



Washoe Tribe of Nevada and California

MIDTERM REPORT 2017

Presented by: Chairman Neil Mortimer



MESSAGE TO WASHOE TRIBAL MEMBERSHIP

As the Chairman of the Washoe Tribe, it is with great gratitude that I present this midterm report to our membership. When I ran for office, I was committed to ensuring that our highest official of the Tribe would be held accountable to our membership. I strive to see that my office is accountable, productive, responsible and transparent to our membership. It has been a tremendous experience, working alongside our Tribal Council, staff, and membership to reach positive resolutions regarding operations of our Tribal government.

My first move as Chairman was to take a \$30,000 pay cut in order supplement the re-roofing project for the Elder's Center in Dresslerville. I was also a major proponent of eliminating the Washoe Utility Management Authority payments, which saves reservation tribal members hundreds of dollars annually. The WUMA was a unsuccessful business model—Indian Health Services (IHS) provides infrastructure and water services to tribal communities at no cost. We also purchased generators for the Dresslerville and Stewart communities' water systems, so that water systems will work in the event of a power outage. Also, my budget has provided over \$23,000 every year since 2015 to Social Services to fund the Emergency Assistance program.

For the Washoe Tribe to have secured the federal and state new market tax credits, as well as simultaneously partner with the Poarch Band of Creek Indians for gaming purposes, we have received many national accolades for our one-of-a-kind endeavor. One of the primary goals of the project was to bring increased revenue and employment opportunities to our Tribe and Douglas County, and so far, we are exceeding the goal.

The Travel Plaza sits on federal lands held in trust for the Washoe Tribe, which were leased by the Washoe Tribal Council to the Washoe Travel Plaza Realty, LLC (WTPR). Washoe Travel Plaza Realty then subleases the parcel of land to the Washoe Retail Enterprises, which is overseen

by the Washoe Development Group, stationed at Tribal Headquarters.

The Wa She Shu Casino, which is wholly owned and operated by the Poarch Band of Creek Indians, sits on federal trust lands on the Washoe reservation, which was leased to the Washoe Gaming Development, who then in turn subleased the parcel of land to the Poarch Creek Indian Gaming Commission.

As a part of the federal and state new market tax deal, the Tribe created the non-profit, IRS recognized 501(c)(3) "Wa She Shu Foundation." Still in its initial phases and not yet fully operational, the Foundation will provide non-profit services to enrolled members of the Washoe Tribe for educational purposes, wellness activities, and cultural awareness activities.

Under this administration, our government has ensured that renegotiations of the Tribe's existing gaming compact occur, utilized state and federal new market tax credits for creation new economic enterprise on Tribal lands, partnered and pioneered the first tribe-to-tribe land lease for gaming operations on Washoe Tribal lands, supported Tribal efforts for important Washoe cultural sites, such as Dance Hill and Cave Rock, to be listed on national registries, and overseen implementation of a new Tribal court building under a \$1 million grant from the Department of Justice, which will begin construction at the end of 2017.

I have been invited to several regional conferences, such as the National Indian Education Association's (NIEA) Annual Summit at the request of the Nevada Planning Committee of the NIEA. The NIEA was formed by Native educators in 1969 to encourage a national discourse on Native education. I provided the invocation for the cultural night and was pleased to represent our Tribe and provide a brief history of our Tribe to the over 2,000 attendees. I also provided the invocation welcome for the 8th Annual Nevada Tribal Tourism Conference, hosted by the Nevada Indian Commission.

Message continued...

The Washoe Tribe sits within Region IX of IHS. I have attended the annual consultation, held in Scottsdale, AZ to provide testimony in support of increased funding, diabetes awareness, and other areas that afflict the Washoe Tribe. In support of increased health care in Washoe country, I continue to attend state-wide consultations regarding measures that impact health care and the Washoe Tribe.

Most importantly, during my administration, our government has facilitated improvements in communities by ensuring new and updated law and order code revisions, ensuring new roads programs improve communities; the Washoe Tribe has also received California's low-income tax credit funds for the benefit of Washoe Tribal members in the Woodfords community.

