

**YUROK TRIBE
INTERIM ORDINANCE
PROHIBITING THE DISCHARGE
OF ANY POLLUTANT
INTO THE WATERS OF THE YUROK RESERVATION**

SECTION 1. AUTHORITY.

This Interim Ordinance prohibiting the discharge of any pollutant into the waters of the Yurok Reservation is established by the Yurok Tribal Council under the authority delegated to it by Article IV, Section 5 of the Constitution of the Yurok Tribe, as ratified on November 19, 1993.

Article IV, Section 5 state in part "*....the Yurok Tribal Council shall have the authority to enact legislation, rules and regulations not inconsistent with the Constitution to further the objectives of the Yurok Tribe as reflected in the Preamble to this Constitution, [and to] enact civil and criminal laws*".

Under the authority vested in Article IV, Section 5 of the Constitution of the Yurok Tribe the Yurok Tribal Council does hereby ordain as follows:

SECTION 2. FINDINGS AND DECLARATION.

The Yurok Tribal Council finds and declares that:

1. It wishes to eliminate all discharges of pollutants into the waters of the Yurok Reservation.
2. Elimination of all discharges of pollutants into the waters of the Yurok Reservation is necessary at this time in order to maintain water quality for consumption and other domestic purposes by residences of the Reservation.
3. This ordinance is being enacted at this time as an emergency measure to maintain the quality of Reservation waters until the Yurok Tribal Council can enact a new water ordinance comprehensively regulating water quality and the discharge of pollutants on the Reservation.

SECTION 2. DEFINITIONS.

For the purposes of this ordinance, the following words shall have the following meanings:

- A. "Tribal Member" shall mean a duly enrolled member of the Yurok Tribe.

- B. "Tribal Council" shall mean the duly elected governing body of the Yurok Tribe.
- C. "Person" shall mean any individual, corporation, firm, partnership joint venture, association, social club, estate, trust, the United States, Tribe, State, County, City, District or other political subdivision of any state, or any other group or combination acting as a unit.
- D. "Pollutant" shall mean any substance that will alter the quality of the waters of the Yurok Reservation.
- E. "Quality of the water or waters" shall mean any chemical, physical, biological, bacteriological, radiological, and other properties and characteristics of water which affect its use.
- F. "Reservation" shall mean all land, air, and water located within the exterior boundaries of the Yurok Reservation.
- G. "Water or waters" shall mean any water, surface or underground, located on or running through the Yurok Reservation.

SECTION 3. PROHIBITED DISCHARGES.

No person shall discharge any pollutant into the waters of the Yurok Reservation.

SECTION 4. CIVIL PENALTY.

Any person discharging any pollutant into the waters of the Yurok Reservation shall pay a civil fine in an amount not to exceed five thousand dollars (\$ 5,000.00) for each day in which the violation occurs.

The civil fine required by this Section shall be imposed by any court of competent jurisdiction in accordance with Section 5 and Section 6 of this Water Pollution Control Ordinance.

SECTION 5. CLEAN-UP AND ABATEMENT.

Any person that discharges any pollutant into the waters of the Reservation shall immediately, but in any case not more than twenty-four (24) hours from the time of the discharge, notify the Tribal Council of said discharge and shall fully disclose to the Tribal Council any and all information regarding the discharge, including but not limited to the type of pollutant discharged, the amount of pollutant discharged, the location of the discharge and any other pertinent information required by the Tribal Council.

Any person who discharges any pollutant into the waters of the Reservation shall be liable for all costs associated with or necessary to clean-up, abate, or remove said pollutants from the waters of the Reservation and restore the quality of the waters of the Reservation to their condition as they existed immediately prior to the discharge.

SECTION 6. COURT ACTION AND INJUNCTIONS.

Upon failure of any person to comply with any of the provisions of this Ordinance, the Tribal Council, by and through its attorney, shall petition a court of competent jurisdiction for the issuance of an injunction requiring such person to comply therewith. In any such suit, the court shall have jurisdiction to grant a prohibitory or mandatory injunction, either preliminary or permanent, and to levy such fines in accordance with Section 4 of this Ordinance, as the facts may warrant.

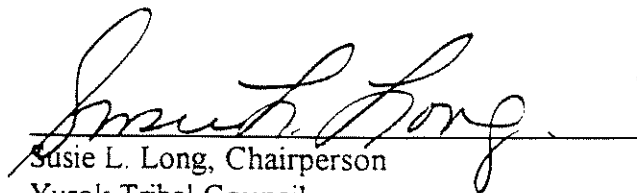
SECTION 7. EFFECTIVE DATE.


