

**Dry Creek Rancheria
Band of Pomo Indians**

Tribal Judicial Code

TITLE 1. JUDICIAL CODE

Amended and Effective April 27, 2013

TABLE OF CONTENTS

CHAPTER 1. TITLE AND PURPOSE

- SECTION 1.** Short Title
- SECTION 2.** Purpose
- SECTION 3.** Authority
- SECTION 4.** Establishment of Tribal Court
- SECTION 5.** Establishment of Judicial Committee
- SECTION 6.** Jurisdiction
- SECTION 7.** Concurrent Jurisdiction
- SECTION 8.** Prior Inconsistent Codes and Ordinances Repealed
- SECTION 9.** Amendment of Judicial Code
- SECTION 10.** Codification
- SECTION 11.** Code Interpretation
- SECTION 12.** Severability
- SECTION 13.** Rules of Court
- SECTION 14.** Admission to Practice
- SECTION 15.** Fees
- SECTION 16.** Conduct
- SECTION 17.** Bailiff
- SECTION 18.** Court Evaluation
- SECTION 19.** Annual Information and Court Training Session
- SECTION 20.** Annual Court Budget

CHAPTER 2. JUDICIARY

- SECTION 1.** Number of Judges and Manner of Section
- SECTION 2.** Bonding
- SECTION 3.** Term
- SECTION 4.** Judges Pro Tem
- SECTION 5.** Non-Attorney Judges Clerk
- SECTION 6.** Compensation
- SECTION 7.** Eligibility

- SECTION 8.** Conflict of Interest; Nepotism

- SECTION 9.** Disqualification of Judge

- SECTION 10.** Removal of Judges

- SECTION 11.** Judicial Cooperation

- SECTION 12.** Administrative Responsibilities

- SECTION 13.** Oath of Office Tribal Judge's Oath

- SECTION 14.** Intertribal Agreements

CHAPTER 3. APPELLATE COURT

- SECTION 1.** Appellate Court

- SECTION 2.** Appellate Court Chief Judge

- SECTION 3.** Conflict of Interest

- SECTION 4.** Appellate Rights

- SECTION 5.** Appellate Hearing

- SECTION 6.** Tax Appeals

- SECTION 7.** Standards of Review and Evidence

- SECTION 8.** Decisions

- SECTION 9.** Grounds for Reversal; Modification

CHAPTER 4. COURT PERSONNEL POLICIES

- SECTION 1.** Tribal Personnel Policies Generally

- SECTION 2.** Exempt Employees

- SECTION 3.** Holidays

- SECTION 4.** Court Hours

- SECTION 5.** Implied Consent

CHAPTER 5. COURT CLERK AND RECORDS

- SECTION 1.** Clerk

- SECTION 2.** Oath of Office

- SECTION 3.** Records; Copies of Law

SECTION 1. Short Title

This Code shall be entitled "**The Dry Creek Rancheria Judicial Code**".

SECTION 2. Purpose

This Judicial Code of the Dry Creek Rancheria is hereby enacted to protect and promote Tribal sovereignty, strengthen self-government, and to protect Tribal resources and the rights of Dry Creek Rancheria Tribal members and all others within the Tribe's jurisdiction. This Code is subject to the authority of the Dry Creek Rancheria Articles of Association and applicable federal law.

SECTION 3. Authority

This Judicial Code is adopted pursuant to the authority granted to the Tribal Council of the Dry Creek Rancheria pursuant to its reserved powers under Article 4 of the Articles of Association.

SECTION 4. Establishment of the Tribal Court

Through the authority of this Code, the Dry Creek Rancheria does hereby establish and adopt this Judicial Code of the Dry Creek Rancheria and does establish the Dry Creek Tribal Court. The Tribal Court shall consist of both a Trial Court and Appellate Court. The Trial Court and Appellate Court are hereby vested with the authority to enter such orders and issue such process as may be reasonably necessary to effectuate the purposes of this Code, subject to the limitations of this Code, the Dry Creek Rancheria Articles of Association, other Tribal law, and applicable federal law.