As Chairman, I was able to provide official testimony during the Nevada Legislative 79th Session on many important subjects involving Indian country. I was able to lobby for our Tribe, and most importantly, protect the interests of our tribal government as a sovereign nation and the right to self-govern. During the session, I was formally introduced by Nevada Senator James Settlelmeyer, in which he recognized the progressiveness of the Washoe Tribe, and also the presence of our Tribe in the Great Basin since time immemorial.

My office has provided written testimony in support of the Senate confirmation of Supreme Court Justice Neil Gorsuch—who has decided many fundamental Indian law cases in the 10th Circuit. His stance on the sovereignty of Indian tribes is revitalizing, and Justice Gorsuch has many keen written orders recognizing existing Federal Indian law and policy.

I encourage all Tribal members to stop by my office, or give me a call if you have any concerns. My goal is to ensure that the voices of our Tribal members are heard, and to let our membership know that your concerns do not go unnoticed. Thank you Tribal membership, for your continued support as we progressively move forward.



Pyramid Lake Vice-Chairman Alan Mandell, Washoe Tribal Chairman Neil Mortimer; Reno-Sparks Indian Colony Chairman Arlen Melendez; Yerington Paiute Tribe Chairwoman Laurie Thom. Nevada State Legislature, June 2, 2017. Each Tribal leader provided written and oral testimony in favor of Senate Bill 244, which was signed into law by Nevada Governor Sandoval

About the Chairman

Chairman Neil Mortimer is an enrolled member of the Washoe Tribe of Nevada and California. A Douglas High School alumnus, Class of '98, he has been a dedicated Washoe Tribal employee for over fifteen years. He has served on the Washoe Tribe's Hunting and Fishing Commission, on the Woodfords Community Council, as well as serving as the Vice-Chairman of the Washoe Tribal Council. Prior to being elected by the membership at-large to serve as the Chairman of the Washoe Tribe in October 2014, he was a full-time Tribal employee. Chairman Mortimer is married to his wife Jeanne Mortimer, an enrolled member of the Washoe Tribe, graduate of Sierra Nevada College (B.A.) and law school graduate of University of North Dakota (Juris Doctor). Together they have five children: Leonna, Dion, Isaiah, Avery and Albert. The family resides on the Woodfords Indian reservation in Markleeville, CA.

Washoe Tribe Legislation. All amendments to laws and policies that govern the Washoe Tribe, are subject to review and approval by a majority vote of the Washoe Tribal Council. *Washoe Tribe Constitution, Article VI, Section 1(f)*. All final decisions of the Washoe Tribal Council shall be embodied in resolution format. *Washoe Tribe Bylaws, Article VII, Section 2*.

- Emergency Assistance Policy, approved by Tribal Council August 2015.
 - o The EA Policy complies with the Indian General Welfare Act and removed funds from the Chairman’s annual budget in excess of \$23,000.00 in order to provide eligible enrolled Washoe tribal members with emergency funds while experiencing a crisis. The funds are allocated for transportation funds to attend the funeral of an immediate family member, basic needs assistance, and energy assistance for Washoe elders. So far, the program has assisted hundreds of tribal members in need.
- Washoe Tribe Police Department Policy, approved by Tribal Council September 2015.
 - o The Police Policy ensures that the Washoe Tribe Police Department adheres to strict policies that are the standard of practice for law enforcement officers. The Police Policy is a major success, and provides for the WTPD accountability, protection, and law and order.
- Ongoing updates to Washoe Tribal Website: Law and Order Code, Tribal Court forms, etc. all available online, Dec. 2015 and ongoing.

It is crucial for membership to have access to our most used forms. Tribal Court forms, Law and Order Code, Enrollment Forms, Land Assignment Applications, Emergency Assistance Policy and Application, TANF Policy and Forms are all now available on the Tribal website under “Tribal Forms and Documents.”

- Indian Child Welfare Act (ICWA) Enrollment Eligibility Request Protocol updated and currently in use, April 2016.
 - o It is crucial for the Washoe Tribe to have internal protocols regarding the ICWA.

