

**MCT Constitution Reform Convention Minutes February 16, 2024  
Hosted By FDL Delegates at Black Bear Casino and on Zoom**

**In person attendees:** Cheryl Edwards FDL, Wayne Dupuis FDL, Julia Lintgen FDL, Tara Dupuis FDL, Patricia Sorensen FDL, Berdie Roberts GP, Michele Beeksma GP, Sally Fineday LL, Mike Reyes LL, Deb Johnson-Fuller Community FDL, Tracy Dagen BF, Leroy Day MLB, Mika Davis MLB, Emily Annette WE, Norman DeMarris WE, Jean Skinaway-Lawence SL-RL, Niib Aubid SLB-RL, Danielle Smith MLB, Rosalle Bowstring LL, Casandra Tapio LL,

**Zoom Attendees:** Carol Janick FDL, Marcie McIntire GP, Paul Sam, Jolyn Donnell WE, Julia Hernandez-Corado MLB, Raymond Bellcourt W.E., Gerald Warner FDL, Angel Stevens WE, Sandra Borden. GP, Tracy Vermillion BF, Michele Palomaki MLB, Louie Johannsen WE, Char Ellis WE, Al Olsen MLB,

**Welcome and Invocation: Wayne Dupuis FDL**

**Delegation Roll Call**

- Bois Forte-present, Fond du Lac-present, Grand Portage-present, Leech Lake, -present, Mille Lac Band-present, and White Earth-present.

**Housekeeping/Reminders See Process attached to agenda.**

We should be respectful. We are here to work together. We have a process to help us move forward. Let's keep these in mind today.

- 1) Setting ground rules;
- 2) Identifying and prioritizing issues;
- 3) Working through possible solutions to those issues and gaining community
- 4) Drafting the document;
- 5) Holding community meetings to hear input on that draft;
- 6) Making revisions (if warranted); and
- 7) Finalize and present the final draft.
8. How are we to be structured?
9. Visual diagram
  - Identify and prioritize a focus issue (One meeting).
  - Brainstorm possible solutions/options/direction in regard to that issue (One to two meetings).
  - Take possible solutions/options/directions to our communities for input (in between meetings).
  - Take a vote on proposed solutions/options/directions regarding the issue (One meeting).

**Committee Reports**

1. TEC Committee – Have not met recently
  - A Special TEC Meeting called in December 2023

- TEC updated the Election Ordinance; all six bands will do the same criminal background check.
- There was a speaker from the Rise and Repair Coalition
- Margaret spoke on MTCA
- A discussion occurred on Forest Services and Helium exploration.
- Other good reports.
- TEC tabled the Enrollment Ordinance for January 2024. When the Constitution Reform delegates were at that January meeting, we made our statement about using an ordinance to change the Constitution. Unless the TEC moves forward with that, we don't need any more discussion.
- Review of TEC January 10, 2024.
  - Emergency Northern Minnesota Radar Coverage
- Comments and Questions from the Audience:
  - Sally F. asked if the bands or MCT would do the background checks. The answer is that the MCT will use a uniform system to do the check and certification.
  - Michael R. from Leech Lake, a 16-year law enforcement veteran, explained the background check system. He stated that you have to know how to read them. He noted that the Constitution says, "Convicted of Felony," but if you see the record, there may be a plea to a felony, but it may say "gross misdemeanor." You have to look at history, which indicates the highest charge was a felony, with a plea to a lesser charge. Look at the adjudicated pleas, i.e., Alford pleas, etc. He also said that a member cannot run for office according to the Constitution if they plead to "or a less crime involving theft, ....of money ....of an Indian Tribe or a Tribal organization. We note that we know people who have stolen from the Tribe but were not charged because it was up to the council and should be up to the people.

## **2. Education Committee**

- Berdie R. gave an update on the education project.
  - The Committee has not met in a couple of months but is still on the project.
  - Cheryl received two videos from Mille Lac Band this week, and they are still waiting for four additional elders' videos, which Sally F. agreed to take over.
- Sally F. said the Blood Quantum education sheet is used frequently, and we hope to have a one-page lineal descent sheet soon.