SECTION 5. Establishment of the Judicial Committee

A Dry Creek Rancheria Judicial Committee is hereby established. The Judicial Committee's duties shall include those duties set forth in this Code, including but not limited to reviewing the qualifications of candidates for Tribal Court Judge when needed, and such other duties as may be delegated to it by the Tribal Council or Board of Directors with respect to this Code. The review of candidate qualifications shall consist of those areas included in Section 7 of Chapter 2 of this Code. Candidates for election to the Judicial Committee shall be duly enrolled Tribal members at least twenty-one (21) years of age. The Tribal Chairperson shall serve as Chairperson of the Judicial Committee. The Tribal Council shall elect, by the same procedures used for other elected positions of tribal leadership, a Vice-Chairperson and member-at-large of the Judicial Committee. The Board of Directors will develop policies and procedures regarding how the Judicial Committee will function.

SECTION 6. Jurisdiction

Subject to the Dry Creek Rancheria Articles of Association, the restrictions set forth in this Code (including without limitation the restrictions set forth in Subsections (f) and (g) herein), and subject to applicable federal law, the Tribal Court established by this Code shall exercise the following jurisdiction:

(A) Territory. The Tribal Court may exercise territorial jurisdiction over disputes arising within or concerning all territory within the Dry Creek Rancheria, and within or concerning other lands outside the boundaries of the Dry Creek Rancheria in which the Tribe has a significant governmental interest, including without limitation fee patent lands, allotments, assignments, roads, waters, bridges and lands used or maintained for Tribal governmental purposes, and existing and future lands outside the boundaries of the Rancheria owned or controlled by the Dry Creek Rancheria for the benefit of its members or in which the Tribe has a significant governmental interest as set forth in the Tribe's laws.

(B) Personal Jurisdiction. A court of the Dry Creek Rancheria may exercise personal jurisdiction on any basis not inconsistent with the Articles of the Dry Creek Rancheria or of the United States, or federal law. Examples of a basis of jurisdiction over individuals shall include, but are not limited to presence, domicile, residence, tribal membership, consent, appearance, doing business on the Rancheria, an act done on the Rancheria, causing an effect on the Rancheria by act or omission elsewhere, ownership, use or possession of a thing on the Rancheria, or other relationships with the Rancheria as set forth under the Tribe's laws. Examples of a basis of judicial jurisdiction over corporations, partnership or other unincorporated associations shall include but are not limited to, incorporation on the Rancheria, consent, appointment of agent, appearance, doing business on the Rancheria, doing an act on the Rancheria, causing an effect on the Rancheria by act or omission elsewhere, ownership, use or possession of things in the Rancheria, or other relationships, as set forth under the Tribe's laws.

(C) Subject Matter Jurisdiction. In addition to personal jurisdiction, a court of the Dry Creek Rancheria must have the power to hear the kind of claim being brought before it. The Tribal Court of the Dry Creek Rancheria shall have the jurisdiction and authority to hear claims and interpret laws for all actions arising under the Dry Creek Rancheria Articles or the Dry Creek Tribal Codes promulgated by the Tribal Council consistent with its authority under the Tribe's Articles and Bylaws.

(D) Sovereign Immunity.

(1) The Court shall have no jurisdiction over any suit brought against the Tribe, its governmental departments, agencies, enterprises, corporations, partnerships, projects, officials, officers, agents or employees for money judgments without the express and unequivocal written consent of the Tribal Council, conforming to the requirements of this Code and any other applicable tribal or federal law.

(2) Nothing contained in this Code shall be deemed to constitute a waiver, limitation, or diminution of the Tribe's sovereign immunity from unconsented suit. Consent to suit, or

any waiver, limitation or diminution of sovereign immunity must be expressly made by the Dry Creek Rancheria as set forth in the Articles of Association.

SECTION 7. Concurrent Jurisdiction

The jurisdiction invoked by this Code over any person, cause of action, or subject shall be concurrent with any valid jurisdiction over the same, of the courts of the United States, any state, or any political subdivision thereof; provided, however, this Code does not recognize or cede jurisdiction to any other judicial, political or governmental entity in which jurisdiction does not otherwise exist in law.