As federal law states, our children are our greatest resource. We have developed stronger internal protocols to address response to ICWA notices and coordination with Nevada and California states.

- Enrollment Application, Relinquishment Form, Blood Quantum Increase Form, approved by Tribal Council May 2016.
 - o The legal department created new Washoe Tribal enrollment applications and blood quantum increase forms that coincide with the “Enrollment Ordinance” and the Washoe Tribal Law and Order Code. The forms provide for much needed updates to the enrollment department.
- Native TANF Policy, approved by Tribal Council December 2016.
 - o In efforts to strengthen the Washoe Native TANF Program, the policy was updated to address current ACF, federal and state mandates. Updates to the Policy was necessary, and the adoption of the Policy took months of legal review and is the result of many departments working cohesively.
- Washoe Tribal Health Clinic Health Insurance Portability and Accountability Act Policies, approved by Health Advisory Committee January 2017.
 - o To ensure quality control and increased levels of patient care, the Washoe Tribal Health Center adopted over thirty (30) policies to address patient privacy and protection under federal laws.



- Secured Tribal Court Assessment on Washoe Tribal Court, approved by Tribal Council February 2017.
 - o Along with the legal department, the Washoe Tribal Council was approved for a “Tribal Court Assessment” conducted by the Office of Justice Services, which is a federal agency under the Department of Interior. The Court Assessment is of no cost to the Washoe Tribe, and is the result of tireless work of many staff members. The Court Assessment commenced in June 2017 and will conclude in approximately 7-8 months, with the final report to be presented to the Tribal Council upon completion.
- Meeks Bay Settlement Agreement with Lahontan Regional Quality Board, March 2017.
 - o In 1998, the Washoe Tribe secured a “Special Use Permit” that was granted by the Regional Director of the United States Forest Service. The Tribe subleased a part of Meeks Bay to Action Water Sports, which operated a marina. However, in efforts to increase clarity of the Lake, and working with the Forest Service, the Tribe ended the sublease with Action Water Sports to restore the marina back to its natural habitat.
- Title 26, “Standard Assignment & Land Leases Ordinance” approved by Tribal Council April 2017.
 - o Addressing the disparity in assigning land assignments to Washoe Tribal members, the Code was updated to reflect the Tribe’s Constitution, and applicable federal laws regarding trust lands on federal Indian reservations. The Code was presented to all communities for further input and is now codified in Title 26.
- Foster Home Licensure Policy and Applications, approved by Tribal Council April 2017.
 - o The Washoe Tribe Department of Social Services strives to offer fair treatment of all those who utilize the services, and to ensure compliance with relevant federal laws. Federal law requires strict

guidelines for issuing foster home licensing, and compliance with Public Law 101-630.

- Washoe Tribe Social Services Child Welfare Protocol with Applicable Forms, approved by Tribal Council April 2017.
 - o Along with the Foster Home Policy, fourteen (14) forms were adopted for mandatory use by the Department of Social Services. The forms comply with Title 8, Title 10 of the Washoe Tribe Law and Order Code as well as applicable federal laws. The forms and protocol work to ensure equitable treatment of the children and families that utilize services, and provide for best practices.
- Title 4 “Criminal Procedures” update to the Law and Order Code, approved May 2017. The legal department and Tribal prosecutor worked with the Tribal Council to address the disparities with federal law, and the timeliness of Tribal Court jury trials.
 - o Codified by Tribal Resolution Number 2017-03-WTC-027, the update provides that one-hundred (180) days is allowed to provide defendants in the Washoe Tribal Court for a jury trial, amended from sixty (60) days. Amended Title 4, § 4-010-030(h).
 - o Codified by Washoe Tribe Resolution Number 2017-03-WTC-028, the update provides that defendants charged with offenses who face incarceration of more than six (6) months are entitled to a jury trial. Amended Title 4, § 4-60-020(1).
 - o Codified by Washoe Tribe Resolution Number 2017-04-WTC-047, the update provides that any person who is a party in any civil or criminal trial may represent himself/herself or be represented by those persons described in Title 1, § 1-80-020. This changes the requirement that the Washoe Tribe pay for attorneys for indigent defendants, in compliance with the Indian Civil Rights Act, a federal law, 25 USC § 1302(a)(6) . Amended Title 4, § 4-10-030(c).