## **3. Finance Committee – Approval of Bush Grant application and budget.**

- Cheryl E. stated that the Grant is for \$3,398,546 for a 3-5 year term. She said the Grant had to be rewritten. She read the document with the Idea, Impact, revised Constitution and Plan, and Funds sections. She stated that the delegation will need to approve the document.
- Delegates comments:
  - Michaa A. suggests that we pass the Alliance before the Bands complete their Constitutions. He suggests that the language is consistent regarding the six constituent bands versus nations or tribes. He also stated that referring to the Pre-IRA status of the six nations, does it presupposes that the 1934 and 1964 Constitutions were a mistake, not one Tribe, seven tribes, including Sandy Lake and Rice Lake? Because Pre-IRA, Sandy Lake, and Rice Lake

operated equally as the six bands. There is nothing traditional about six bands. We were one. We sat at the council equally. Our restoration of the new documents is traditional. Cheryl responded that the Gant is written on how the system is now, and there is nothing to say that things cannot change.

- Emily A. asked why we couldn't just add Sandy Lake.
- Michelle B. said that the grant narrative is tied to the budget request. We initially had Sandy Lake included but it was inconsistent with the language of six bands. The outside reader would not understand. When we write the constitution, we will consist of Sandy Lake.
- A roll call on the acceptance of the application.
  - Julia L. motioned that we accept the narrative with the language change from six nations to six constituent reservations throughout the document.
  - Tracy D. seconded the motion.
  - Discussion
    - Mike R. LL noted that we are six nations, and when you start calling us constituents rather than Nations, you are taking that way from us. MCT is not a constituent of ours. They are not our representatives. We are our representatives. By using constituents, you are taking away our sovereignty.
    - Sally F. Agreed with Mike R. about using Nations.
    - Julia L. stated that constituent means a part of a whole.
    - Michelle B. noted that constituents were used because it was consistent with the language in the Constitution.
    - Sally F. said we must identify six constituent reservations in the constitution.
    - Julia L. changed six nations to six constituent Nations throughout.
    - Cheryl E. stated that we now have a motion to amend the first motion to approve a change to call ourselves Nations and add a statement that "we are all part of the MCT."
    - Julia L. seconded the motion.
    -
- **VOTE**

Bois Forte-yes Fond du Lac-yes, Grand Portage-yes, Leech Lake-yes, Mille Lac Band-yes, and White Earth-yes. Consensus achieved.
- **CHAT**
  - Cheryl's answer to the two questions in the Chat was that they were answered in the discussion just before the break.
  - Jean S.-L asked why Sandy Lake was left out.
  - Gerald W. asked why not use MCT Nation

#### 4. Discussion: TEC PANEL

- FDL drafted some questions for TEC to invite them to a TEC Panel. We would put these questions in an email inviting them to a panel discussion. We would prefer to have the whole delegation involved and are today asking for consensus and additional questions from the delegation.