SECTION 8. Prior Inconsistent Codes and Ordinances Repealed

Any and all codes and ordinances of the Dry Creek Rancheria adopted prior to or which conflicts in any way with the provisions of the Judicial Code, as amended, are hereby repealed.

SECTION 9. Amendment of Judicial Code

This Judicial Code may be amended in the manner provided for the adoption of tribal ordinances. Amendments and additions to this Code shall become a part of the Code for all purposes and shall be codified and incorporated herein in a manner consistent with the numbering and organization of this Code.

(A) The rules governing Tribal Court procedure, enacted in the manner described above, will be made a part of this Code. Should any rules enacted or amended under this section conflict with or are inconsistent with the Tribal Codes, the Dry Creek Tribal Codes shall govern and the inconsistent rule or rules shall be repealed.

(B) Rules Not Announced. Where the Judicial Code or any other Tribal Code does not expressly address a question, and it is necessary for the proper adjudication of an action before the Court, the Court may adopt a rule, giving prior notice to the parties, and may issue any order to accomplish substantial justice. Such a rule shall only apply to the hearing for which it was adopted.

(C) No amendment to this Code may apply retroactively to any case pending before the Tribal Court at the time of such action.

(D) The Tribal Court clerk is hereby charged with responsibility for codifying revisions to the Judicial Code that have been enacted by the Tribal Council. The Clerk shall carry out all duties assigned under this Title including but not limited to:

(1) Certify by signature under dated seal, any and all amendments, corrections, revisions, updates and expansions to this Judicial Code enacted by the General Council, provided that the Clerk's actions shall be ministerial in nature and the Clerk shall not be empowered to determine whether or not an action by the Tribal Council, Secretary of the Interior, or any other person or entity is necessary or sufficient for the lawful enactment into law of any amendment, correction, revision, update or expansion of this Judicial Code.

(2) Maintain an official indexed and written record, that shall be available to all tribal members upon request during regular business hours of all certifications made by the Clerk under this Section; provide copies, free of cost, of all certified amendments, corrections, revisions, updates, and expansions of this Judicial Code, to the following agencies, which are hereby declared depositories of the Dry Creek Judicial Code:

- (a) The Dry Creek Rancheria Tribal Court
- (b) The Dry Creek Rancheria Tribal Office
- (c) The Dry Creek Rancheria Gaming Commission Office
- (d) The Sonoma County Law Library

(3) Provide copies of all certified amendments, corrections, revisions, updates and expansions of the Dry Creek Judicial Code to any other person or agency requesting such copies subject to discretion by the Tribal Council or the Board of Directors. The Clerk may establish a reasonable cost for such copies.

(4) Authenticate under oath this Judicial Code and the date upon which such Tribal law went into effect.

(5) Upon adoption of any and all amendments, corrections, revisions, updates and expansions of this Judicial Code by the Tribal Council, the Secretary of the Dry Creek Rancheria Board of Directors shall convey a copy of the amendment, correction, revision, update, or expansion of the Code together with a copy of the resolution or ordinance adopting it to the Clerk.

(6) Upon receipt of all the necessary documents from the Secretary-Treasurer, the Clerk shall make a written and dated Certification of Amendment which shall be permanently attached to said documents and kept in the Clerk's permanent files. Any and all amendments, corrections, revisions updates, or expansion of the Code shall be effective on the date of the written certification required by this Section.

(7) The Clerk shall, upon certification of any and all amendments, corrections, revisions, updates, or expansions of this Judicial Code, convey copies of the new Code sections to the depositories designated under this Section.

SECTION 10. Codification

Any law, enactment, resolution, code, rule, or ordinance duly approved and adopted by the Board of Directors or Tribal Council which are intended to be included in the Dry Creek Tribal Codes and enforced by the Dry Creek Tribal Court, shall be codified pursuant to the numbering and organization of this Judicial Code. Failure to codify for inclusion of any law, enactment, resolution, code, rule, or ordinances shall not affect its validity. Under no circumstances shall any duly approved and adopted measure remain uncoded for a period of more than six (6) months from date of adoption. It shall be the responsibility of the Dry Creek Rancheria Board of Directors to assure the continued updating of this Dry Creek Judicial Code.