- Lifted Wage Freeze by Tribal Council Resolution, May 2017.
 - o The Washoe Tribe strives to recruit and retain qualified employees to run and administer Tribal programs. The wage freeze was lifted by Tribal Council in efforts to retain qualified employees.
- Public Law 101-630 Policy, approved by Tribal Council June 2017.
 - o Required by federal law that was passed in 1990 regarding Indian child welfare, the Washoe Tribe legal department and human resource department worked collaboratively to address adopting the Policy. The Policy, in accord with federal law, requires that all positions in the Washoe Tribe that have regular contact or control over Indian children shall undergo strict FBI background checks.

*Tribal Polices and Law amendments require majority of Tribal Council vote in the affirmative, and embodied in resolution format.

National Efforts

- *Chairman Mortimer has regularly attended the Annual Lake Tahoe Summit, to represent the Washoe Tribe on the national level and to advocate the voice of the Tribe.*
- *Chairman Mortimer and members of the Tribal Council have visited the Poarch Creek Indian Tribe to continue to collaboratively work toward new economic development fronts.*
- *Chairman Mortimer has been working continuously with Nevada State Senators (formerly Senator Harry Reid) Senator Catherine Cortez Masto and Senator Dean Heller regarding the Douglas County Lands Bill and full inclusion of the Washoe Tribe during negotiations. Chairman Mortimer has successfully collaborated with each Senator's office to ensure that the voice of the Washoe Tribe is recognized, and that the Senator's take into account the lobbying efforts of the Washoe Tribe when drafting new language for the Douglas County Lands Bill.*
- *Working with the United State Forest Service, a federal agency, Chairman Mortimer has developed a repertoire with the USFS. The Washoe Tribe works closely with the USFS on regional and national efforts to protect and preserve the natural beauty of Lake Tahoe. Through the special use permit granted by the regional director of the USFS, Chairman Mortimer has worked to restore the Marina at Meeks Bay*



to its natural habitat. The Special Use Permit was entered into in 1998 and was to last for twenty (20) years. Negotiations of the Special Use Permit will commence in 2019.

- *Working with staff, Chairman Mortimer has worked to ensure that the Washoe Tribe is on point with the National Indian Gaming Commission, and is in full compliance with the federal agency's regulations. When the Washoe Tribe partnered with Poarch Creek, we became the first "tribe-to-tribe" gaming venture in the country. The Washoe Tribe continues to exceed national expectations and has been recognized nationally for our partnership with the Poarch Creek Indians.*
- *The Washoe Tribe continues to ensure that after securing and maintaining federal and state new market tax credits for operation of the Travel Plaza, operating the Travel Plaza at full capacity is the goal.*

NEVADA STATE LEGISLATURE

During the 79th Legislative Session from February 2017-June 2017, there were several Senate Bills (SB) and Assembly Bills (AB) that Chairman Mortimer provided official written and verbal testimony for:

SB 105

The Senate Committee on Government Affairs approved a bill Wednesday, February 8, 2017 authorizing the Governor to proclaim the second Monday in October as Indigenous People Day, replacing the traditional Columbus Day. A triumph for Nevada Tribes, the Washoe Tribe was in full support of the Bill.

Assembly floor vote: Passed on April 25, 2017
Senate Floor: Passed on May 18, 2017
Effective date: May 23, 2017.

SB 83

This was an act to amend existing law which limits the purpose of the Nevada Indian Commission. The proposed law would have increased the duties of the Nevada Indian Commission. This Senate Bill would have allowed for the Indian Commission to act on all matters affecting or of interest to American Indians and tribal governments in Nevada. As a tribal government, the Washoe Tribe was opposed to the added powers of the Commission and actively lobbied against the proposed changes in order to protect our right to self-govern, provided official opposition to the Senate Bill. The Senate Bill was later rescinded and it was requested that the Bill not move further within the Senate.

