

**TITLE 37**  
**POLLUTANT DISCHARGE PROHIBITION ORDINANCE**  
**OF THE**  
**HOOPA VALLEY INDIAN RESERVATION**  
**HOOPA, CALIFORNIA**

**ORDINANCE NO:** 3-95

**DATE APPROVED:** August 3, 1995

**SUBJECT:** PROHIBITING THE DISCHARGE OF POLLUTANTS IN THE HOOPA VALLEY INDIAN RESERVATION.

**WHEREAS:** The Hoopa Valley Tribe did on June 20, 1972, adopt a Constitution and Bylaws which was approved by the Commissioner of Indian Affairs on August 18, 1972, ratified and confirmed by Congress in 1988 in Section 8 of Public Law 100-580, and Article V of this Constitution establishes that the Hoopa Valley Tribal Council is the governing body of the Tribe, and under Article IX, the Council is authorized to: enforce the protection of Tribal property, wildlife, and natural resources, Section 1 (e); safeguard and promote the safety and general welfare of the Tribe and the Reservation community, Section 1 (l); and

**WHEREAS:** Prohibiting the discharge of pollutants in the Reservation is consistent with the goals of the Hoopa Valley Tribe and the Federal Government for the protection and enhancement of the quality of the waters of the Reservation, and

**WHEREAS:** The Tribal Council has concluded that it is necessary to exercise Tribal authority over wellhead protection within the exterior boundaries of the Hoopa Valley Indian Reservation, and over other activities in order to protect fundamental Tribal ceremonial, property interests, water quality, and the public health and safety; and

**THEREFORE BE IT NOW RESOLVED THAT:** It shall be the policy of the Tribe and its authorized entities and departments to vigorously enforce the provisions of this Ordinance and the Water Quality Control Plan; continue technical and legal efforts pertaining to Trinity and Klamath River water rights and flow allocations; monitor off Reservation waters which flow into the Reservation for

pollutants; and to coordinate with the off-reservation jurisdiction of the North Coast Regional Water Quality Control Board, State Water Quality Control Board, or the State of California or any of its agencies, with regard to matters herein regulated by the Tribal authority.

**BE IT FURTHER RESOLVED THAT:** The Tribal Council hereby reaffirms its intent that the provisions of this Ordinance be enforceable equally against Tribal members, non-members of the Tribe and upon private lands within the exterior boundaries of the Reservation, and accordingly the Tribal Chairman is authorized and directed, in consultation with the Office of Tribal Attorney and the Planning Department, to transmit this Ordinance to the Bureau of Indian Affairs, Indian Health Service, North Coast Regional Water Quality Control Board, Humboldt County Board of Supervisors, Inter Tribal Fish and Water Commission, Karok Tribe, Yurok Tribe, Klamath River Task Force, Trinity River Task Force, and the Environmental Protection Agency, and to seek the support of those agencies through a Memorandum of Agreement, Memorandum of Understanding, or Cooperative Agreement, if appropriate for this important assertion of Tribal jurisdiction.

**BE IT FURTHER RESOLVED THAT:** The Tribal Council hereby reaffirms its previous decisions in Resolutions 81-80, 81-90, 81-91, 81-93, and 94-19; and that it is the intent of the Hoopa Tribe to prohibit the commercial use of herbicides, pesticides, and insecticides within the exterior boundaries of the Reservation unless specifically exempted; and to oppose the use of such chemicals outside the exterior boundaries of the Reservation within watersheds affecting Tribal resources.

**BE IT FURTHER RESOLVED THAT:** Under the authority contained in the Constitution of the Hoopa Valley Tribe, the Hoopa Valley Tribal Council hereby enacts this Ordinance prohibiting the discharge of pollutants in the Hoopa Valley Indian Reservation,

**Section 1. SHORT TITLE, FINDINGS, AND PURPOSE**

**1.1 Short Title:** This Ordinance shall be known as the **Pollutant Discharge Prohibition Ordinance** of the Hoopa Valley Tribe.

**1.2 Findings:** The Hoopa Valley Tribal Council hereby finds as follows:

- (A) Since time immemorial, the Trinity River, its tributary streams, the streambeds thereof, and the riparian areas adjacent thereto, have been natural resources of the most profound significance to the Hoopa Valley Tribe, and Hupa people have always used these resources for cultural, ceremonial, religious, fishery, seasonal residential, and other purposes fundamental to the Tribe's way of life.
- (B) The people of the Hoopa Valley Tribe have a primary interest in the protection, control, and conservation of the water resources which flow into and through the Hoopa Valley Indian Reservation, and the quality of such waters must be protected to insure the health, economic, aesthetic, and cultural well-being of the Hupa People.
- (C) Various sites along the Trinity River are or may be contaminated with toxic or hazardous materials as a result of previous land use activities, many of which were authorized without adequate review of impacts or without adequate disclosure to the Tribe of the potential for such impacts, and the contamination at these sites may, if not properly contained and cleaned up, pose significant risks to water quality and public health.
- (D) The Tribal Council hereby finds that wellhead protection is a pro-active approach to managing public groundwater supplies focusing on preventing contaminants from entering recharge areas to public water supply wells. Protecting wellheads involves: knowing the location and boundaries of the recharge area; identifying any potential sources of contamination in the recharge area; controlling those potential sources to prevent the release of contaminants; and, controlling future land use in the recharge area to prevent activities which are known to threaten groundwater quality.
- (E) Pursuant to federal law as determined by the US Supreme Court in such cases as Montana v. United States, 450 US 544 (1981), the Hoopa Valley Tribe possesses inherent sovereign authority to regulate on-Reservation pollution discharges that affect fundamental Tribal interests and the public health and safety, including when such activities are conducted by non-members of the Tribe on privately owned land within the Reservation.
- (F) Under 1988 amendments to the Clean Water Act, 33 U.S.C. 1377, Indian Tribes are entitled to be certified by the US Environmental Protection Agency as authorized to exercise exclusive jurisdiction (Tribal primacy) over all on-Reservation surface and ground water quality matters, including over on-Reservation portions of waters, such as

those of the Trinity and Klamath Rivers, that also flow through other jurisdictions.

- (G) Regulation or elimination of all discharges of pollutants into the waters of the Hoopa Valley Indian Reservation is necessary at this time in order to maintain the quality of those waters for their beneficial uses by members of the Hoopa Valley Tribe and residents of the Reservation.
- (H) Such protection of Reservation waters is not adequately provided for under existing legislation, and such protection will be furthered by the passage, adoption, and implementation of this Ordinance.

**1.3 Purpose:** The purpose of this Ordinance is to exercise comprehensive Tribal regulatory authority over all surface and groundwater matters, and to protect fundamental Tribal cultural, ceremonial, religious, fisheries, seasonal residential, public health and safety, and water quality issues by ensuring adequate drinking water, protecting beneficial uses, prohibiting all point source discharges and restricting non-point source discharges of pollutants within the exterior boundaries of the Hoopa Valley Reservation.

