



LUMMI INDIAN BUSINESS COUNCIL

2665 KWINA ROAD • BELLINGHAM, WASHINGTON 98226 • (360) 312-2000

RESOLUTION #2019-048 OF THE LUMMI INDIAN BUSINESS COUNCIL

TITLE: Banishment of Rachel Gonzales

WHEREAS, the Lummi Indian Business Council (LIBC) is the duly constituted governing body of the Lummi Nation by the authority of the Constitution and Bylaws, as amended, of the Lummi Tribe of the Lummi Reservation, Washington; and

WHEREAS, the Lummi Indian Business Council is responsible for advancing the health, safety, well-being and education goals of the people of the Lummi Nation; and

WHEREAS, it is the mission of the LIBC *"To Preserve, Promote and Protect our Sche Lang en"* (LIBC Resolution #2012-025); and

WHEREAS, the Lummi Nation, before the 1792 contact with non-Indian society, was governed by tradition, ceremony, culture, and strong tribal social values, ethics, and altruism essential to our survival as a tribal society, and our society was strict in the control of behavior and respect for oneself, for family, for extended family, and for tribalism; and

WHEREAS, the Lummi Nation, together with the Duwamish, Suquamish, and Allied Tribes, is a party to the Treaty of Point Elliot, 12 Stat. 927, which was ratified by the Senate of the United States of America on March 8, 1859, and proclaimed on April 11, 1859; and

WHEREAS, in accordance with respective articles of the Constitution of the United States of America, Article Nine of the Treaty of Point Elliot provides:

"... And if any of the said Indians commit depredations on other Indians within the Territory the same rule shall prevail as that prescribed in this article in cases of depredations against citizens. And the said tribes agree not to shelter or conceal offenders against the laws of the United States, but to deliver them up to the authorities for trial"; and

WHEREAS, Article Ten of the Treaty of Point Elliot further provides that:

"The above tribes and bands are desirous to exclude from their reservation the use of ardent spirits, and to prevent their people from drinking the same, and therefore it is provided that any Indian belonging to said tribe who is guilty of bringing liquor into said reservations, or who drinks liquor, may have his or her proportions of the annuities withheld from him or her for such time as the President may determine"; and

WHEREAS, in *United States v. Washington*, 384 Fed. Supp. 360, the Federal Court concluded,

"The Lummi Tribe is the present day tribal entity which, ..., is a political successor in interest to some of the Indian tribes or bands which were parties to the Point Elliot Treaty. This tribe is recognized by the United States as a currently functioning Indian tribe maintaining a tribal government on the Lummi Indian Reservation. Its membership is determined in accordance with its Constitution and By-Laws approved by the Commissioner of Indian Affairs on April 12, 1948, as amended April 10, 1970"; and

WHEREAS, the Preamble to the 1970 Lummi Constitution states it is the intent of the People to make the tribal government "responsive to the tribe, to develop our community resources, administer justice, protect our tribal interests, and promote the economic and social welfare of ourselves and our descendants, and to preserve our land base, culture, and identity, ...". Which is definitive of the demand of our tribal constituency for said government to protect the tribal public from all such activities and actions that are injurious to the best interests of the tribal community and values; and

WHEREAS, the Lummi Nation has enacted Title 12- Exclusion Code. This provides, under Section 12.2.01 Who May Be Excluded- "Any individual who is show by clear and convincing evidence to threaten the health, safety, or welfare of the Lummi Nation by engaging in any of the conduct listed in LCL 12.02.020 may be excluded from the Lummi Indian Reservation and trust lands"; and

WHEREAS, it is further provided, under Section 12.02.02 Grounds for Exclusion- Conduct, whether or not criminally charged, that would constitute a felony crime, as defined by Tribal, federal, or state laws, shall be considered in determining whether an individual is a threat to the health, safety, or welfare of the Lummi Nation, and may be grounds for entry of an order of exclusion. Conduct, whether or not criminally charged, that would constitute one of the following crimes, or a crime including the same elements committed in another jurisdiction, is presumed to threaten the health, safety, or welfare of the Lummi Nation : (a) A felony drug offense, including a Class A or B offense under Chapter 5.09A, of this Code. For the purposes of this Subsection, "drug offense" shall be liberally interpreted and shall mean the participation at any stage of the manufacture, sale, or importation, or delivery process; (b) A felony sex offense, including a Class A or B offense under Chapter 5.09C of this Code; (c) A felony offense involving the use of a dangerous weapon; (d) Assault and Battery in the First or Second Degree; (e) Homicide; (f) Residential Burglary when the person knows at time of entry that persons are in the home; (g) Aggravated Abduction; (h) Arson that is manifestly dangerous to any human life; (i) Aggravated Stalking; (j) Robbery while armed with a dangerous weapon; (k) Extortion involving a threat of violence; or (l) An offense for being a felon in possession of a firearm"; and

WHEREAS, Article VI, Section 1, (j) of the 2006 Lummi Constitution provides that the LIBC has the authority:

To exclude from the restricted land of the Lummi Reservation persons not legally entitled to reside therein, under ordinances which shall be subject to the approval

of the Lummi Nation General Council; [Amended: Resolution #97-38, February 11, 1997]; and