- Sandra B. Correct the word Interrupting to interpreting.
- We will send out these questions so the other delegates can add to them.
- Mike R. questioned how many members are younger than 18, between 0-18, 10-18, and what % do we expect to "age out" after age 18? What is 30% of 40,000 members, 34,000 voting members, of the people that vote or those registered? How long will we wait to expire out where we don't have children enrolled?
- Birdie R. asked what you hope to achieve and your overall goal.
- Cheryl E. responded we need information to educate our members. TEC is defined as the only one who can interpret anything. 30% is used only in a Secretarial Election, not for referendums. The constitution requires 30% of 34,000 adult members. TEC required registered, not eligible voters, in the past 2 Secretarial Elections (previous practice).
- Berdie R. noted that she gets the impression that FDL thinks the TEC has stepped outside the standard authority the delegates want to understand, and FDL has had conflicts.
- Cheryl E. responded yes, and the TEC has heard the information in Brodeen's letter of 7/13/20. We need the age ranges for many purposes. How many 17-year-olds are there? We must educate them they will be able to vote. As of the last report from the TEC in October 2023, a Secretarial Election will be held.
- Michelle B. stated that she should discuss it with the GP Delegates. We are hosting next month, and that will not be enough time to have the questions back and arrange a panel. The overall tone of the letter is confrontational. We will need to review it and get back to you.
- Sally F., we had a panel, and it was good. The TEC are also citizens, and the questions should not be confrontational. Send them to us for review.
- Cheryl E. said the BIA asked TEC to write an interpretation of what 30% means. TEC said they were only quasi-judicial and were not comfortable writing it. Yet I-80 states that only TEC can interpret the Constitution.
- Michaa A. expressed that he felt we could make the 30% requirement if we give the people on the package with the Alliance, which will take care of removing the Secretary of the Interior, reform the Government, define which of the 6 Bands or 7 Bands remain with the Tribe, and define enrollment.
- Cheryl stated that there are many options for this Secretarial Election.
- Sandra B. suggested that the TEC appear by ZOOM if GP has arranged for a smaller room and is concerned about space at the next convention.
- Michelle B. stated that the questions and TEC panel don't seem relevant to the Alliance.
- Jolyn D. agreed with Michelle and asked about the 32-20 Blood Quantum correction and how many members were added. Are we dealing with the Secretarial Election or the Alliance document?
- Cheryl said that The TEC expects the delegates to do education. We have a current Constitution now. The 32-15 Resolution is on the Election path now. We do not know the answers to what the 30% means, so how can we write Enrollment into the Alliance? That section is currently blank, due to these discussions at our Convention meetings. Draft was put on screen to show this.
- Julia L. I wrote the draft of the questions and did not mean to be confrontational.

- Carol J. noted that TEC has been asked for this information, and they have not responded for over a year. The election is coming up, and we should know what is happening. TEC took an oath to uphold the constitution, and they should make consistent decisions. If they request a waiver, they should meet the regulation requirement and identify what is best for the people. In the future, we will have secretarial elections to remove the Secretary and vote for the Alliance.
- Cheryl stated it has everything to do with the Alliance, separate constitution, constitutional reform, and enrollment. We should expect answers.
- We all should check emails, and we all need to respond to the emails. We need a deadline for a response on whether to hold a TEC Panel.
- **CHAT Questions**
  - Angel S. asked If they hold the secretarial election and use the voters there as "registered voters"? And use the 30% there? Is it a possibility according to our constitution...?
  - Cheryl responded that TEC must write an interpretation for the BIA, which will not set a secretarial election date until TEC does this.
  - Michaa A. stated that TEC wrote a Resolution that 30 % of all are "entitled to vote."
  - Gerald W. Isn't the quorum 30 % the same for the TEC and overall voting?
  - Jolyn D. Cheryl, can you share the letter or memo from the BIA on this request? Have you seen the OFS opinion of the BIA on this issue?
  - Cheryl: No, this is from the October 2023 TEC draft minutes, which you all have been sent to your email.
  - Angel S. asked if they were continuing the secretarial election; they must have answered it. If they are using only voting members, not enrolled members, are they violating our constitutional rights as we have known the 30% requirement as enrolled members, not voting members?
  - Gerald W. They must have a quorum to vote whenever the TEC meets. I was asking this about overall voting and educating the public to get out and vote. In your second paragraph, why is age 21 listed and not 18?
  - Angel S. Where can we find that Resolution? The one you and Michaa were talking about "entitled to." Cheryl: Not a resolution. Written in the Constitution.
  - Cheryl E. suggested that they read the October 2023 TEC minutes. The answers are there.
  - Carol J. stated that we can only speculate what TEC did. Still, Attorney Brodeen's 2020 letter to the TEC states that he thinks, "if Hudson v. Zinke is upheld, then we have to give deference to the constitution, but if it is overturned, we can once again use registered voters."
  - Michelle B. stated she was glad that FDL was asking for consensus. We need united approval. Sometimes, FDL has gone out on its own. We all want to work with TEC.