**1.4 Scope:** The provisions of this Ordinance shall apply to all existing and proposed point and non-point pollution discharges into surface or ground waters, and to all activities which have the potential to affect cultural, ceremonial, religious, fisheries, seasonal residential, public health and safety, water quality, and other fundamental interests of the Tribe, including such activities conducted by non-members of the Tribe or on privately owned lands. Activities to be regulated hereunder include but are not limited to:

- (A) Landfills and open dumps;
- (B) Storage of animal waste;
- (C) Automobile graveyards and junkyards;
- (D) Landfilling of sludge or septic system waste;
- (E) Individual, residential, industrial, commercial, or agricultural sewage treatment facilities;
- (F) Individual, residential, industrial, commercial, fire protection, or agricultural water control devices including but not limited to treatment facilities or systems, dams, reservoirs, ponds, pools, tanks, wells, pipelines, flumes, canals, and intake or diversion systems;

- (G) Underground and above-ground liquid storage containers;
- (H) Surface and subsurface removal of mineral resources, overburden, rock, or soil, including quarry operations (borrow pitting) for road surfacing or other uses;
- (I) All prospecting activities involving removal of soil or rock materials, including operations involving the reopening of existing mine pits, tunnels, or quarries;
- (J) Sand and gravel operations;
- (K) Activities such as suction dredging, that have the potential to affect the riparian area, water quality, or channel morphology;
- (L) Potential non-point source pollution problem areas including agricultural, mining, construction, urban runoff, silviculture, salt water intrusion, hydrological modification, and residential activities;
- (M) Identified point source pollution problem areas such as, but not limited to, Copper Bluff Mine, Celtor Chemical Works, Cal-Pacific site, Meskat Masonite Mill.
- (N) Application of herbicide, insecticide or other pesticide or toxic material or fertilizer for non-domestic use.
- (O) The provisions of this Ordinance shall apply to all wellhead protection areas within the exterior boundaries of the Reservation, to all persons and businesses on the Hoopa Valley Indian Reservation, to all land, trust or fee, and to all activities in areas with the potential to affect water quality, public health and safety, and other fundamental interests of the Tribe.

**Section 2.**        **DEFINITIONS**

For the purposes of this Ordinance, the following words and phrases shall have the following meanings:

**"Aquifer"** means any geologic formation capable of yielding a significant amount of potentially recoverable water.

**"Beneficial uses"** means all lawful uses of waters identified in the Water Quality Control Plan. Uses may include but are not limited to domestic, commercial, industrial, agricultural,

traditional, cultural, recreational uses, and use by fish and wildlife for habitat or propagation.

**"Tribal Council"** means the Hoopa Valley Tribal Council.

**"Designated use"** means a use that is specified in water quality standards as a goal for a waterbody segment, whether or not it is currently being attained.

**"Existing uses"** means all uses actually attained in the waterbody on or after November 28, 1975, whether or not they are explicitly stated as designated uses in the water quality standards or presently existing uses.

**"Forest management activity"** means any activity conducted on or directly pertaining to forest land or relating to growing, harvesting, or processing timber.

**"Hazardous Materials"** means 1. any substance that poses a threat to human health or the environment. Typical hazardous substances are toxic, corrosive, ignitable, explosive, or chemically reactive. 2. Any substance named by EPA to be reported if a designated quantity of the substance is spilled in the waters of the United States or if otherwise emitted into the environment.

**"Herbicide"** means any chemical compound designed to control or destroy plants, weeds, or grasses.

**"Historical uses"** means all uses that have historical significance for the Hoopa Valley Tribe.

**"Insecticide"** means any compound designed or used to kill or control the growth of insects.

**"Impervious Barrier"** means any material or structure on, above, or below the ground that does not allow precipitation or surface water to penetrate directly into the underlying surface.

**"Mining"** means any activities designed for the extraction of minerals.

**"Mitigation"** means a measure taken to reduce adverse impacts on the environment.

**"Non-point source"** means any pollution sources which are diffuse and do not have a single point of origin or are not introduced into a receiving stream from a specific outlet.

**"Person"** means any individual, corporation, partnership, association, agency, municipality, commission, or department, including the Hoopa Valley Tribe or other federally recognized Tribal government.

**"Pesticide"** means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest. Also, any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant.

**"Point source"** means any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, culvert, well, discrete fissures, containers, rolling stock, concentration animal feeding operation, vessel or other floating craft.

**"Pollutant"** means any substance that will alter the quality of the waters of the Reservation.

**"Potential uses"** means all uses attainable in the waterbody, whether or not they are explicitly stated as designated uses in the water quality standards or presently potential uses.

**"Quality of the water or waters"** means any chemical, physical, biological, bacteriological, radiological, and other properties and characteristics of water which affect its use.

**"Reservation"** means all land, air, and water located within the exterior boundaries of the Hoopa Valley Indian Reservation.

**"Toxic Materials"** means any chemical or mixture that presents an unreasonable risk or injury to human health or the environment.

**"Recharge Area"** means any areas that collects precipitation or surface water and carries it to aquifers. Recharge areas may include areas designated as wellhead protection areas.

**"Variance"** means an authorized written permission for a delay or exception in the application of a given law, ordinance, or regulation.

**"Waste"** includes waste water and any and all other substances, liquid, solid, gaseous, radioactive, heat laden, associated with human habitation, or of human or animal origin, or from any of man's activities including producing, manufacturing, or processing operation of whatever nature, including such waste

placed within containers of whatever nature prior to, and for purposes of, disposal.

**"Waters of the Reservation"** or **"Reservation waters"** means any water, surface or underground, contained within, flowing through or bordering upon the Hoopa Valley Indian Reservation or any portion thereof.

**"Water Quality Control Plan"** is a document designating or establishing for the waters within a specified area (1) beneficial uses to be protected, (2) water quality objectives, and (3) a program of implementation needed for achieving and maintaining water quality objectives.

**"Water Quality Criteria"** means specific levels of water quality which, if reached, are expected to render a body of water suitable for its beneficial use.

**"Wellhead protection area"** means the surface and subsurface area surrounding a water well or well field, supplying a domestic water system, through which contaminants are reasonable likely to move toward and reach such water well or well field.