SECTION 11. Code Interpretation

(A) When reference is made to any portion of this Code, the reference shall apply to all amendments made hereafter.

(B) In the event of any conflict between this Code and other Tribal Codes or other Tribal Laws, this Code shall control. To the extent that this Code is inconsistent with any provisions of the substantive procedural laws of the State of California, which may have been adopted by reference by this Code or any other Tribal Law, the provisions of this Code shall govern.

(C) Section headings shall be used only for reference to format and not in construing this code.

SECTION 12. Severability

In the event any provision of this Code is found to be invalid or unenforceable for any reason, such determination shall not effect the remaining terms.

SECTION 13. Rules of Court

The Judicial Committee may adopt such Rules of Court from time to time as may be reasonable and necessary to achieve the purposes of this Code. Proposed Rules of Court shall be drafted by the Judicial Committee, in consultation with the Chief Judge and the Clerk. The Judicial Committee shall adopt such Rules of Court and amendments thereto, by resolution and submit such Rules to the Board of Directors for final approval as required in the Articles.

SECTION 14. Admission to Practice

(A) Any attorney admitted to practice in the State of California who is in good standing with the California State Bar or with the courts of the United States is eligible for admission to practice in

the Dry Creek Rancheria Tribal Court. Each applicant for admission to practice in the Tribal Court shall complete and file an application which shall be reviewed for approval by the Judicial Committee or the Tribal Court.

(B) The Tribal Court may admit to practice where appropriate, a lay advocate who is a member of the Dry Creek Rancheria.

(C) The Tribal Court may, in its discretion, admit any other person to appear before it as an advocate, upon successful completion of an application prepared or approved by the Judicial Committee or Tribal Court.

SECTION 15. Fees

The Judicial Committee shall determine a schedule of fees that shall apply to actions filed in the Tribal Court.

SECTION 16. Conduct

If in the course of any proceeding, any person who misbehaves so as to obstruct the administration of the proceeding, may be excluded from further participation therein, and fined an amount not to exceed \$100.00. If the offender is the claimant or the claimant's attorney, the Tribal judge may summarily terminate or suspend the proceeding and dismiss the claim with prejudice.

SECTION 17. Bailiff

Upon request of the Chief Judge, the Tribe shall provide the services of a tribal security officer to act as court bailiff to ensure that order is maintained in any proceeding of the Tribal Court.

SECTION 18. Court Evaluation

At the end of each fiscal year, the caseload of the Tribal Court for the previous year shall be evaluated by the Judicial Committee. Factors examined during the evaluation shall be based on strict adherence to this Judicial Code. Examples of things to be reviewed by the Committee are: acceptable court procedures, compliance with proper court authority, and any other proper consideration for court performance..

SECTION 19. Annual Information and Court Training Session

The Board of Directors will at least annually sponsor and pay for a Tribal Court Training session to be held on or near the Dry Creek Rancheria. The purpose of the training session will be to familiarize prospective attorneys, litigants, pro-tem judicial candidates, and tribal members with the rules of court, including rules of: civil procedure, evidence, trial procedure, and tribal law.

The training session will be open to any person wishing to attend, and each person may be charged a registration fee to help off-set the costs to the Board of Directors.

SECTION 20. Annual Court Budget

(A) The Tribal Court shall be funded by the Tribe through an annual appropriation and court filling fees. Additional funding may be obtained through the levy of fines and administrative fees. Federal, State or private grants may also be used to fund Court operations. The Board of Directors shall establish a base funding amount which shall be the basis for each annual appropriation. The base funding level shall not be decreased unless there is a significant reduction in total funds available to the Tribe for budgetary purposes or if Federal, State, or private grants provide for the funding of the Court. The Chief Judge may request additional funding from the Tribal Council, as set forth below. If the Tribal Council grants an increase, the increase shall not be considered a change in the base funding amount, unless specifically stated in the appropriation language.