This Interim Ordinance shall take effect immediately upon passage by the Tribal Council.

C * E * R * T * I * F * I * C * A * T * I * O * N

THE FOREGOING YTC 1-07, TITLED THE YUROK TRIBE INTERIM WATER POLLUTION CONTROL ORDINANCE, WAS PASSED AT A REGULARLY SCHEDULED MEETING OF THE YUROK TRIBAL COUNCIL ON MAY 6, 1997, AT WHICH A QUORUM WAS PRESENT AND THAT THIS ORDINANCE WAS APPROVED BY A VOTE OF 6 FOR, 0 OPPOSED, WITH 0 ABSTENTIONS IN ACCORDANCE WITH ARTICLE 4, SECTION 5(j), OF THE CONSTITUTION OF THE YUROK TRIBE.

DATED THIS 6TH DAY OF MAY, 1997.


Susie L. Long, Chairperson
Yurok Tribal Council

ATTEST: 
Cynthia Carlson, Recording Secretary
Yurok Tribal Council

**YUROK TRIBAL ORDINANCE
PROHIBITING ILLEGAL DUMPING
ON THE YUROK RESERVATION
Ordinance No. YTC - 1-08**

SECTION 1. AUTHORITY

This Ordinance prohibiting open dumping on the Yurok Reservation is established by the Yurok Tribal Council under the authority delegated to it by Article IV, Section 5 of the Constitution of the Yurok Tribe, as ratified on November 19, 1993. Article IV, Section 5 states in part: *"...the Yurok Tribal Council shall have the authority to enact legislation, rules and regulations not inconsistent with the Constitution to further the objectives of the Yurok Tribe as reflected in the Preamble to this Constitution; [and to] enact civil and criminal laws."*

Yurok Tribal Resolution No. 95-47 declared open dumping to be illegal within the Yurok Reservation in accordance with Federal and State statutes, local ordinances, and tribal law, and further directed the Yurok Tribal Council to, *"have prepared and to execute all necessary certifications, public notices, and other documents in support of this Council action, and to direct the preparation of proposed enforcement action and recommendations for the Tribal Court in prosecuting violations of this Tribal mandate."*

The Yurok Tribal Court is hereby directed to hear any cases brought before them for violations of this Ordinance, and to impose penalties in accordance with the schedule and criteria set forth in Sections 5, 6, and 7 below.

SECTION 2. PURPOSE

The purpose of this Ordinance is to establish a Yurok Tribal law prohibiting the open disposal, dumping, depositing, burying (other than small, residential compost piles of nonhazardous, organic materials produced on the premises and being tended for use as fertilizer) or unpermitted burning of any waste materials¹ whatsoever on any lands or in any waters of the Yurok Reservation, in order to end the public health hazard being perpetuated by numerous individuals, known and unknown to the Yurok Tribe; and, by bringing about the cessation of the illegal dumping, to hereby stop the resultant pollution of the soils, streams, groundwater, and the Klamath River itself, which in turn has endangered the natural environment and the fishery resources belonging to all of the Yurok Tribe.

¹ See Section 3

SECTION 3. DEFINITIONS

- Constitution:** The Constitution of the Yurok Tribe, as ratified on November 19, 1993
- Yurok Tribal Council (or "Council"):** The duly elected nine-member governing body, established by Article III, Section 1 of the Constitution of the Yurok Tribe
- Yurok Tribal Court (or "Court"):** The Yurok Tribal Court as established by Yurok Tribal Code 1-05.
- Waste materials, solid waste, trash, or "illegally-dumped materials":** Any items or materials being disposed of, including (but not limited to) **garbage** (defined as easily decomposable or putrefactive animal and vegetable matter), **rubbish** (defined as nonputrefactive, such as dry, non-organic materials and plant matter, such as yard trimmings), glass, metals, plastics, papers, asbestos, all other construction waste materials, cardboard, batteries, chemicals, tires, used vehicles or appliances, furniture, etc.)
- Dumping:** The open disposal, depositing, burying, or non-permitted burning of any waste materials, other than at-home organic compost piles (as defined in Section 2 above)

SECTION 4. EFFECT OF ORDINANCE

Any person responsible for illegal dumping on the Yurok Reservation may be prosecuted before the Yurok Tribal Court pursuant to the stipulations set forth in Sections 5, 6, and 7 of this Ordinance.

A Container Site (also known as the Transfer Station) has been established at Weitchpec (on Highway 169) to receive and appropriately handle the waste materials and recyclables brought there for proper permitted disposal. Tribal members and other Yurok Reservation residents are given the alternative to dispose of their wastes either at the Container Site at Weitchpec or another legally-permitted Waste Transfer Station of their choice.