**Section 3. ESTABLISHMENT OF DUTIES, FUNCTIONS, AND AUTHORITIES**

**3.1 Tribal Planning Department:** the Tribal Planning Department of the Hoopa Valley Tribe, shall be responsible for:

- (A) The designation of beneficial uses for the waters of the Reservation;
- (B) Developing a Water Quality Control Plan for the waters of the Reservation. The Water Quality Control Plan shall contain sections pertaining to beneficial uses, water quality criteria, and anti degradation policy, where the Hoopa Valley Tribal Forest Management Plan will act as the antidegradation policy for all silvicultural activities on the Reservation;
- (C) Identifying water bodies or sections of water bodies which do not support beneficial uses;
- (D) Establishing and overseeing the Tribe's water quality monitoring, enforcement, and compliance programs;
- (E) Establishing and overseeing the Tribe's point and non-point source permit review system;



- (F) Conducting biannual assessments of the Tribe's Water Quality Control Plan for review by the Tribal Council.
- (G) Develop regulation to further the purposes of this Ordinance

**3.2 Riparian Review Committee:** The Riparian Review Committee established under Tribal Code section 35.3, consisting of three persons the Water Quality Coordinator or his representative; Tribal Fisheries Director or his representative; and the Tribal Forestry Director or his representative, shall be responsible for:

- (A) Reviewing the Water Quality Control Plan, Biannual Water Quality Assessments, National Pollution Discharge Elimination System Permits, other permits and review procedures, as set forth in this Ordinance;
- (B) Specifying document submission and record keeping requirements to be adhered to by all potential dischargers or applicants for permits;
- (C) Establishing criteria for the assessment of application and processing fees.
- (D) Issuing permits, as required by this Ordinance, after approval by the Tribal Council. The Riparian Review Committee shall provide a recommendation with proposed findings on each permit for Tribal Council approval.
- (E) Entering and inspecting any property, premises, or facility involved in any activity which may affect water quality on any lands within the exterior boundaries of the Reservation. Such inspections may include but are not limited to:
  - (1) Obtaining samples of soil, rock, vegetation, air, water or other substances deemed necessary;
  - (2) Setting up and maintaining monitoring equipment for the purpose of assessing compliance with beneficial uses, water quality criteria, anti degradation policy, applicable regulations, best management practices, or health or safety hazards;
- (F) Obtaining from the Tribal Court a warrant or other order which may be necessary to carry out its responsibilities under this ordinance.
- (G) Reviewing and recommending regulation for Tribal Council approval to further the purposes of this ordinance;

following notice and hearings or written opportunity for public comment.

**3.3 Department of Public Safety and Emergency Services:** The provisions of this Ordinance shall be enforced by the Department of Public Safety and Emergency Services. Any Tribal Law Enforcement Officer, or any person officially appointed by the Hoopa Valley Tribal Council in consultation with the Director of the Department of Public Safety may issue the following for violations:

- (A) Cease Orders or Citations: Upon determination that any person is discharging or causing to be discharged or is about to discharge into any Reservation waters, directly or indirectly, any pollutant which constitutes a violation of this Ordinance, a Cease Order or Citations will be served.
- (B) It shall be a civil offense, for which a fine of not less than \$100.00 shall be assessed, to obstruct or otherwise interfere with investigative or other activities of any agent or officer of the Tribe carrying out this ordinance.

**3.4 Tribal Court:** The Hoopa Valley Tribal Court shall have jurisdiction of all cases and controversies arising under this ordinance.

- (A) Upon failure of any person to comply with provision of this Ordinance, the Riparian Review Committee, by and through an attorney, may petition the Tribal Court for an injunction or other order requiring the person to comply herewith. 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 as the facts may warrant and at a minimum to cover all clean-up and administrative costs;
- (B) Any person who in violation of this ordinance 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 4.            PERMITTING**

**4.1 Permits Required:** Any person who intends to alter or enlarge an existing activity described in section 1.4 of this ordinance, or to commence a new such activity, or who intends to cause or direct such alteration, enlargement or commencement of such activities, shall prior to alteration, or enlargement or commencement of such activities, apply for and obtain a valid permit from the Riparian Review Committee after approval by the Tribal Council.

- (A) A processing and monitoring fee, as established by the Riparian Review Committee shall be paid to the Tribe at the time of filing. These fees may be used as an honorarium for the Riparian Review Committee.
- (B) Five (5) copies of the application and any proposed mitigation plan shall be furnished by the applicant. Upon receipt of a permit application, the Riparian Review Committee shall transmit one copy to the Public Utilities District, and the Hoopa Valley Tribal Council for their written recommendations. Failure of the departments to respond in writing to the Riparian Review Committee within thirty (30) days of receipt shall indicate approval or no desire to comment by the department.
- (C) Permit application shall indicate whether activities are proposed within certain wellhead protection areas consisting of aquifers or recharge areas.
- (D) Except as otherwise provided in this Ordinance, permit applicants shall demonstrate that the proposed alteration, enlargement or new regulated activity will not adversely affect water quality and is designed to avoid substantial disturbance of the soils, topography, drainage, vegetation and other water related natural characteristics of the site.
- (E) Permit applications, any required environmental documents, and mitigation plan proposals must demonstrate compliance with applicable Tribal regulations including but not limited to those pertaining to water quality, hazardous substances, environmental impact evaluations, and riparian protection.

**4.2 Categorical Exclusions:** The Tribal Council may by regulation exclude categories of uses, activities or projects from requirements of this Ordinance for one or more of the following reasons:

- (A) Naturally occurring pollution;
- (B) Natural low-flow conditions;

- (C) Irretrievable human-caused conditions;
- (D) Substantial and widespread economic and social impacts.

Variances to established water quality objectives may be granted by the Riparian Review Committee after approval by the Tribal Council, only when the applicant satisfactorily demonstrates that:

- (A) Water quality will not be permanently impaired;
- (B) Public health will not be threatened;
- (C) No significant adverse environmental effects will occur due to the limited size or scale of a proposed activity;
- (D) A mitigation plan approved by Riparian Review Committee demonstrates that all discharges will be below established water quality standard as set forth in the Water Quality Control Plan before the expiration of the variance;
- (E) The variance does not exceed one year from the date of issuance; and
- (F) A 30 day public review period has passed with at least one public meeting.

## **Section 5. WELLHEAD PROTECTION**

### **5.1 Establishment and Delineation of Wellhead Protection Areas:**

For the purpose of this Ordinance, there are hereby established within the exterior boundaries of the Hoopa Valley Indian Reservation certain wellhead protection areas, consisting of aquifers and/or recharge areas with minimum zoning radii of 100 feet for groundwater extraction of 1,000 gallons per day (gpd); 200 feet for 5,000 gpd; 300 feet for 20,000 gpd; 400 feet for wells pumping 100,000 gpd or more. These wellhead protection areas are delineated on a map at a scale of 1 inch to 1,000 feet and is entitled "Wellhead Protection Overlays." This map and additional wellhead protection criteria are to be included in the Water Quality Control Plan.

### **5.2 Wellhead Protection Boundary Disputes:** If the location of the wellhead protection area in relation to a suspected prohibited use is in doubt, resolution of boundary disputes shall be

through the Hoopa Valley Realty Department in conjunction with the Hoopa Valley Planning Department.

