

Chapter 1. Sovereign Immunity of Tribe and Officials

Legislative History.

This new chapter to the Fort McDermitt Law and Order Code was originally enacted by the Tribal Council on September 13, 1988.

Sec. 1. Sovereign Immunity of Tribe.

The Fort McDermitt Paiute-Shoshone Tribe of Oregon and Nevada, also known as the Fort McDermitt Tribe or the Fort McDermitt Tribal Council, hereby declares that it is immune from suit within or without Fort McDermitt Indian Country, within Tribal Court, another Indian Court, or any state court or federal court under the doctrine of Sovereign Immunity except as it may set forth in this Law & Order Code for the purposes of granting limited waiver of the doctrine of sovereign immunity to empower the court to utilize its inherent civil contempt powers for the purposes of guaranteeing certain stated equal protection and procedural due process rights.

Sec. 2. Immunity of Tribal Officials.

All tribal officials and employees, including members of the Tribal Council, acting under color of authority and within the scope of their duties are immune from suit for any acts or omissions except as provided for in this chapter and others in this Law & Order Code.

Sec. 3. Method of Waiving Sovereign Immunity of Tribe and Officials.

The only method by which the doctrine of Sovereign Immunity proclaimed by the Fort McDermitt Tribe may be waived by any tribal official, including the Chairman of the Tribal Council, is pursuant to authority granted the official by an official Tribal Council Resolution which states specifically that the Tribal Council, as the governing body of the Fort McDermitt Tribe, per specific Constitutional authority, waives the doctrine of Sovereign Immunity for the Tribe and/or a specifically named and identified individual official or official position in a specific circumstance or factual situation except that the Tribal Council may, in a limited fashion, waive the doctrine of sovereign immunity to empower the Tribal Court of the Fort McDermitt Tribe the use of its civil contempt powers to guarantee the opportunity of tribal members and others to enforce certain equal protection and procedural due process guarantees afforded them by this Law & Order Code.

Sec. 4. Severability.

Should any sections of this chapter be disapproved by the Secretary of Interior, in accordance with the Constitution, or be found unconstitutional or in violation of tribal or federal law by any court of competent jurisdiction, such declaration shall not affect the remaining terms or sentences of any section or the remaining sections of this chapter.