**5. Alliance –Carol J. DRAFTING COMMITTEE MEETINGS ARE OPEN, AND WE WELCOME ANYONE TO JOIN US AND MAKE SUGGESTIONS:**

1. A first draft is written of a document.
2. The Drafting Committee reviews it and makes changes.
3. When completed, all Band delegates receive a copy of the draft.

4. Anyone can make suggested changes at any time or at the monthly convention meetings.
5. The Committee discusses suggested changes and makes the changes in the documents.
6. The next draft of the document is sent to the whole delegation again. This process continues until the entire delegation approves a document.
7. As of this date, you have a copy of the following:
  - Draft 10 of the Alliance
  - Draft 3 of the Grand Council (ARTICLE XVII)
  - Draft 3 of the Citizen Councils (ARTICLE XVIII)
  - Draft 3 of the Central Council (ARTICLE XXIX)
  - Draft 2 of the Judiciary (ARTICLE XXIII)
  - Draft 1 of the Recall, Removal, and Vacancies (ARTICLE XXIV)
  - A draft of a Code of Conduct, Ethics, and Conflict of Interest
8. As of this date, we have finished:
  - Draft 3 of the General Assembly (ARTICLE XX)
9. Currently working on:
  - Administration and Supervisory Council (ARTICLE XXI)
    - Which reconstructs the MCT Organization's Functions
    - Which integrates other Articles of the Alliance (for example, Rights of Nature, Rights of Citizens, etc.)
10. As of this date, we have a rough draft of:
  - Tradition and Custom Dispute Resolution (ARTICLE XXII)
  - Additions to Judiciary that need looking at:
    - Public Law 280
    - Ethics for Judiciary and Removal Process
11. You can follow the progress of your suggestions in several ways.
  - Speak to the Drafting Committee delegate from your Band for updates.
  - Review the draft of the documents emailed to you.
  - Review the last draft of the Alliance document posted at [fdlconstitution.org](http://fdlconstitution.org)
  - Review the Drafting Committee meeting minutes posted at [fdlconstitution.org](http://fdlconstitution.org)
  - Join us at the Drafting Committee meetings.

### **General Comments:**

- Sandra B. asked for the time and dates of the Drafting Committee meeting and the link to the ZOOM.
- Carol J. Drafting Committee meets weekly at 6 PM on Tuesdays. Everyone is welcome to join or drop in for a few minutes and let us know your suggestions or concerns. Sometimes, we make the suggested change; sometimes, we put the suggestion on a list and put it somewhere else. And sometimes, we don't see how the suggestion fits our framework. We are currently working on the Administration and Supervisory Council, the implementation and supervisory section. We are determining how MCT function fits in this governing body. We are also fitting other Articles of the Alliance into the document. The Drafting Committee members have never written governing documents before. We are doing our best to write them with roles and responsibilities, a framework that

reflects the concepts of Government by the people, accountability, transparency, etc. We are listening to what you say and trying to get those issues in the Governing Bodies.

- Cheryl E. pointed out that the ZOOM link is the same as the delegates use to get to the convention meeting. It never changes.
- Sally F., since we are having difficulty getting information and responses to our questions, there should be a statement somewhere that responding is mandatory. If not, it is grounds for removal.
- Michaa A. expressed that there will be multiple committees in the new government that the citizens will have access to and have their questions answered through.
- Carol J. reported that the Grand Council is also set up so citizens can get answers.
- Cheryl E. put up the screen for [www.fdlconstitution.org](http://www.fdlconstitution.org) and Demonstrated how to find the documents and minutes from the Drafting Committee, the Finance Committee, etc.
- Marcie M. talked about how the Committee is writing the document from a "lived experience" and knowledge and that we need everyone's thoughts. She said we look at the positives and negatives and share documents. She said the Constitution, as written, has been a system of "gloom over" our ancestors and us, and it has not been fair. We have looked at the treaties and how they can work for us, the Charter thrown out without our input, and the I-80 Resolution, which TEC set itself up to be a tribunal, and we all know various councils under reservations cannot get information. We are making progress. We need your help and thank you to those reading the documents.
- Deb J-F, a community member, asked, "How will you educate me? She also said the community's education needs to be at a fifth-grade level. Sally F. and Cheryl told her that the Delegates have plans for Education with the \$100,000. Twenty-one meetings, four hours of videos, with a person to answer questions. Wayne D. said FDL holds biweekly meetings.
- Cheryl E. Assignments (first eight articles). This information should have gone to your communities for review.