(B) The Chief Judge, in consultation with the Dry Creek Rancheria Judicial Committee shall annually on or before the first regularly scheduled Tribal Council meeting in the month of November, or as soon thereafter as is practicable, submit a proposed Tribal Court budget to the Tribal Council pursuant to the procedures commonly used by other Tribal programs and shall address the Chairperson and Tribal Council directly regarding modification to such budgets.

(C) The Chief Judge shall be responsible for the efficient operation of the Tribal Court. The Chief Judge may expend funds for salaries and fringe benefits, capital additions, and operational expenses as he/she deems appropriate to meet the goals and objectives of the Court, subject to the approval of the Board of Directors. All costs associated with the operation of the Tribal Court must be within the limits of the funds appropriated annually by the Board of Directors.

CHAPTER 2. JUDICIARY

SECTION 1. Number of Judges and Manner of Selection

(A) The Dry Creek Tribal Court shall consist of one appointed Chief Judge. One or more Judges Pro Tem may be appointed by the Chief Judge as provided for in this Chapter. The Judicial Committee, Chief Judge and Clerk shall, from time to time, make recommendations to the Judicial Committee regarding the Court's staffing needs, and the Judicial Committee shall make final determinations as to the number of judges needed and recommend their determinations to the Board of Directors who will decide on whether to adopt/take action on the recommendation.

(B) The Chief Judge will work on a part-time basis according to a schedule to be determined by the Judicial Committee.. The Judicial Committee shall have the ability to recommend hiring a full-time judge to the Board of Directors should the court require.

SECTION 2. Bonding

Before taking office, each judge of the Tribal Court shall, at tribal expense, post bond in an amount determined by the Judicial Committee, or shall be covered by the Tribe's blanket bond as the Judicial Committee and the Board of Directors may determine.

SECTION 3. Term

The Chief Judge of the Tribal Court shall be appointed by the Board of Directors, in consultation with the Judicial Committee, to a term as provided by written contract. Temporary Judges Pro Tem shall be appointed by the Chief Judge, as needed, in consultation with the Judicial Committee for a term provided in a written contract.

SECTION 4. Judges Pro-Tem

Whenever the need arises, the Chief Judge may make temporary appointments of persons who otherwise meet the qualifications in this Chapter, to serve as Trial or Appellate Judges Pro-Tem. The Chief Judge may, in his/her sound discretion, appoint more than one judge pro-tem thereby creating a pool of qualified judges pro-tem from which one may be selected from time to time as circumstances dictate. Such persons may be judges serving other Indian Tribes, in which case they need not meet the requirements of Section 7 of this Chapter. Appointment of Pro Tem Judges shall require approval of both the Judicial Committee and the Board of Directors.

SECTION 5. Non-attorney Judge's Clerk

If the person elected as Chief Judge is not a licensed attorney, a law clerk shall be hired by the Chief Judge to assist in carrying out judicial responsibilities. Minimum qualifications for the Judge's clerk shall include: (a) a law degree; (b) at least two years full-time experience working as an licensed attorney, law clerk or paralegal with strong background in legal research and writing; (c) excellent communications skills; (d) excellent working knowledge of court operations and civil procedure, (e) must pass the same test as is required of judges, and (f) must be a licensed attorney good standing with the state bar where they are licensed. The law clerk's contract of employment shall be conterminous with the term of the Chief Judge.

SECTION 6. Compensation

Each judge shall be compensated pursuant to a written contract with the Board of Directors. Under no circumstances shall any judge's compensation be reduced during his or her current term of office.

SECTION 7. Eligibility

(A) The Judicial Committee, with assistance of a Tribal Attorney, shall develop a questionnaire that each prospective candidate for a position as a Trial Court Judge or Appellate Court Judge shall complete. The questionnaire shall at a minimum fairly test the candidate's knowledge of

the Tribe's Articles of Association, this Judicial Code, all appropriate Tribal resolutions and ordinances, the Tribal-State Gaming Compact, the Indian Civil Rights Act, the Indian Child Welfare Act, the precepts of federal Indian law applicable to the Tribe and its Rancheria, and will include an evaluation of the candidate's writing and analytical abilities. Failure to complete the questionnaire will be grounds to remove that individual as a candidate for Tribal Court Judge.

