; or (b) any tribal historical fact within the Enrollment Department's specialized knowledge.

**The Disenrollment Meeting**

- A. **Mandatory Confirmation of Meeting:** The Disenrollee requesting a Meeting before Tribal Council shall confirm the Meeting with the Meeting Coordinator by telephone or by email pursuant to the Notice of the Meeting. Confirmations must be done two (2) calendar days prior to the Meeting between the hours of 9:00 a.m. and 4:30 p.m. If a Meeting is not timely confirmed, the Meeting will be stricken and the Tribal Council may consider only timely filed written materials. Individual meetings will occur in the order the individual Disenrollee confirmed his or her Meeting.
- B. **Telephonic Meetings:** Meetings will be held telephonically via conference call unless otherwise specified.
- C. **Representation at Meeting**
1. A Disenrollee may, at his or her own expense, be represented by an Authorized Representative. Authorized Representatives representing Disenrollees must submit a Representation Form, attesting to their legal authority to represent the Disenrollee.
  2. Minor and Incompetent Disenrollees must be represented by a parent or legal guardian. Parents or legal guardians representing Minors and/or Incompetents must submit a Representation Form, attesting to their legal authority to make decisions on behalf of the Minor and/or Incompetent. Parents or legal guardians that choose to have the Minor and/or Incompetent be represented by an Authorized Representative, are still required to submit the Representation Form identified in the previous sentence identifying that they have the authority to make decisions for the Minor and/or Incompetent including approving an Authorized Representative.
  3. A Representation Form must be received by the Tribe no later than five (5) calendar days prior to the scheduled Meeting date; untimely or incomplete submissions may result in rejection.
- D. **Statements Under Oath or Affirmation:** Each Disenrollee and Authorized Representative appearing for a Meeting shall swear or affirm that the statements he or she is about to give at the Meeting shall be the truth according to the laws of the Tribe and that he or she agrees to be bound by the laws of the Tribe for the purposes of the oath or affirmation.

- E. Conduct Requirements: All Attendees and Participants of the Meeting shall maintain the respect due to the Tribal Council and shall abstain from all offensive conduct before, during, and after the Meeting. Such conduct requirements extend to the maximum extent allowed by federal law. Offensive conduct includes, but is not limited to: any attempt to intimidate the Tribal Council, speaking out of turn, using threatening, obscene, or offensive language, failing to abide by designated time for oral argument, and behaving in a manner that disrupts the Meeting. Failure to abide by these Conduct Requirements will result in immediate removal from and/or early termination of the Meeting; persons engaging in such activity will be subject to all applicable Tribal, state, and federal laws.
- F. Mandatory Attendance: The scheduled Meeting is a Disenrollee's opportunity to present his or her case. Personal attendance, whether in person or telephonically, is mandatory and a Disenrollee waives his or her right to be heard if he or she fails to confirm the Meeting or fails to appear. For Disenrollees who retained an Authorized Representative, both the Disenrollee and the Authorized Representative must appear for the meeting. Disenrollees, and, parents and legal guardians of minors or legal incompetent Disenrollees that have an Authorized Representative must appear with their Authorized Representative. All Meetings will begin promptly at the designated time and date. The Tribal Council may deny admission to any person arriving after the scheduled Meeting date and time.
- G. Permissive Attendees and Participants: Meetings are not open to the public. Attendance at a Meeting is restricted to Disenrollees, Authorized Representatives, and Attendees and Participants. Minors and Incompetents, must be represented by and accompanied by an authorized parent or legal guardian and if applicable, their Authorized Representative. Attendance by all other persons is strictly prohibited.
- H. Time Provided for Presentation: A Disenrollee shall have a maximum of ten (10) minutes to present his or her case to the Tribal Council. A Disenrollee may rely exclusively on his or her Written Response.
- I. Presentation of Case: The Tribe fulfills its burden of production by providing documentation supporting disenrollment to the Disenrollee establishing why he or she does not meet the Nooksack Constitutional requirements under which they were enrolled. All documentary evidence provided in accordance with these Rules is part of the disenrollment record. The Tribal Council shall preside over the Meeting and ensure order and fairness. The Tribal Council will consider all evidence, Written Response, and evidence presented in accordance with these Rules. A



Disenrollee may present his or her case to the Tribal Council by oral argument or with documentary evidence.

63.10.006 **Final Decision**

The Tribal Council will issue a final written decision regarding a Disenrollee's enrollment status following the Meeting. Final written decisions shall be personally served or sent registered mail, return receipt requested to the Disenrollee's last known address.

63.10.007 **Request for Reconsideration**

Pursuant to Title 63, an Eligible Party may request reconsideration of the Tribal Council's decision to involuntarily disenroll the Eligible Party.

A. **Time for Request:** A request for reconsideration must be received within thirty (30) calendar days of the receipt of the notice of involuntary disenrollment. The date stamped on the receipt of the certified letter (or its Canadian Equivalent) shall be considered the beginning of the thirty (30) day period. All late requests will be rejected.