6. Carol J. presented a document that **compared the UNDRIP Article with The International Covenant on Civil and Political Rights, which the United States signed in 1977 and ratified in 1992.** The Articles in each are very similar, if not the same. This also applies to the Charter of the United Nations, signed by the US Government. The International Covenant on Economic, Social, and Cultural Rights was signed by the US in 1977, and the Universal Declaration of Human Rights was signed by the US in 1948. These previously signed treaties show that the United States has already committed to the right in UNDRIP. We should not be concerned that they only supported UNDRIP but have not signed it. As a Sovereign Nation, we can use UNDRIP.

- Additionally, other tribes have UNDRIP in their governing documents. Two examples are: The Muscogee (Creek) Nation adopted UNDRIP and has

written a resolution to that effect in their language. The Pawnee Nation of Oklahoma has adopted UNDRIP and has written an ACT, The Pawnee Nation Declaration on the Rights of Indigenous People (PNDRIP).

## 7. Education – FDL - The 30% Quorum Comparison Between the MCT Constitutional and Secretary of The Interior Regulations

- Carol J. presents the material in the Attachment to these minutes.
- Sandra B. stated that this was a great presentation. She hadn't gotten this level of understanding from any other presentation on this subject. She suggested that it be shared with the TEC and Phil Brodeen.
- Carol J., we have to go forward. An ordinance does not change the Constitution.
- Marcie noted that we must follow Hudson v. Zinke and the law but felt we were set up from the beginning. The 30% has not worked and never will. Human behavior studies show that people are not going out to vote. Maybe an all-out movement will work. It is a high bar to meet.
- Raymond B. TEC has no right to interpret. We can not change the Constitution with an Interpretation. The solicitors wrote opinions giving deference to the TEC and the TEC 1-80 amendments to the Constitution. That wasn't right.

## 8. Resolution 32-15, Discussion re: Referendum Questions.

- Carol J. reviewed the language of the Constitution
  - **Article XIV Referendum**  
Section 1. The Tribal Executive Committee, upon receipt of a petition signed by 20 percent of the resident voters of the Minnesota Chippewa Tribe or by an affirmative vote of eight (8) members of the Tribal Executive Committee, shall submit any enacted or proposed Resolution or ordinance of the Tribal Executive Committee to a referendum of the eligible voters of the Minnesota Chippewa Tribe. The majority of the votes cast in such a referendum shall be conclusive and binding on the Tribal Executive Committee. The Tribal Executive Committee shall call such referendum and prescribe the manner of conducting the vote.
  - This article was read and explained at the last TEC Meeting. There was no opposition to the concept that the referendum is binding or the view that the referendum should go to a Secretarial Election.
- Cheryl E. presented a PowerPoint presentation on Recommendations for the April 2024 TEC Meeting.
  - Ask to add the 2022 Referendum questions to the Secretarial Election with the 32-15 question.
  - The benefit Would be that the people would have a true choice between. Continuing blood quantum or removing blood quantum.
  - An affirmative (Yes) vote on referendum 32-15 would continue blood quantum.
  - An affirmative (Yes) vote to remove Blood Quantum would remove that requirement and return to lineal descent.