(B) To be eligible to serve as a judge of the Tribal Court, and in order to qualify as a candidate for Chief Judge, a person must: (1) be a United States citizen; (2) be at least 35 years of age; (3) never have been convicted or found guilty of a felony or convicted or found guilty of a misdemeanor involving moral turpitude within the preceding ten years; (4) be of high moral character and mentally sound; (5) satisfactorily demonstrate to the Judicial Committee a working knowledge of the Indian law concepts set forth in the questionnaire as set forth above; and (6) must have successfully completed a court training session or equivalent within two years before the appointment date and every two (2) years thereafter. Preference will be given to candidates that possess one or more of the following: enrolled membership in a federally-recognized Indian tribe; significant judicial experience; and significant federal Indian Law experience.

SECTION 8. Conflict of Interest; Nepotism

Any judge of the Tribal Court or Appellate Court shall be disqualified to preside over any case in which he or she has a direct interest, and shall not take part in the deliberation or determination of any matter (1) affecting his or her spouse, son, daughter, sister, brother, mother, father, granddaughter, grandson, grandmother, grandfather, aunt, uncle, niece, or nephew or any of the following in-laws: son, daughter, brother, sister, mother, or father; or (2) where for any other reason the judge cannot be impartial; or (3) where the judge finds that a reasonable person would believe that the Judge could not be impartial.

SECTION 9. Disqualification of Judge

Any party to a case may bring a motion for disqualification based upon any grounds set forth in the preceding section. The Court shall conduct a hearing on the motion. If the Court grants the motion, the matter shall be transferred to a Judge Pro-Tem. If no Judge Pro-Tem is currently appointed, the Board of Directors shall appoint one, upon notification from the Court. If the Court denies the motion, it shall do so by written order setting forth the reason for denial. The moving party may then appeal. See also, Section 4 of Chapter 3 of this Code.

SECTION 10. Removal of Judges

Removal of any judge by the Tribal Council shall be automatic upon receipt of proof of a felony conviction at any time, or a misdemeanor conviction involving moral turpitude, corruption or dishonesty within the preceding ten years of election to office, or at any time during his or her term in office. A judge may also be removed for cause after a hearing before the Board of Directors for the purpose of providing the judge with an opportunity to respond to claims and challenges against him or her.

“Cause” is defined as:

- (A) Conduct reasonably likely to prejudice the administration of justice;
- (B) Conviction of a crime involving moral turpitude;
- (C) Changes that would otherwise make the candidate ineligible under this Section; or
- (D) Gross neglect, dishonesty, or failure to adequately perform the duties of the Office.

SECTION 11. Judicial Cooperation

Judges and personnel of the Tribal Court shall cooperate with federal and state courts and agencies to the extent such cooperation is consistent with Tribal law, and does not infringe on the Tribe’s sovereign immunity.

SECTION 12. Administrative Responsibilities

The Chief Judge shall be responsible for administering the Dry Creek Rancheria Tribal Court. The Chief Judge’s responsibilities shall include, but not be limited to, the administration of the Tribal Court budget; entering into contracts for funding; contracting with judges Pro-Tem, and contracting with the parties or organizations necessary to provide the judicial services of a Court of Appeals, subject to approval by the Judicial Committee.

SECTION 13. Oath of Office

Before taking office, and in the presence of the Tribal Chairperson, all Tribal Judges shall be required to take the following oath of office:

Tribal Judge's Oath

I, _____, do solemnly swear:

1. I will respect and uphold the Articles and laws of the Tribe;
2. I will, at all times, act in a professional manner and will promote the respect and integrity for the Articles and laws of the Tribe;
3. I will protect and promote the intent and purpose of the Dry Creek Rancheria Judicial Code;
4. I will promote the cohesiveness and security of the Tribal community in a equitable and just manner;

4. I will be faithful and honest to the office of the Tribal Judge for as long as I hold that office; and,

5. I will uphold the laws of the Dry Creek Rancheria fairly and equally to all persons who may come before the Tribal Court.