Disputants shall be afforded notice and an opportunity to be heard after prima facie showing by the Tribe as to the prohibited activities occurring in the wellhead protection area, the burden of proof shall be upon the owner(s) of the land in question to show where the boundary should properly be located. At the request of the owner(s), the Hoopa Valley Tribe may engage a professional engineer (civil or sanitary), hydrologist, geologist, or surveyor to determine more accurately the boundaries of the wellhead protection area with respect to individual parcels of land, and may charge the owner(s) for all or part of the cost of the investigation.

**5.3 Use Regulation:** In the wellhead protection area the following regulations shall apply:

**5.3.1 Permitted Uses:** The following uses are allowed within the designated wellhead protection area, provided that all necessary permits, orders, or approvals required by the Hoopa Valley Tribe are obtained:

- (A) Conservation of soil, water, plants, and wildlife;
- (B) Outdoor recreation, nature study, boating, fishing, and hunting where otherwise legally allowed;
- (C) Foot, bicycle and/or horse paths, and bridges;
- (D) Normal operation and maintenance of existing water bodies and dams. Splash boards, and other water control, supply, and conservation devices;
- (E) Farming, gardening, nursery, conservation, forestry, harvesting, and grazing;
- (F) Construction, maintenance, repair, and enlargement of drinking water supply related facilities such as, but not limited to, wells, pipelines, aqueducts, and tunnels.

**5.3.2 Uses and Activities Requiring a Wellhead Protection Area Use Permit:** The following uses and activities are permitted within the wellhead protection area only upon the issuance of a wellhead protection area use permit by the Riparian Review Committee after approval by the Tribal Council:

- (A) Landfills and open dumps;

- (B) Storage of liquid petroleum products, except when used for normal household use, outdoor maintenance, and the heating of a structure;
- (C) Landfilling of sludge or septic system waste;
- (D) Storage of chemicals unless such storage, including loading areas, is within a structure designated to fully contain any accidental spills;
- (E) Storage of over 25 yards of animal manure;
- (F) Automobile graveyards and junkyards;
- (G) Installation of new private or public cesspools or septic tanks or other wastewater disposal system. However, the following activities are allowed:
  - (1) The replacement or repair of an existing treatment works that will not result in a design capacity greater than the design capacity of the existing treatment works;
  - (2) The replacement of existing subsurface sewage disposal system(s) with wastewater treatment works that will not result in a design capacity greater than the design capacity of the existing system(s);
- (H) Industrial and commercial uses which discharge processed wastewater directly to septic tanks;
- (I) Storage of commercial fertilizers, as defined in the Hoopa Valley Tribal Code, unless such storage is within a structure designed to fully contain any accidental spills;
- (J) The use of septic system cleaners which contain toxic or hazardous chemicals, as defined by EPA guidelines;
- (K) The application of pesticides, including herbicides, insecticides, fertilizers, fungicides, and rodenticides, for non-domestic or non-agricultural uses.
- (L) Enlargement or alteration of existing uses that do not conform to this Ordinance;
- (M) Those activities that involve the handling of toxic or hazardous materials in quantities greater than those associated with normal household use;

- (N) The construction of ponds, pools or other water control devices.
- (O) The construction of sewage disposal system that do not meet septic tank sizing, leachfield sizing and soil percolation requirements as will be established in the Water Quality Control Plan.

#### **5.4 Procedures for Issuance of Wellhead Protection Area Use**

**Permits:** The applicant shall file five(5) copies of environmental documents, site plans, and all other attachments required by the Riparian Review Committee. The site plan shall be drawn of professional quality and at a proper scale as determined by the Riparian Review Committee. All additional submittals shall be prepared by qualified professionals. The site plan and all attachments shall at a minimum include the following information where pertinent:

- (A) A complete list of chemicals, pesticides, herbicides, fertilizers, fuels, and other potentially hazardous materials to be used or stored within the wellhead protection area;
- (B) For those activities using or storing such hazardous materials, a hazardous materials management plan shall be prepared and filed with the hazardous materials coordinator of the Hoopa Volunteer Fire Department, fire chief of the Hoopa Volunteer Fire Department, and the Riparian Review Committee. The plan shall include:
  - (1) Provisions to protect against the discharge of hazardous materials or wastes to the environment due to spillage, accidental damage, corrosion, leakage, or vandalism, including spill containment and clean up procedures;
  - (2) Provisions for indoor, secured storage of hazardous materials and wastes with impervious floor surfaces.
- (C) Proposed down-gradient location(s) for groundwater monitoring well(s), should the Riparian Review Committee deem the activity a potential groundwater threat.

#### **Section 6. Surface Water Quality Standards**

The Water quality standards described in this section apply to all waters of the reservation. Water quality standards described in this section designate beneficial uses and water quality for the waters of the reservation. Any subsequent standards that may be

described in the Water Quality Control Plan must be at least as stringent as the standards provided below.

**6.1 Designated Uses:** For the purpose of this Ordinance, there are hereby established the following designated uses for the waters of the Reservation. A waterbody that is not listed in Section 6.1.1 but that is a tributary to a listed waterbody shall be protected by the water quality standards that have been established for the nearest downstream waterbody listed in Section 6.1.1. Water bodies within the Reservation which do not have beneficial uses designated for them are assigned wildlife habitat designations. These wildlife habitat designations in no way affect the presence or absence of other beneficial use designations in these water bodies. Further classification will be based on the size of the waterbody and its historic and environmental significance. Further, if a waterbody has more than one designated use listed in Section 6.1.1, the applicable water quality criterion for a pollutant is the most stringent of those prescribed to protect the designated uses of the waterbody

The codes used in Section 6.1.1 are as follows:

- (A) Municipal and Domestic Supply (MUN) includes usual uses in community water systems and domestic uses from individual water supply systems.
- (B) Agricultural Supply (AGR) includes crop, orchard and pasture irrigation, stock watering, support of vegetation for range grazing and all uses in support of farming and ranching operations.
- (C) Industrial Service Supply (IND) includes uses that do not depend primarily on water quality such as mining, cooling water supply, hydraulic conveyance, gravel washing, and fire protection.
- (D) Industrial Process Supply (PROC) includes process water supply and all uses related to the manufacturing of products.
- (E) Groundwater Recharge (GWR) includes natural or artificial recharge for future extraction for beneficial uses.
- (F) Hydropower Generation (POW) means used for hydropower generation.
- (G) Cold Freshwater Habitat includes uses of water that support cold water ecosystems including, but not limited to, preservation, or enhancement of aquatic habitats, vegetation, fish, or wildlife, including invertebrates.