- The people would have a voice.
- Delegates would Wayne D. State the referendum was the clearest guidance from the people in favor of BQ, vote yes to remove BQ, and this would then allow Lineal Descent.
  - You cannot vote yes on both. They will cancel/neutralize the vote.
  - If you vote "no" on Resolution 32-15 and also vote "no" to remove BQ, you would be voting to continue the 25% BQ requirements.
- **Can we be prepared to vote on asking the TEC for a motion to put the referendum questions on the Election Ballot at the March 2024 Convention Meeting?**
- To clarify the issue of non-binding and binding, Cheryl E. read the summary from a 6/25/21 memo from TEC Secretary April McCormick who talked about this referendum. Cheryl explained at the January 2024 TEC Meeting that April McCormick used the term non-binding to mean that a referendum didn't change the Constitution. In her use of the term, she didn't mean to say that it was non-binding on the TEC, as the Constitution itself states that it is. No TEC member challenged that statement, including April McCormick.
- There continues to be concerns about enrollment and resources.
- Michaa A. noted that Red Lake changed its enrollment, and with a larger enrollment, it will be even more challenging to reach 30%.
- Carol J. Suggested that we revisit the removal of the Secretary of the Interior. We have a written constitution and have safeguards suggested mainly by a Grand Council, but in the past, it did not convince a couple of the bands to reach a consensus.
- Michelle B. noted that the delegates need to bring the issues back to the people.
- Michaa A. also said Sandy Lake is working with TEC to get on the ballot with the question, Is Sandy Lake the seventh reservation of the MCT?
- Deb J-F asked about studies conducted regarding the resources. Wayne D. responded that peripheral things have been looked at, but it would be difficult to do a study like she is asking because we ceded so much land that millions of people live on, and our treaty rights say we are entitled to those resources. He empathized that the Treaty of 1847 "stipulating that "the half or mixed blood" of Chippewas residing with them shall be considered Chippewa Indians and shall, as such, be allowed to participate in all annuities."
- Jean S. asked if we could ask to meet with the enrollment staff. Cheryl stated that was a good idea, but the way to do that was to write questions and share them with the staff so they are prepared to answer them. No one volunteered to take on this project.
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**9. Discussion of the policy of Delegation Finance Committee membership.**

- Jolyn D. Asked that it be taken off agenda.

## Attachment

### REQUIREMENTS FOR VOTING IN A SECRETARIAL ELECTION TO AMEND OUR TRIBAL CONSTITUTION

#### PRE-MCT CONSTITUTION

The Indian Reorganization Act of 1934 (IRA) § 16, 48 Stat. 987.

**Section 16** of the IRA allowed tribes or those residing on reservations to:

- (a) formally organize as a tribe and adopt a tribal constitution,
- (b) amend an existing constitution or
- (c) revoke an existing constitution by:
  - a majority vote
  - of the entire adult membership or those **residing on the reservation** so long as a majority of adult members
    - (i) participated in the election and
    - (ii) voted in favor.

The 1934 IRA language required approval by the Secretary "...and any amendments thereto, which shall become effective when— (1) ratified by a majority vote of the adult members of the Tribe or tribes at a special election ....

**Section 19** of the IRA defines Adult as: "The words "adult Indians," wherever used in this Act, shall be construed to refer to Indians who have attained the age of twenty-one years.

In 1935, the Department of the Interior recognized that its **policy on prohibition of absentee voting by off-reservation members was an obstacle to the Tribe's ability to reach the required 30 percent tribal quorum, which led to Congress to change the Tribal Quorum to the current 30 percent of adult members.**

On June 15, 1935, Congress revisited the IRA and changed the voting requirements.