Judge

Subscribed and sworn before me this ___ day of _____, 20__.

Tribal Chairperson

SECTION 14. Intertribal Agreements

By written resolution, the Board of Directors may enter into agreements with other Indian tribes to establish and participate in an organization which makes court personnel and/or administrative services available to participating tribes. In the event of such an agreement, such personnel shall be appointed, compensated, or removed, and payment for such services shall be provided for within the Chief Judge's employment contract and/or the intertribal agreement,.

CHAPTER 3. APPELLATE COURT

SECTION 1. Appellate Court

The Board of Directors may contract with individual Judges or with an organization for handling appeals from the Trial Court as needed. Appellate Court judges shall be licensed attorneys in good standing and when practicable and have practiced appellate law or have served as a judge in another jurisdiction. The hiring process and conditions of employment for Appellate Judges shall be the same as that for Trial Court judges, as set forth in this Code.

SECTION 2. Appellate Court Chief Judge

The Appellate Court shall appoint or elect one of its members to serve as Chief Judge. The Appellate Court Chief Judge shall preside over all appellate hearings and shall execute all documents related to the case, if of the majority view. In those cases where the Chief Judge is not of the majority view, the judges who are of such view shall designate one of their number to execute all necessary documents. Any dissenting judges shall have an opportunity to present their written minority opinion of the case.

SECTION 3 Conflict of Interest

No person shall be qualified to sit on a panel of the Court of Appeals in any case wherein he/she has any direct interest or as provided in Section 8 of Chapter 2 of this Code.

SECTION 4. Appellate Rights

Appellate Rights shall be established by Rules of Court which may specify the scope of appellate jurisdiction, the grounds for appeal, standards of review, the manner in which appeals may be granted, the relief available, and such other matters as may be reasonable and necessary to achieve the purposes of this Code. Proposed Rules of the Appellate Court shall be drafted by the Judicial Committee, in consultation with the Judge or Judges, and the Clerk. The Judicial Committee shall adopt the rules, and any amendments thereto, as a resolution.

SECTION 5. Appellate Hearing

Within ninety (90) days from the date a written notice of appeal is filed with the Clerk and served upon all parties to the case, the Appellate Court shall convene, unless additional time is warranted by a good cause, to hear the case on appeal at such place and time as the Appellate Court may designate.

SECTION 6. Tax Appeals

Any party contesting the assessment of any taxes owed to the Tribe, or any party appealing a judgment for taxes owed, or a judgment for any other remedy provided under any tax ordinance of the Tribe, must pay the assessed tax or judgment, or provide security equal to the amount of such taxes or judgment, before he or she may appeal under this section. Upon the payment of such taxes and upon posting of a \$100 bond for costs, the appealing party may be granted a stay of execution as to the part of any judgment in excess of the amount of tax owed, which shall not be carried out unless and until affirmed by the Court. Any forfeiture of seized goods shall be stayed pending the appeal, and the Court shall hold the goods seized in a safe and secure location until the final resolution of the case. If the Court determines that the goods are perishable or subject to sharp decline in value, the Clerk of the Court may sell such goods in a commercially reasonable manner and hold the amount realized until the final resolution of the case.

SECTION 7. Standard of Review and Evidence

The Appellate Court shall review all appeals de novo, and the same record and evidence that was used in the Trial Court shall be used in the appellate proceedings. The Appellate Court may also consider the parties' written briefs and oral arguments.

SECTION 8. Decisions

The appellate panel may affirm the judgment as entered, modify it, or reverse the judgment, or vacate the judgment and remand the case back to the Trial Court for further proceedings, or dismiss the case for failure of the appellant to comply with court procedures or otherwise in the interest of justice, by the majority vote, and its decision shall be final.

SECTION 9. Grounds for Reversal, Modification

A judgment of the Trial Court shall be reversed or modified upon Appellate Findings that:

- (A) The Trial Court erred as a matter of applicable law in a way that materially affected the case's outcome; or
- (B) The judgment is unsupported by the record taken as a whole.