WHEREAS, Title 12 acknowledges the historical practice of banishment by the Lummi people, stating that "individuals that posed a threat to the community were sometimes banish and excluded from Lummi Territory." LCL 12.01.020. Further, Title 12 acknowledges and respects "the authority of the LIBC to exercise its inherent sovereign right to banish an individual from the Lummi Reservation"; and

WHEREAS, the power to declare "abandonment of membership" predates the Treaty of Point Elliot, as a matter of traditional and cultural law, and inclusion of such concepts and powers in the treaty, Lummi Constitution, or otherwise is only a manifestation of some of the powers delegated, but are in fact only a part of those rights reserved to the LIBC, under the Lummi Constitution (Article VI, Sections 1, 2, and 3). Such reserved powers were and have been recognized in *United States v. Winans*, 198 U.S. 371, 381 (1905), in that a treaty "was not a grant of rights to the Indians, but a grant of rights from them- a reservation of those not granted." and

WHEREAS, RACHEL GONZALES, DOB: 02/10/1972 has been convicted of the following felony criminal offenses in Washington state courts: two counts of Controlled Substance Violation, Case No. 01-1-00456-8; Possession of a Controlled Substance without a Prescription, Case No. 07-1-01267-5; Bail Jumping, Case No. 11-1-00177-9; Possession of a Controlled Substance, Case No. 11-1-00177-9; and Possession of a Controlled Substance without a Prescription, Case No. 11-1-00994-6; and

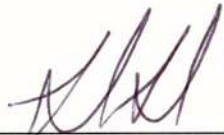
WHEREAS, based on the foregoing and on the recommendation of the Lummi Exclusion Committee, the LIBC finds that **RACHEL GONZALES, DOB: 02/10/1972**, is an immediate and imminent threat to the health, safety and welfare of the Lummi Nation.

NOW, THEREFORE BE IT RESOLVED, the Office of the Chairman, the Office of the Reservation Attorneys, the Office of the Lummi Prosecutor, the Lummi Law & Order Office, and the Lummi Tribal Court, all shall respectively initiate and complete the "expulsion and exclusion" of **RACHEL GONZALES, DOB: 02/10/1972**, from the Lummi Indian Reservation, which shall remain in effect until otherwise notified by the Lummi Indian Business Council; and

BE IT FURTHER RESOLVED, that in accordance with the inherent sovereign right of the Lummi Nation, the person **RACHEL GONZALES, DOB: 02/10/1972**, is hereby **BANISHED** from the Lummi Reservation and its Trust Lands by the Lummi Indian Business Council; and

BE IT FINALLY RESOLVED, that the Chairman (or the Vice Chairman in his absence) is hereby authorized and directed to execute this resolution and any documents connected therewith, and the Secretary (or the Recording Secretary in his absence) is authorized and directed to execute the following certification.

LUMMI NATION



**Jeremiah J. Julius, Chairman
Lummi Indian Business Council**

CERTIFICATION

As Secretary of the Lummi Indian Business Council, I hereby certify that the above Resolution #2019-048 was adopted at a **Regular/Special** Meeting of the Council held on the 7th day of **May**, 2019, at which time a quorum of 8 was present by a vote of 7 for, 0 against, and 0 abstention(s).



**Lawrence Solomon, Secretary
Lummi Indian Business Council**







Council Operations Action Form

Please turn in with resolution & attachments or with your agenda item, to Council Operations, the Wednesday prior to the Council meeting by 4:30 PM. **Late documents will not be accepted.** If you have questions contact TeresaB@lummi-nsn.gov or ext 2142

To be completed by Originator:

Clearances	Initial	Date	Comments	Resolution # 2019-048	Agenda Date:
Originator	RL	4/10/19		5/7/19	
ORA Cynthia Cartwright	CC	4/10/19	DP-Drafted Doc	Title: Banishment of Rachel Gonzales	
Department Director Ralph Long	RL	4/10/19		Name of Presenter: Ralph Long	
Cultural Department	RL	4/10/19		Financial impact (if yes please attach Executive Summary):	Budgeted item: Y N # of Pages Attached:
CBC Chairperson	RL	4/10/19		Distribution (departments or individuals who will need a copy of the certified resolution Circle all that apply):	
General Manager	RL	4/11		Planning	Economic Development
Treasurer	CP			Human Resources	Reservation Attorney's
Chair or Vice Chair	RL	4/26		General Manager	Natural Resources
					Education
					CFO
					Council Officers
					Other: <i>Schlangen</i>
				Date / Name of Person Dropping Off at C.O.	

Please give a brief narrative of your agenda item:

By signing below, I have completed the Action form assuring that there is approval from all listed parties before submitting it to Council Operations also; "Sign here" tabs have also been placed in all areas in need of signature.

Signature of Department: *Ralph Long* Date & Time: *4/29/19 9:50*

Signature Received by: *S. Leade Lane* Date & Time: *RECEIVED APR 29 2019 @ 9:50*

To be completed by Council Operations staff:

Council Follow Up	
Specifically:	
Timeline:	Delegate(s):

Resolution # 2019-048