- (H) Water Contact Recreation (REC-1) includes all recreational uses involving actual body contact with water, such as swimming, wading, water-skiing, skin-diving, surfing, sport fishing, uses in therapeutic spas and other uses where ingestion of water is reasonably possible.
- (I) Non-Contact Water Recreation (REC-2) includes recreational uses which involve the presence of water but do not require contact with water, such as picnicking, sunbathing, hiking, beach combing, camping, pleasure boating, hunting, and aesthetic enjoyment.
- (J) Preservation of Areas of Special Biological Significance (BIOL) includes aquatic and wildlife refuges, ecological reserves and designated areas of special biological significance.
- (K) Wildlife Habitat (WILD) provides a water supply and vegetative habitat for the maintenance of wildlife.
- (L) Preservation of Threatened and Endangered Species (T&E) provides an aquatic habitat necessary, at least in part, for the survival of certain species established as being threatened and endangered species.
- (M) Fish Migration (MGR) provides a migration route and temporary aquatic environment for anadromous or other fish species.
- (N) Fish Spawning (SPWN) provides a high quality aquatic habitat especially suitable for fish spawning.
- (O) Cultural (CUL) has religious, ceremonial, subsistence significance or provides a role in Hoopa Tribal culture.

**6.1.1 Use Classification Key**

The use classification key is as follows:

- P = Potential Use
- E = Existing Use
- H = Historical Use
- N/A = Not Applicable

Full protection will be afforded to existing, potential and historical uses of the Reservation waters.

Unit	Inter State	MUN	AGR	IND	PROC	GWR	POW	COLD	REC-1
Mill Creek	X	E	E	P	H	E	P	E	E
Tish Tang	X	P	P	P	P	E	P	E	E
Pine Creek	X	P	P	N/A	N/A	E	P	E	E
Campbell Creek	X	E	E	P	P	E	H/P	E	E
Supply Creek	X	E	E	P	P	E	H/P	E	E
Trinity River	X	P	P	E	E	E	P	E	E
Klamath River	X	P	P	P	P	E	N/A	E	E
Soctish Creek		P	E	P	P	E	P	E	E
Hostler Creek		P	E	P	P	E	H/P	E	E
Hospital Creek		P	E	P	P	E	N/A	E	E
Captain John		E	E	P	P	E	N/A	E	E
Big Creek		P	P	P	P	E	P	E	E
Gibb Gulch		E	E	P	P	E	N/A	E	E

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	Inter							
Unit	State	REC-2	BIOL	WILD	T&E	MGR	SPWN	CUL
Mill Creek	X	E	N/A	E	E	E	E	H
Tish Tang	X	E	N/A	E	E	E	E	H
Pine Creek	X	E	N/A	E	E	E	E	H
Campbell Creek	X	E	N/A	E	E	E	E	H
Supply Creek	X	E	N/A	E	E	E	E	H
Trinity River	X	E	N/A	E	E	E	E	E
Klamath River	X	E	N/A	E	E	E	E	H
Soctish Creek		E	N/A	E	E	E	E	H
Hostler Creek		E	N/A	E	E	E	E	H
Hospital Creek		E	N/A	E	N/A	N/A	N/A	H
Captain John		E	N/A	E	N/A	N/A	N/A	H
Big Creek		E	N/A	E	N/A	N/A	N/A	H
Gibb Gulch		E	N/A	E	E	E	E	H

**6.2 General Water Quality Criteria:** The following criteria set forth limits or levels of water quality characteristics for surface waters to ensure the reasonable protection of beneficial uses from degradation or unreasonable effect of point and nonpoint pollution which may be a result of any cause including agricultural, mining, construction, urban runoff, silviculture, salt water intrusion, hydrological modification and residential activities. The water quality standards included in this Ordinance are developed on a Reservation wide basis.

- (A) Color: Waters shall be free of coloration that causes nuisance or adversely affects beneficial uses.
- (B) Tastes and Odors: Waters shall not contain taste or odor-producing substances in concentrations that impart undesirable tastes or odors to fish flesh or other edible products of aquatic origin, that cause nuisance or adversely affect beneficial uses.
- (C) Floating Material: Waters shall not contain floating material, including solids, liquids, foams, and scum, in concentrations that cause nuisance, adversely affect beneficial uses, or degrade water quality.
- (D) Suspended Material: Waters shall not contain suspended material in concentrations that cause nuisance or adversely affect beneficial uses.

- (E) Settleable Material: Waters shall not contain substances in concentrations that result in deposition of material that causes nuisance or adversely affect beneficial uses.
- (F) Oil and Grease: Waters shall not contain oils, greases, waxes, or other materials in concentrations that result in a visible film or coating on the surface of the water or on objects in the water, that cause nuisance, or that otherwise adversely affect beneficial uses.
- (G) Biostimulatory Substances: Waters shall not contain biostimulatory substances in concentrations that promote aquatic growths to the extent that such growths cause nuisance or adversely affect beneficial uses.
- (H) Sediment: The suspended sediment load and suspended sediment discharge rate of surface waters shall not be altered in such a manner as to cause nuisance or adversely affect beneficial uses.
- (I) Turbidity: Turbidity shall not be increased more than twenty (20) percent above naturally occurring background levels.
- (J) pH: The pH shall not be depressed below 7.0 nor raised above 8.5.
- (K) Dissolved Oxygen: Dissolved oxygen concentrations shall not be reduced below the following minimum levels at any time.  
  
Waters designated COLD ..... 6.0 mg/1  
Waters designated SPWN ..... 7.0 mg/1  
Waters designated SPWN during critical  
spawning and egg incubation periods ... .. 9.0 mg/1
- (L) Bacteria: The bacteriological quality of waters of the Reservation shall not be degraded beyond natural background levels. In waters designated for contact recreation (Recl), the median fecal coliform concentration based on a minimum of not less than five samples for any 30-day period shall not exceed 50/100 ml, nor shall more than ten percent of total samples during any 30-day period exceed 400/100 ml.
- (M) Temperature: The natural receiving water temperature of intrastate waters shall not be altered unless it can be demonstrated to the satisfaction of the Tribal Council that such alteration in temperature does not adversely affect beneficial uses.

At no time or place shall the temperature of any water be increased by more than 5<sup>0</sup> F above natural receiving water temperature.

- (N) Toxicity: All waters shall be maintained free of toxic substances in concentrations that are toxic to, or that produce detrimental physiological responses in human, plant, animal, or aquatic life. Compliance with this objective will be determined by use of indicator organisms, analyses of species diversity, population density, growth anomalies, bioassays of appropriate duration or other appropriate methods as specified by the Riparian review Committee.
- (1) The survival of aquatic life in surface waters subjected to a waste discharge, or other controllable water quality factors, shall not be less than that for the same water body in areas unaffected by the waste discharge, or when necessary for other control water that is consistent with the requirements for "experimental water" as described in Standard Methods for the Examination of Water and Waste Water, latest edition. As a minimum, compliance with this objective as stated in the previous sentence shall be evaluated with a 96-hour bioassay.
- (2) Effluent limits based upon acute bioassays of effluents will be prescribed where appropriate, additional numerical receiving water standards for specific toxicants will be established as sufficient data become available, and source control of toxic substances will be encouraged.
- (O) Pesticides: No individual pesticide or combination of pesticides shall be present in concentrations that adversely affect beneficial uses. There shall be no bioaccumulation in pesticide concentrations found in bottom sediments or aquatic life.