CHAPTER 4. COURT PERSONNEL POLICIES

SECTION 1. Tribal Personnel Policies Generally

The Personnel Policies of the Dry Creek Rancheria shall apply to all Tribal Court personnel except where they may conflict with this Code.

SECTION 2. Exempt Employees

Judges and Clerks of the Tribal Court shall be exempt from such provisions of the Tribal Personnel Policies to the extent such provisions are covered or intended to be covered in this Code.

SECTION 3. Holidays

Except in unforeseeable situations, holidays to be honored by the Tribal Court will be those holidays observed by the Dry Creek Rancheria Board of Directors included as part of the Tribal Personnel Policies.

SECTION 4. Court Hours

Regular office hours for the Tribal Court office will be Monday through Friday of each week from 8:00 a.m. to 5:00 p.m. Any Trial Judge hearing a case shall have the discretion to designate a time most convenient to hear the case. The Tribal Court scheduling calendar shall have precedent over any request by either party in the case.

SECTION 5. Implied Consent

Any person applying for an office within the Tribal Court must consent to any and all measures necessary to confirm that person's qualifications and criminal record as may be required in this Code.

CHAPTER 5. COURT CLERK AND RECORDS

SECTION 1. Clerk

The Chief Judge shall employ and supervise a Clerk of the Court. The Clerk shall render assistance for both the Trial and Appellate Courts, to the Tribal Council, the Board of Directors, Judicial Committee, Tribal Members and to individuals appearing in either Court in drafting of complaints, motions, pleading, subpoenas and any other documents incidental to the Court's lawful function. The Clerk shall not give legal advice. The Clerk shall maintain a list of attorneys and lay counselors permitted to practice before the Court. The Clerk shall attend and keep an accurate written record of all practice before the Court. The Clerk shall administer oaths to witnesses, and shall perform such other duties as the Chief Judge may designate. The written record of the Court proceedings may be transcribed from an audio recording of the proceedings, or the Clerk may hire, with Court funds, a court reporter to record the proceedings. The Clerk, before assuming his or her duties, shall, at tribal expense, post bond in an amount determined by the Board of Directors, or shall be covered by such other security measures as the Board of Directors deems appropriate in consultation with the Judicial Committee.

SECTION 2. Oath of Office

Before taking office and in the presence of the Tribal Chairperson, the Court Clerk shall take the following oath:

“Court Clerk’s Oath”

“I, [name], do solemnly affirm:

1. I will uphold the Dry Creek Rancheria Judicial Code to the best of my ability;
2. I will perform the Clerk’s duties faithfully and honestly;
3. I will not allow my personal views and relationships to affect the performance of the Clerk’s duties;
4. I will not attempt to influence the course of any court proceedings; and
5. I will not reveal any confidential matters that I learn in the course of official duties”

Clerk of the Court

Subscribed and sworn before me this ___ day of _____, 20__.

Tribal Chairperson

SECTION 3. Records

The Tribal Court shall keep for its own information and for inspection by Tribal members and individuals authorized by the Tribal Council, Board of Directors, Judicial Committee, or Chairperson a record of all Court proceedings, which shall reflect the title of the case, the name of the Judge, the names of the parties, the substance of the complaint, the name and address of all witnesses, the date of the hearing or trial, the findings of the Court and the judgment, together with any other facts or circumstances deemed of importance to the case. Such records of all proceedings shall be kept at the Tribal Court Office. The Clerk shall maintain the security, integrity, and confidentiality of Tribal Court records.

SECTION 4. Copies of Law

The Tribal Court shall secure and maintain current copies of the Articles of Association, this Judicial Code as amended, all pertinent resolutions, ordinances, or enactments of the Board of Directors, Tribal Council, and such regulations as may be applicable to the conduct of the Court's business.

CERTIFICATION

The foregoing Judicial Code was presented at a General Membership Meeting held on April 27, 2013, and was approved with a quorum present and such Code has not been rescinded or amended in any way.

Harvey Hopkins
Chairman

Date

Margie Rojas
Secretary/Treasurer

Date