A new **IRA Section 18a**, which maintained the simple majority but added a separate 30 percent quorum, stated:

**Section 18a**

In any election heretofore or hereafter... adopting a constitution and bylaws or amendments thereto or on the question of ratifying a charter, **the vote of a majority of those actually voting shall be necessary and sufficient to effectuate** such exclusion, adoption, or ratification, as the case may be: Provided, however, **That in each instance the total vote cast shall not be less than 30 per centum of those entitled to vote.** 25 USC § 5127 (**June 15, 1935**, ch. 260, § 1, 49 Stat. 378) (emphasis added)

**There were no registration requirements until 1967, so being entitled to vote meant something different in the MCT Constitution than being registered to vote. It meant adult voters.**

<b>MCT CONSTITUTION</b>	<b>25 CFR PART 81 SECRETARIAL ELECTION PROCEDURES</b>
<p style="text-align: center;"><b>1936 Constitution Article XVIII Amendment</b></p> <p>Section 1. This Constitution may be revoked by Act of Congress or amended or revoked by <u>a majority vote of the qualified voters of the Tribe voting at an election called for that purpose by the Secretary of the Interior if at least 30 percent of those entitled to vote shall vote.</u> No amendment shall be effective until <u>approved by the Secretary of the Interior.</u> It shall be the duty of the Secretary to call an election when requested by two-thirds of the Tribal Executive Committee.</p> <p>For any Secretarial elections, qualified voters meant all adult Tribe members aged 21 on election day.</p>	
<p style="text-align: center;"><b>1964 Revised Constitution Article XII Amendment</b></p> <p>The language is the same as in the 1936 Constitution.</p>	
	The Media Release on 3/4/1967 Verified that <b>"In the past, 30% was</b>

	<p>based on voting lists comprised of <u>all tribal members 21 years of age or over.</u>"</p> <p>The rationale for this change arose because more Indians moved away from the reservation for education and employment. This made it difficult and, in some cases, almost impossible to achieve the 30%. They felt it would simplify voting, be more equitable, increase participation, and not be a hardship for tribal members on and off the reservation.</p> <p>The proposed revision would require the <u>eligible voters to register before they were entitled to vote,</u> and the Secretary of Interior would base the <b>30 % determination upon the total number of registered voters rather than the list of adult members.</b></p> <p>To amend a tribe's Constitution in a secretarial election from any adult Tribe member to only those adult members who had registered.</p> <p>This revision amended the definition of "entitled to Vote" to calculate a quorum required by the IRA and changed the came as a <b>regulation</b>, 25 CFR Part 53.</p>
	<p>In 1967, amended regulations redefined "<b>entitled to vote</b>" as only duly registered voters. 32 Fed. 11,777, 11,778 (Aug. 16, 1967)(codified at 25 C.F.R. sec. 51.6)]</p>
<p><b>1971</b>  <b>26th Amendment to the US Constitution</b>  <b>The voting age changed from age 21 years to age 18</b></p>	
<p><b>1972 Constitution</b>  <b>Article XII Amendment</b></p>	

<p>The language is the same as in the 1936 and 1964 Constitutions.</p> <p>This amended Constitution did not change the definition of entitled to vote to include the requirement of resister to be entitled to vote.</p>	
	<p>On January 7, 1981, an amendment to Federal Regulations defined "entitled to vote" ... "[O]nly registered voters will be entitled to vote, in all determinations of the sufficiency of the number of ballots cast will be based upon the number of registered voters." 46 Fed Reg. 1,672 (January 7, 1981), Codified at 25 CFR Sec. 52.11.</p>
<p style="text-align: center;"><b>2006 Constitution Article XII Amendment</b></p> <p>The language is the same as in the 1936, 1964, and 1972 Constitutions.</p>	
<b>TRIBES RIGHT TO INTERPRET ITS CONSTITUTION</b>	
<p>None of the MCT Constitutions have language on who shall interpret the Constitution.</p> <p>In 1980, the TEC enacted I-80, which gave them the right to interpret the Constitution.</p> <p><b>However, that Resolution has never been approved by the Secretary of the Interior, which is required in Article XV Manner of Review.</b></p>	<p><b>25 CFR § 81.9</b> The Secretary will give deference to the Tribe's reasonable interpretation of the amendment and adoption articles of the Tribe's governing documents. The Secretary retains authority, however, to interpret tribal law when necessary to carry out the government-to-government relationship with the Tribe or when a provision, result, or interpretation may be contrary to Federal law.</p>
<b>Hudson v. Zinke</b>	
<p><b>Hudson</b>, a member of the Three Affiliated Tribes of Fort Berthold Reservation in North Dakota, challenged the Secretary's Election, stating that the Tribe had a higher threshold to meet (30% of entitled to vote). This means all adult voters = eligible voters), not 30% of registered voters expressed in the</p>	<p><b>Zinke</b>, the Department of the Interior Secretary, said that the Tribe had met the requirements for a valid election because they had obtained at least 30% of the Registered voters, the requirement under 25 CFR 81.</p>