- (P) Radioactivity: Radionuclides shall not be present in concentrations which are deleterious to human, plant, animal or aquatic life nor which result in the accumulation of radionuclides in the food web to an extent which present a hazard to human, plant, animal or indigenous aquatic life.

<u>Constituent</u>	<u>Maximum Contaminant Level, pCi/l</u>
Combined Radium-226 and Radium-228	5
Gross Alpha particle activity (including Radium-226 but excluding Radon and Uranium)	15
Tritium	20,000
Strontium-90	8
Gross Beta particle activity	50

**6.3 Water Quality Criteria for Toxic Pollutants:** The potential benefits to human health of establishing toxic criteria include: (1) Reducing the potential health risks to persons eating fish contaminated with toxic pollutants, (2) reducing the potential health risks to persons drinking contaminated drinking water, and (3) reducing the potential health risks to swimmers from dermal exposure to contaminated surface waters. The criteria listed below consist of two measures. The "Water and Organisms" measure represents the maximum ambient water concentration for consumption of both contaminated water and fish or aquatic organisms and to all water designated MUN. The "Organisms Only" measure represents the maximum ambient water concentration for consumption of fish or other aquatic organisms and applies to all waters without an MUN designation. The exposure to concentrations above the following specified criteria shall not exceed a thirty (30) day duration. All concentrations are micrograms per liter ( $\mu\text{g/L}$ ), except asbestos which is million fibers per liter (MFL).

POLLUTANT DISCHARGE PROHIBITION ORDINANCE  
 ORDINANCE NO: 3-95  
 DATE APPROVED: August 3, 1995

	Human Health (10 <sup>-6</sup> risk for carcinogens)		
	For consumption of:		
"Priority" Pollutant	Water & Organisms	Organisms Only	Chemical CAS No.
Acenaphthene			83-32-9
Acrolein	320	780	107-02-8
Acrylonitrile	0.059	0.66	107-13-1
Aldrin	0.00013	0.00014	309-00-2
Anthracene	9,600	110,000	120-12-7
Antimony	14	4,300	7440-36-0
Arsenic	0.018	0.14	7440-38-2
Arsenic V			17428-41-0
Arsenic III			22569-72-8
Asbestos	7MFL		1332-21-4
Benzene	1.2	71	71-43-2
Benzidine			92-87-5
Benzo (a) Anthracene	0.0028	0.031	56-55-3
Benzo (a) Pyrene	0.0028	0.031	50-32-8

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POLLUTANT DISCHARGE PROHIBITION ORDINANCE  
 ORDINANCE NO: 3-95  
 DATE APPROVED: August 3, 1995

	Human Health (10 <sup>-6</sup> risk for carcinogens)		
	For consumption of:		
"Priority" Pollutant	Water & Organisms	Organisms Only	Chemical CAS No.
Benzo (b) Fluoranthene	0.0028	0.031	205-99-2
Benzo (k) Fluoranthene	0.0028	0.031	207-08-9
BHC-Alpha	0.0039	0.013	319-84-6
BHC-Beta	0.014	0.046	319-85-7
BHC-Gamma	0.019	0.063	58-89-9
Bromoform	4.3	360	75-25-2
Cadmium			7440-43-9
Carbon tetrachloride	0.25	4.4	56-23-5
Chlordane			57-74-9
Chlorinated benzenes	488		
Chlorinated naphthalenes			
Chloroalkyl ethers			
Chlorobenzene	680	21,000	108-90-7
Chlorodibromomethane	0.41	34	124-48-1
Chloroethyl Ether (Bis-2)	0.031	1.4	111-44-4
Chloroform	5.7	470	67-66-3
Chloroisopropyl Ether (Bis-2)	1400	170,000	108-60-1
Chloromethyl Ether (Bis)	3.6x10 <sup>-7</sup>	0.000184	542-88-1
Chlorophenoxy Herbicide (2,4,5,-Tp)	10		
Chlorophenoxy Herbicide (2,4,-D)	100		
Chrysene	0.0028	0.031	218-01-9
Cyanide	700a	220000	57-12-5
DDT 4,4'	0.00059	0.00059	50-29-3
DDT metabolite: DDD	0.00083	0.00084	72-54-8
DDT metabolite: DDE	0.00059	0.00059	72-55-9
Dibenzo (a,h) Anthracene	0.0028	0.031	53-70-3
Di-n-butyl Phthalate	2,700	12,000	84-74-2
Dichlorobenzenes	400	2,600	25321-22-6
Dichlorobenzene,1,2-	2,700	17,000	95-50-1
Dichlorobenzene,1,3-	400	2,600	541-73-1
Dichlorobenzene,1,4-	400	2,600	106-46-7
Dichlorobenzidine	0.01	0.02	
Dichlorobenzidine,3,3-	0.04	0.077	91-94-1



POLLUTANT DISCHARGE PROHIBITION ORDINANCE  
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 DATE APPROVED: August 3, 1995

	Human Health (10 <sup>-6</sup> risk for carcinogens)		
	For consumption of:		
"Priority" Pollutant	Water & Organisms	Organisms Only	Chemical CAS No.
Dichlorobomomethane	0.27	22	75-27-4
Dichloroethane,1,2-	0.38	99	107-06-2
Dichloroethylenes	0.0033	0.0185	25323-30-3
Dichloroehylene,1,1-	0.057	3.2	75-35-4
Dichloropropane	87	14,100	26638-19-7
Dichloropropylene,1,3-	10	1,700	542-75-6
Dieldrin	0.00014	0.00014	60-57-1
Diethyl Phthalate	23,000	120,000	84-66-2
Dimethyl Phthalate	313,999	2,900,000	131-11-3
Dinitrophenol,2,4-	70	14,000	51-28-5
Dinitrophenol,2-,Methyl,4,6-	13.4	765	534-52-1
Dinitro-o-cresol,2,4-	13.4	765	
Dinitrotoluene,2,4-	0.11	9.1	121-14-2
Dioxin [2,3,7,8-TCDD]	1.3x10 <sup>-8</sup>	1.4x10 <sup>-8</sup>	1746-01-6
Diphenylhydrazine, 1,2-	0.04	0.54	122-66-7
Di-2-ethylhexyl Phthalate	1,500	50,000	
Endosulfan	0.93	2.0	115-29-7
Endosulfan-alpha	0.93	2.0	959-98-8
Endosulfan-beta	0.93	2.0	33213-65-9
Endrin	0.76	0.81	72-20-8
Endrin Aldehyde	0.76	0.81	7421-93-4
Ether, Bis(2-Chloroethyl)	0.031	1.4	111-44-4
Ether, Bis(2-Chloroisopropyl)	1,400	170,000	108-60-1
Ethylbenzene	3,100	29,000	100-41-4
Fluoranthene	300	370	206-44-0
Fluorene	1,300	14,000	86-73-7
Halomethanes	0.19	15.7	
Heptaclor	0.00021	0.00021	76-44-8
Heptachlor epoxide	0.00010	0.00011	1024-57-3
Hexachlorobenzene	0.00075	0.00077	118-74-1
Hexachlorobutadiene	0.44	50	87-68-3
Hexachlorocyclohexane-Alpha	0.0039	0.013	