SB 244

This Senate Bill related to historic preservation; providing notice and consultation with Indian tribes with regard to native Indian human remains and other cultural items under certain circumstances; requiring the Museum Director of the Nevada State Museum and the Office of Historic Preservation of the State Department of Conservation and Natural Resources to adopt regulations concerning the process for repatriation of such human remains and other cultural items. Washoe Tribal Chairman Neil Mortimer provided official written and in-person testimony in support of for the inclusion of Nevada Indian tribes in repatriation. Along with

several area Tribal Chairman, the lobbying efforts of the collaboration between the tribes was substantial when the vote was taken to the Senate floor for the final vote.

Assembly floor vote: Passed on June 2, 2017
Senate Floor: Passed on May 31, 2017
Effective date: June 23, 2017.

SB 511

This Senate Bill was relating to licensing of outdoor activities; revising provisions governing applications for a license, tag or permit to hunt, fish or trap; revising the fees for the issuance of an apprentice hunting license. Most importantly, the language that would impact Nevada tribal members was the hunting/fishing combo license, which was proposed to charge only \$15.00 for the specialty license. The Washoe Tribe provided official testimony in support of this measure, as did many surrounding area tribes. Previously the license was free, but would cost more than \$50.00 for the stamps associated with hunting and fishing. Now, the Nevada tribal member only has to pay \$15.00 for the entire specialty license.

Assembly floor vote: Passed on June 4, 2017
Senate Floor: Passed on May 30, 2017
Effective date: pending and is awaiting signature from the Governor.

Assembly Bill 415 (Chapter 348)

This Assembly Bill provides for the acceptance of a tribal identification card in certain circumstances. This is an act relating to the identification of persons; authorizing the use of a tribal identification card for various purposes; requiring a business that accepts a driver's license for the purpose of identification to also accept a tribal identification card for that purpose unless otherwise provided by any federal law or regulation. This is extremely important for Indian tribes to exercise sovereignty, most importantly, at the state level as well. The implementation of

Senate Bill 375

Assembly Bill 415 continued....
this Bill is a huge success for Indian tribes in Nevada, and most importantly, the Washoe Tribe.

Assembly floor vote: Passed on April 25, 2017

Senate Floor: Passed on May 26, 2017

Effective date: July 1, 2017

This Bill authorizes agreements between the Governor and Indian tribes in this State relating to the regulation of the use of marijuana. (BDR 18-321) This Bill relates to marijuana which authorizes the Governor or his or her designee to enter into agreements with Indian tribes in this State relating to the regulation of the use of marijuana.

Assembly floor vote: Passed on May 22, 2017

Senate Floor: Passed on April 25, 2017

Effective date: June 2, 2017



Currently, Chairman Mortimer is engaged in government-to-government consultation with California's Gambling Control Commission. the Tribal Nation Grant Fund (TNGF) has been included in all tribal state gaming compacts as a means to increase the amount of revenue shared with tribes eligible for the Revenue Sharing Trust Fund (RSTF)—the Washoe Tribe has received \$1.1 million annually since 2001—the funds received from the Revenue Sharing Trust Fund are used to fund the communities as well as Tribal infrastructure. The surplus dollars being discussed under the Tribal Nation Grant Fund would allow non-

gaming compact tribes ability to apply for funds, which are separate from the Revenue Sharing Trust Fund. Seventy-two (72) non-gaming tribes receive the \$1.1 million annually, which is funded by large gaming tribes who, in their individual compact, have agreed to pay into the Revenue Sharing Trust Fund. In June 2017, Chairman Mortimer attended the government-to-government consultation with the California Gambling Control Commission in Sacramento, CA to provide official testimony and lobbying efforts on behalf of the interests of the Washoe Tribe, and how funding would be beneficial to our membership. Consultation on this matter is ongoing and is of most importance to the Office of the Chairman.