SECTION 5. APPLICATION

All persons over the age of 18 years (eighteen) shall be treated as adults in the prosecution of a violation of the Ordinance. The parents or guardians of minors under the age of 18 years (eighteen) shall be held accountable for any illegal dumping committed by any minors for whom they are legally responsible.

SECTION 6. ENFORCEMENT

(a) Prosecution: Any person(s) who violate this ordinance (or their legal guardians, in the case of a minor, per Section 5 above) may be subject to prosecution before the Yurok Tribal Court.

(b) Citations: Law enforcement officers may issue citations to any person(s) suspected of having violated this Ordinance. The retrieval of two (2) pieces of addressed mail or other name-labeled property from illegally-dumped trash shall constitute sufficient *prima facie* evidence for the issuance of a citation. The retrieval of one piece of named evidence shall be grounds for the issuance of a warning citation. (In instances where dumping has been witnessed and reported, even without the retrieval of *prima facie* evidence, a law enforcement officer is authorized to issue a warning citation to the suspected violator.)

Citations shall include the following information:

(1) the offense for which the person is being cited (illegal dumping, per this Ordinance);

(2) the specific location of the illegally-dumped waste materials (with approximate road mileage from the nearest major intersection given, or the nearest milepost marker, if along Highway 169);

(3) the date(s) and time(s) of the suspected offense(s) (if witnessed), or

(4) the date discovered by the law enforcement officer (with *prima facie* evidence as detailed above);

(5) the date, time, and location where the cited person is to appear before the Tribal Court; (In the case of a warning citation, the address where the suspected violator may respond to the officer who wrote the citation); and

(6) the name and legible signature of the officer issuing the citation.

SECTION 7. PENALTIES

Any person found guilty of illegal dumping after due process of law before the Yurok Tribal Court shall be subject to the following:

(1) First violation: Up to \$500.00 (five hundred dollars) in fines and/or one hundred hours of community service, to be determined by the Yurok Tribal Court, plus the cost of cleanup for the materials illegally dumped. The assigned community service shall involve the collection and removal of roadside trash, or trash which has accumulated in illegal dumps on the Yurok Reservation.

(2) Second violation: Up to \$1000 (one thousand dollars) in fines, plus the cost of the cleanup of the illegally-dumped materials, and up to two hundred hours of community service (as specified in subsection [1] above), to be determined by the Court.

(3) Third and subsequent violations: Up to \$1500 (fifteen hundred dollars) in fines per each subsequent offense, plus the cost of the cleanup of the illegally-dumped materials, and up to three hundred hours of community service (as specified in subsection [1] above), to be determined by the Court.

SECTION 8. SOVEREIGN IMMUNITY

Nothing in this Ordinance shall be deemed a waiver of the sovereign immunity of the Yurok Tribe.

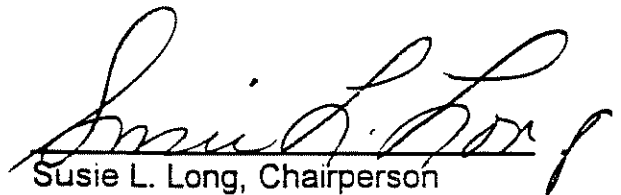
SECTION 9. EFFECTIVE DATE AND AMENDMENTS

This Ordinance shall become effective on the date enacted by the Yurok Tribal Council. This Ordinance, once enacted, may be amended by the Yurok Tribal Council per the procedures set forth in the Constitution, Article IV (*Duties and Powers of the Yurok Council*), Section 5, subsection [j].


C*E*R*T*I*F*I*C*A*T*I*O*N

THIS IS TO CERTIFY THAT YTC 1-08, TITLED THE YUOK TRIBE ORDINANCE PROHIBITING ILLEGAL DUMPING ON THE YUOK RESERVATION, WAS PASSED AT A REGULARLY SCHEDULED MEETING OF THE YUOK TRIBAL COUNCIL ON MAY 6, 1997 AT WHICH A QUORUM WAS PRESENT; AND THAT ORDINANCE WAS APPROVED BY A VOTE OF 7 FOR, 0 OPPOSED, AND 0 ABSTENTIONS IN ACCORDANCE WITH ARTICLE 4, SECTION 5 (J) OF THE CONSTITUTION OF THE YUOK TRIBE.

DATED THIS 6TH DAY OF MAY, 1997.


Susie L. Long, Chairperson
Yurok Tribal Council

ATTEST:


Cynthia Carlson, Recording Secretary
Yurok Tribal Council