POLLUTANT DISCHARGE PROHIBITION ORDINANCE  
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	Human Health (10 <sup>-6</sup> risk for carcinogens)		
	For consumption of:		
"Priority" Pollutant	Water & Organisms	Organisms Only	Chemical CAS No.
Hexachlorocyclohexane-Beta	0.014	0.040	
Hexachlorocyclohexane-Gamma	0.019	0.063	58-89-9
Hexachlorocyclopentadiene	240	17,000	77-47-4
Hexachloroethane	1.9	8.9	67-72-1
Indeno (1,2,3-cd) Pyrene	0.0028	0.031	193-39-5
Iron	300		13463-40-6
Isophorone	8.4	600	78-59-1
Manganese	50		7439-96-5
Mercury	0.14	0.15	7439-97-6
Methoxychlor	100		72-43-5
Methyl Bromide	48	4,000	74-83-9
Methylene Chloride	4.7	1,600	74-87-3
Monochlorobenzene	488		
Nickel	610	4,600	7440-02-0
Nitrite	1,000		
Nitrobenzene	17	1,900	98-95-3
Nitrosamines	0.0008	1.24	35576-91-1
Nitrosodibutylamine, N-	0.0064	0.587	924-16-3
Nitrosodiethylamine, N-	0.0008	1.24	55-18-5
Nitrosodimethylamine, N-	0.00069	8.1	62-75-9
Nitrosodiphenylamine, N-	5.0	16	86-30-6
Nitrosopyrrolidine, N-	0.016	91.9	930-55-2
PCBs	0.000044	0.000045	1336-36-3
Pentachlorobenzene	74	85	608-93-5
Pentachlorophenol	0.28	8.2	87-86-5
Phenol	21,000	4,600,000	108-95-2
Phthalate, Bis(2-Ethylhexyl)	1.8	5.9	117-81-7
Polynuclear aromatic hydrocarbons	0.0028	0.0311	
Pyrene	960	11,000	129-00-0
Tetrachlorobenzene, 1,2,4,5-	38	48	95-94-3
Tetrachloroethane, 1,1,2,2-	0.17	11	79-34-5
Tetrachloroethylene	0.8	8.85	127-18-4
Thallium	1.7	6.3	7440-28-0
Toluene	6,800	200,000	108-88-3

	Human Health (10 <sup>-6</sup> risk for carcinogens)		
	For consumption of:		
"Priority" Pollutant	Water & Organisms	Organisms Only	Chemical CAS No.
Toxaphene	0.00073	0.00075	8001-35-2
Trichloroethylene	2.7	81	79-01-6
Trichlorophenol,2,4,5-	2,600		95-95-4
Trichlorophenol,2,4,6-	2.1	6.5	88-06-2
Vinyl Chloride	2.0	525	75-01-4

**6.4 Aquatic Life Criteria:** The concentration for each compound listed below is a criteria not to be exceeded in waters for aquatic life. The Acute criteria or Criteria Maximum Concentration (CMC) is the threshold value at or below which there should be no unacceptable effects to freshwater aquatic organisms and their uses if the one-hour average concentration does not exceed that CMC value more than once every three years on average. The Chronic criteria or Criteria Continuous Concentration (CCC) is the threshold value at or below which there should be no unacceptable effects to freshwater aquatic life and their uses if the four-day average concentration does not exceed that CCC value more than once every three years on average. Where no criteria has been established the lowest observable adverse effect level m(LOAEL0 shall apply.

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POLLUTANT DISCHARGE PROHIBITION ORDINANCE  
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"Priority" Pollutant	Acute CMC		Chronic CCC		Chemical CAS No.
	Criterion	LOAEL	Criterion	LOAEL	
Acenaphthene		1,700		520	83-32-9
Acrolein		68		21	107-02-8
Acrlonitrile		7,550		2600	107-13-1
Aldrin	3.0				309-00-2
Arsenic V		850			17428-41-0
Arsenic III	360		190		22569-72-8
Benzene		5,300			71-43-2
Benzidine		2,500			92-87-5
Beryllium		130		5.3	7440-41-7
BHC		100			680-73-1
Cadmium	3.9 <sup>a</sup>		1.1 <sup>a</sup>		7440-43-9
Carbon tetrachloride		35,200			56-23-5
Chlordane	2.4		0.0043		57-74-9
Chlorinated benzenes		250		50	
Chlorinated naphthalenes		1,600			
Chloroalkyl ethers		238,000			
Chloroform		28,900		1,240	67-66-3
2-Chlorophenol		4,380			95-57-8
3-Methyl-4-chlorophenol		30			59-50-7
Chromium VI	16		11		7440-47-3
Chromium III	1,700 <sup>a</sup>		210 <sup>a</sup>		
Copper	18 <sup>a</sup>		12 <sup>a</sup>		7440-50-0
Cyanide	22		5.2		57-12-5
DDT	1.1		0.001		50-29-3
DDT metabolite: TDE		0.6			72-54-8
DDT metabolite: DDE		1,050			72-55-9
Dichlorobenzenes		1,120		763	25321-22-6
1,2-Dichloroethane		118,000		20,000	107-06-2
Dichloroethylenes		11,600			25323-30-3
2,4-Dichlorophenol		2,020		365	120-83-2
Dichloropropane		23,000		5,700	26638-19-7
Dichloropropane		6,060		244	26952-23-8

<sup>a</sup> Hardness dependent: based on 100mg/L CaCO<sub>3</sub>.