Lobbying efforts require a collaborative effort amongst the Tribal Council, staff, and from the Office of the Chairman. As the Chairman, I take my role as the elected leader very seriously, and work diligently to ensure that the voice of the Washoe Tribe is heard on local, regional, and national fronts. Most importantly, through the Office of the Chairman, our membership residing on the reservation must continue to have our concerns addressed on the levels. Federal law has continuously reaffirmed the doctrine that Reservation Indians have the right to make their own laws and be ruled by them. (*Williams v. Lee*, 358 U.S. 217 (1959)). Federal law also mandates that Indian tribes have the inherent right to self-govern—something which our Tribe, through my office, continues to advance through lobbying efforts. It is of great importance to my office that our infrastructure, funding sources, and reservations are taken care of. It is crucial that our home land and reservations are provided for, and that while lobbying nationally is very important to our government, our membership on the reservation is still the key component of our existence.

With Sincerity,

Neil Mortimer

FEDERAL TRUST RESPONSIBILITY.

As sovereign and independent political communities, Indian tribes are sovereign nations with the ability to govern their own internal affairs and create laws and be ruled by them. *See Worcester v. Georgia*, 31 U.S. 515 (1832), *U.S. v. Kagama*, 118 U.S. 375 (1886) and *Williams v. Lee*, 358 U.S. 217 (1959). However, Congress has plenary power over Indian affairs. *See United States Constitution*, Article 1, Section 8. The Washoe Tribe was formally created as a federally recognized Indian tribe, in accordance with the Indian Reorganization Act of 1934, a federal law, in 1936. The Washoe Tribe has had various leaders, and during the 1960's, brought forth a lands claim against the United States in the special court known as the "Indian Claims Commission," which was created to hear the many lands cases that were brought forth by hundreds of Indian tribes across the country. The Washoe Tribe's claim is known as "Docket 288." The Tribe retained legal counsel, and in efforts to continue educating Washoe Tribal members on the status of the lands claim, the Tribal Council approved Tribal Resolution Number 63-W-2 to make the Washoe Picnic an annual event for updates on the legal status. The claim was settled in 1972 for approximately \$5,000,000.00 and was distributed to enrolled members of the Washoe Tribe in a one-time per capita payment. The settlement of the claim prevents the Washoe Tribe from ever seeking compensation for lands in the Great Basin against the United States government, and did not confer any land upon the Washoe. The claim merely compensated the Washoe for our aboriginal homelands that were taken from us. However, when the Washoe Indians were placed on reservations and allotments, we retained the inherent right to hunt and fish on our reservation trust lands, under the doctrine known as the "implied right of hunting and fishing." *Menominee Tribe of Indians v. United States*, 391 U.S. 404, 406 (1968).

What is important to know is the federal trust responsibility between the United States government and the Indian tribes—more importantly, the Washoe Tribe. The foundational principle that the Court held in *Cherokee Nation* Supreme Court case is that tribes are "domestic dependent nations," whose relations with the U.S. resemble that of a "ward to his guardian." *Cherokee Nation v. Georgia*, 20 U.S. 1 (1831). This case was the beginning of the trust doctrine in Federal Indian law, which holds that the U.S. has a trust responsibility to act on behalf of Indian Tribes. The Federal trust responsibility emanates from the unique relationship between the United States and Indians in which the Federal government undertook the obligation to insure the survival of Indian tribes. The relationship between the United States and Indian tribes is based on and built around the doctrine of trust responsibility. As the Supreme Court noted in 1983, a principle that "has long dominated the government's dealings with Indians. . . [is] the undisputed existence of a general trust relationship between the United States and the Indian people." *United States v. Mitchell*, 463 U.S. 206, 225 (1983).

The federal government's trust responsibility to Indian nations has long been recognized by the courts, by Congress, and by the executive branch. However, there is no single court decision, federal law, or Presidential proclamation that first identified this doctrine of trust responsibility. *Donovan v. Coeur d'Alene Tribal Farm*, 751 F.2d 1113, 1114-15 (9th Cir. 1985). The Federal trust responsibility extends to the Tribal government and not to individuals Indians themselves.

I believe it is very important for our membership to be knowledgeable about our history, and the unique relationship the Washoe Tribe has with the federal government, and how our lobbying efforts in advancing the Washoe Tribe and our programs is a part of that trust responsibility, and our right to government-to-government consultation.

WASHOE TRIBE OF NEVADA AND CALIFORNIA

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