<p>regulations (CFR) used for the Secretarial Election Procedures.</p> <p>NOTE: MCT Constitutions have the same threshold as the Three Affiliated Tribes Constitution.</p>	
<p style="text-align: center;"><b><u>Hudson v. Zinke</u></b> <b><u>CIV. No. 1:15 CV-01988-TSC (D.D.C. Nov, 12, 2015)</u></b></p> <p>In a Memorandum Opinion, the court ruled the following:</p> <ol style="list-style-type: none"> <li>1. Hudson was correct. Based on the language in their Constitution, the quorum had to be 30% of those entitled to vote, not registered voters.</li> <li>2. Amending the meaning of "entitled to vote" was contrary to the law since <b>"A FEDERAL REGULATION COULD NOT AMEND TRIBAL CONSTITUTION."</b></li> <li>3. The court also ruled the Tribe did not acquiesce (accept) to regulatory definition by: <ol style="list-style-type: none"> <li>a. Holding (an election)</li> <li>b. Certifying (an election) and</li> <li>c. Failing to protest prior secretarial elections under which the registered voter quorum requirement was implemented.</li> </ol> </li> </ol>	
<p style="text-align: center;"><b>MCT Attorney Phillip Brodeen</b></p> <p style="text-align: center;"><b>Attorney Brodeen, in the following statements, supports the court's view in its ruling in <u>Hudson v. Zinke</u>.</b></p> <p>"In a July 13, 2020, Memorandum to the MCT, Tribal Executive Committee Subject: Applicability of Hudson v. Zinke, Attorney Brodeen wrote: The Quorum requirement was discussed by the Tribal Executive Committee at the beginning of the MCT Constitution Amendment process. The TEC determined at that time that the MCT Constitution requires 30% of all eligible voters to vote in order to enact amendments to the Constitution. <u>If this Hudson v. Zinke case is affirmed on appeal, the MCT's interpretation of the Constitution will be given deference. This means that 30% of all tribal members will be required to vote in order to ratify amendments to the MCT Constitution. If Hudson v. Zenke is overturned on appeal, the BIA's regulations pertaining to registered voters could once again serve as the basis for deciding quorum requirements.</u> The outcome and holdings of the appeal will have a significant impact on the MCT's Constitutional Amendment process."</p>	
<p style="text-align: center;">2024</p> <p>The 2024 Secretarial Elections requirements will remain the same as they always have: 30% are entitled to vote.</p>	<p style="text-align: center;">2024</p> <p>25 CFR § 81.4 Secretarial Election Procedures- <i>Registered Voter means</i></p>

	<p><b>an eligible voter registered to vote in the Secretarial election.</b></p> <p><b>25 CFR § 81.10 Who may cast a vote in a Secretarial election?</b></p> <p>b) Is already reorganized under Federal statute, Any member of the Tribe who:</p> <p>(1) Will be <b>18 years of age or older</b> on the date of the Secretarial election; and</p> <p>(2) <b>Otherwise meets the qualifications required by the Tribe's governing documents</b> or Charter for that particular type of Secretarial Election; and</p> <p>(3) <b>Has duly registered.</b></p>
<p style="text-align: center;"><b>CAUTION</b></p> <p style="text-align: center;"><b>The Secretarial Election procedure requires the following to challenge an election.</b></p> <p>§ 81.43 How are the results of the election challenged?</p> <ul style="list-style-type: none"> <li>Any person who was listed on the Eligible Voters List and who submitted a voter registration form may challenge the results of the Secretarial election.</li> </ul>	