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"Priority" Pollutant	Acute CMC		Chronic CCC		Chemical CAS No.
	Criterion	LOAEL	Criterion	LOAEL	
2,4-Dinitrotoluene		330		230	121-14-2
Dioxin [2,3,7,8-TCDD]		<0.01		<0.00001	1746-01-6
1,2-Diphenyl hydrazine		270			122-66-7
Endosulfan	0.22		0.056		115-29-7
Endosulfan-alpha	0.22		0.056		959-98-8
Endosulfan-beta	0.22		0.056		33213-65-9
Endrin	0.18		0.0023		72-20-8
Ethylbenzene		32,000			100-41-4
Fluoranthene		3,980			206-44-0
Haloethers		360		122	
Halomethanes		11,000			
Heptachlor	0.52		0.0038		76-44-8
Heptachlor epoxide	0.52		0.0038		1024-57-3
Hexachlorobutadiene		90		9.3	87-68-3
γ-HCH/Lindane	2.0		0.08		58-89-9
Hexachlorocyclopentadiene		7.0		5.2	77-47-4
Hexachloroethane		980		540	67-72-1
Isophorone		117,000			78-59-1
Lead	83 <sup>a</sup>		3.2 <sup>a</sup>		7439-92-1
Mercury	2.4		0.012		7439-97-6
Napthalene		2,300		620	91-20-3
Nickel	1,400 <sup>a</sup>		160 <sup>a</sup>		7440-02-0
Nitrobenzene		27,000			98-95-3
Nitrophenols		230		150	
Nitrosamines		5,850			35576-91-1
PCBs	2.0		0.014		1336-36-3
Pentachlorophenol	20 <sup>*</sup>		13 <sup>*</sup>		87-86-5
Phenol		10,200		2,560	108-95-2
Phthalate esters		940		3.0	
Selenium	20		5.0		7782-49-2
Silver	4.1 <sup>**</sup>			0.12	7440-22-4

\* pH-dependent (pH 7.8 used)  
 \*\* New Criteria are proposed.

"Priority" Pollutant	Acute CMC		Chronic CCC		Chemical CAS No.
	Criterion	LOAEL	Criterion	LOAEL	
1,1,2,2-Tetrachloroethane				2,400	79-34-5
Tetrachloroethanes		9,300			25322-20-7
Tetrachloroethylene		5,280		840	127-18-4
2,3,5,6-Tetrachlorophenol					935-95-5
Thallium		1,400		40	7440-28-0
Toluene		17,500			108-88-3
Toxaphene	0.73		0.0002		8001-35-2
Trichlorinated ethanes		18,000			25323-89-1
1,1,2-Trichloroethane				9,400	79-00-5
Trichloroethylene		45,000		21,900	79-01-6
2,4,6-Trichlorophenol				970	88-06-2
Zinc	120 <sup>a</sup>		110 <sup>a</sup>		

**6.5 Biological Criteria:** The following biological criteria shall apply to the waters of the Reservation.

- (A) All surface waters shall be of sufficient quality to support aquatic biota without detrimental changes in the resident aquatic communities.
- (B) Waters of the Reservation shall be free from substances, whether attributable to point source discharges, nonpoint sources, or instream activities, in concentrations or combinations which would impair the structure or limit the function of the resident aquatic community as it naturally occurs.
- (C) The structure and function of the resident aquatic community shall be measured by biological assessment methods approved by the Riparian Review Committee.
- (D) Determination of impairment or limitation of the resident aquatic community may be based on comparison with the aquatic community found at an appropriate reference site or region.

**6.6 Wildlife Criteria:** All surface waters shall be of sufficient quality to protect and support all life stages of resident or migratory wildlife species which live in, on, or near the waters of the Reservation.

**6.7 Wetlands Criteria:** The following wetlands criteria shall apply to all waters of the Reservation.

- (A) Water quality in wetlands shall be maintained at naturally occurring levels, within the natural range of variation for individual wetlands.
- (B) Physical and biological characteristics shall be maintained and protected by:
  - (1) Maintaining hydrological conditions, including hydroperiod, hydrodynamics, and natural water temperature variations;
  - (2) Maintaining the natural hydrophitic vegetation; and
  - (3) Maintaining substrate characteristics necessary to support existing and characteristic uses.
- (D) Wetlands shall not be used in lieu of stormwater treatment. Stormwater shall be treated before discharge to a wetland.

**Section 7. NOTICE OF DISCHARGES**

**7.1 Notice of Discharge:** Except as permitted pursuant to this Ordinance, any person that discharges any pollutant into the waters of the Reservation shall immediately notify the Riparian Review Committee of such discharge and shall fully disclose the information regarding the discharge including the type of pollutant, the amount, the location and other information required by the Riparian Review Committee.

**Section 8. APPEALS**

**8.1 Administrative Review:** Any person adversely affected by any act or decision of the Tribal Council shall have the right to seek administrative review hearing before the Tribal Council, provided that any such appeal is filed within thirty (30) days after the effective date of the written decision. The Tribal Council shall conduct a hearing on any appeal, and develop a decision record that is adequate for judicial review. The Tribal Council shall, in its sound discretion, have the authority to uphold, reverse or modify the action which is the subject of appeal, including ordering the matter to be reviewed by the Riparian Review Committee for acquisition of further facts and proposed findings. Following remand to the

Riparian Review Committee, there shall be a subsequent further hearing before the Tribal Council.

**8.2 Judicial Review:** Any person adversely affected by action or inaction of the Tribal Council may seek judicial review pursuant to the Hoopa Valley Code and the Rules of the Tribal Court. If administrative review proceedings have not already occurred, the Tribal Court shall remand for such proceedings unless irreparable injury would result. Upon review of an adequate decision record prepared by the Riparian Review Committee, the Tribal Court shall sustain the Committee's decision if it is not arbitrary and capricious or contrary to law.

**Section 9. SEVERABILITY**

**9.1 Severability:** If any part of this Ordinance or its application to any person or circumstance is held to be invalid, the remainder of the Ordinance or application of its provisions to other persons or circumstances shall not be affected, and to this end, the provisions of this Ordinance are severable.

**Section 10. SOVEREIGN IMMUNITY PRESERVED**

**10.1 Sovereignty:** Nothing in this Ordinance is intended to, nor should be interpreted as a waiver of the Tribe's sovereign immunity from unconsented lawsuit, or as authorization for a claim for monetary damages from the Tribe.

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

I, the undersigned, as Chairman of the Hoopa Valley Tribal Council do hereby certify that the Hoopa Valley Tribal Council is composed of eight members of which six (6) were present constituting a quorum at a Regular meeting thereof; duly and regularly called, noticed, convened and held this 3rd day of August, 1995; and that this Ordinance was duly adopted by a vote of five (5) for and none (0) against and none (0) abstentions; and that said Ordinance has not been rescinded or amended in any way.

Dated this 3rd day of August, 1995.

\_\_\_\_\_  
Dale Risling, Sr., Chairman  
Hoopa Valley Tribal Council



POLLUTANT DISCHARGE PROHIBITION ORDINANCE  
ORDINANCE NO: 3-95  
DATE APPROVED: August 3, 1995

ATTEST: \_\_\_\_\_  
Darcy Baldy, Executive Secretary  
Hoopa Valley Tribal Council