B. **Format:** All requests for reconsideration must be typed and include the Eligible Party's name and enrollment number prior to disenrollment; and be mailed to:

Nooksack Indian Tribe  
Nooksack Tribal Council  
P.O. Box 63  
Deming, WA 98244

C. **Grounds for Request:** The request for reconsideration must clearly state the grounds for the request, and include any additional evidence or documentation the Eligible Party will present. The Required Format of Evidence Submissions outlined in Section 63.10.004(C) of these Rules shall apply to Requests for Reconsideration.

D. **Notification:** The Tribal Council Secretary will notify the Eligible Party of the Tribal Council's decision whether or not to grant reconsideration. If the Tribal Council Secretary is unable to perform this duty, as a result of a conflict of interest, or for other reasons, the Tribal Council may delegate the notification to another councilmember as decided by the Council.

63.10.008     **Binding**

These Rules are binding upon any and all Disenrollees, Authorized Representatives, Eligible Parties, and Attendees and Participants. Failure to comply with these Rules may result in rejection of a request or submission and may result in automatic disenrollment, removal of a person from a Meeting, loss of opportunity for reconsideration, or exclusion from further participation in the Disenrollment process.

63.10.009     **Time Computation**

Whenever any document is required to be filed in a certain number of days ("filing deadline"), the time computation does not include the day the action was taken or the date the document was received unless these Rules specifically state otherwise. In the event that the last day falls on a weekend, or tribal holiday, the filing deadline is the next tribal work day.

63.10.010     **Confidentiality**

Pursuant to Section 63.05.001(B) of this ordinance, documents contained within individual enrollment folders are confidential. The Tribe releases documents to a Disenrollee or his or her Authorized Representative for the limited purpose of facilitating a fair and orderly Meeting. At its discretion the Tribal Council may redact specific confidential information from documents if it is deemed necessary.

63.10.011     **Jurisdiction**

Decisions made by the Tribal Council are final. The Nooksack Tribal Court shall not have subject matter jurisdiction over any case or controversy related to these Rules, any disenrollment proceeding, and/or any determination made during the course of a disenrollment proceeding.

63.10.012     **Sovereign Immunity Not Waived**

Nothing in this Ordinance shall be deemed or construed to be a waiver of the sovereign immunity of the Tribe, its officials, its entities, or employees acting within their official or individual capacities.

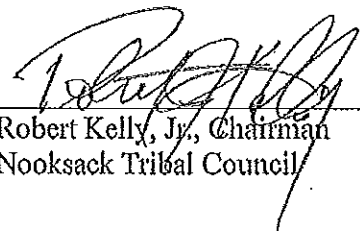
### LEGISLATIVE HISTORY

1. Approved on June 14, 1996 pursuant to Article II, Section 2 of the Constitution and Bylaws of the Nooksack Indian Tribe.
2. Approved on April 24, 2006 pursuant to Article II, Section 2 of the Constitution and Bylaws of the Nooksack Indian Tribe.
3. Approved on October 10, 2014 pursuant to Article II, Section 2 of the Constitution and Bylaws

### CERTIFICATION

I, the undersigned do hereby certify that the Nooksack Tribal Council is composed of eight (8) members, of which were present, constituting a quorum of a duly called meeting thereof held on the 10<sup>th</sup> day of October, 2014, and by a majority vote of the Nooksack Tribal Council Resolution #14- 112 approves this document as the official version of Title 63, the Enrollment Ordinance of the Nooksack Indian Tribe, for publication.

Dated this 21 day of January, 2015.

  
\_\_\_\_\_  
Robert Kelly, Jr., Chairman  
Nooksack Tribal Council

ATTEST:

  
\_\_\_\_\_  
Agripina Smith, Treasurer  
Nooksack Tribal Council



# United States Department of the Interior

BUREAU OF INDIAN AFFAIRS

Puget Sound Agency  
2707 Colby Ave. - Suite 1101  
Everett, Washington 98201-3665  
(425) 258-2651



January 13, 2015

Honorable Robert Kelly, Jr.  
Chairman  
Nooksack Indian Tribe  
P.O. Box 157  
Deming, WA 98244

Dear Chairman Kelly:

This letter is to inform you that the Northwest Regional Director (Director) has notified the Puget Sound Agency that the Northwest Regional Office has completed its review of Nooksack Enrollment Ordinance 14-112 (Ordinance). This Ordinance amends the Nooksack Tribal Code, Title 63 - Enrollment. The Director had the following comments:

*This action is authorized by Article II, Section 2, of the Nooksack Constitution (Constitution) which vests the Tribal Council with the authority to enact ordinances governing future membership, subject to Secretarial approval.*

*The Nooksack Constitution was amended on August 2, 2013, eliminating Article II, Section H: a provision extending membership to, "Any persons who possess at least one-fourth degree Indian blood and who can prove Nooksack ancestry to any degree." This Ordinance is enacted to amend Title 63 for consistency with the amended Constitution. It also incorporates additional procedures related to disenrollment and addresses due process issues raised by the Nooksack Tribal Court.*

The Director advised that he and the Solicitor could find no legal reason to rescind my approval of October 24, 2014. Thus, it is effective as of that date. Please call Connie Johnston, Tribal Operations, at (425) 258-2651, if you have any questions. Thank you.

Sincerely,

Don Chambellan  
Acting Superintendent