

A Sovereign Nation of Confederated Tribes

TRIBAL COUNCIL OFFICE
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LOCATION: ON STATE HWY 162
ONE MILE NORTH OF COVELO
IN ROUND VALLEY
TRIBAL TERRITORY SINCE TIME BEGAN

ROUND VALLEY RESERVATION ESTABLISHED 1856

ORDINANCE RV- 97 - 01

Of the

ROUND VALLEY INDIAN TRIBES

PROHIBITING THE DISCHARGE OF ANY
POLLUTANT INTO THE WATERS OF
THE ROUND VALLEY INDIAN
RESERVATION

APPROVED: May 12, 1997

ORDINANCE RV - 97 - 01

OF THE ROUND VALLEY INDIAN TRIBES PROHIBITING THE DISCHARGE OF ANY POLLUTANT INTO THE WATERS OF THE ROUND VALLEY INDIAN RESERVATION

The Round Valley Indian Tribes does hereby ordain as follows:

Section 1. Findings and Declaration. The Round Valley Tribal Council for the Round Valley Indian Tribes finds and declares that:

1. It wishes to eliminate all discharges of pollutants into the waters of the Round Valley Indian Reservation.
2. Elimination of all discharges of pollutants into the water of the Round Valley Indian 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 such time as the Round Valley 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 purpose of this Ordinance, the following words shall have the following meanings:

- A. "Council" shall mean the Tribal council of the Round Valley Indian Tribes.
- B. "Person" shall mean any individual, corporation, firm, partnership, joint venture, association, social club, trust, the United States, Tribes, State, County, City, district or any other group or combination acting as a unit.
- C. "Pollutant" means any substance that will alter the quality of the waters of the Reservation.

- D. "Quality of the water or waters" means any chemical, physical, radiological, and other properties and characteristics of water, which affect its use.
- E. "Reservation" means all land, air, and water, which is located within the exterior boundaries of the Round Valley Indian Reservation.
- F. "Water or waters" means any water, surface or underground located on or running through the Reservation.

Section 3. Prohibited Discharges. No person shall discharge any pollutant into the waters of the Reservation.

Section 4. Civil Penalty. Any person discharging any pollutant into the water of the Reservation shall pay a civil fine in the 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 6 of this 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 less than (24) hours from the time of discharge notify the Council of the said discharge and shall fully disclose to the Council any other information required by the Council. Any person who discharges any pollutant into the waters of the Reservation shall be liable for all cost associated with or necessary to cleaning up, abate, or remove said pollutants from the reservation and restore the quality of the waters of the Reservation to their condition as they exited immediately prior to the discharge.~~

Section 6. Court Action and Injunctions. Upon failure of any person to comply with any of the Provisions of the ordinance, the Council, by and through its attorney or authorized person, shall petition a court of competent jurisdiction for the issuance of an injunction required such person to 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 Ordinance shall take effect immediately upon passage. The foregoing Ordinance was adopted by the Round Valley Tribal Council at a special meeting duly called and held on May 12, 1997, by the following vote:

AYES: 3
NAYS: 0
ABSTENTIONS: 1

Norman Whipple
President, Round Valley Tribal

Council

ATTEST:
Alberta J. Azbill
Executive Secretary,
Round Valley Tribal Council

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Section 7- Emergency Enforcement:

Notwithstanding any other provisions of this ordinance, the Tribal Council, upon receipt of evidence that a pollution source or combination of sources is presenting an imminent and substantial endangerment to the health of persons or to the welfare of persons where such endangerment is to the livelihood of such persons, may bring suit on behalf of the tribe in any court of competent jurisdiction to immediately restrain any person causing or contributing to the alleged pollution to stop the discharge of pollutants causing or contribution to such pollution or to take such other action as may be necessary.

Section 8- Effective Date:

This ordinance shall take effect immediately upon passage. The foregoing Ordinance was adopted by the Round Valley Tribal Council at a special meeting duly called and held on May 12, 1997, by the following vote:

AYES	3
NAYS	0
ABSTENTIONS:	1

Norman Whipple
President, Round Valley Tribal Council

ATTEST:

Alberta J. Azbill
Executive Secretary,
Round Valley Tribal Council

Section 7 in original Ordinance read Effective Date, I need to change Section 7 to Emergency Enforcement and move Effective Date to 8.

CONTINGENCY PLAN IMPLEMENTING EMERGENCY TRIBAL AUTHORITY OVER TRIBAL WATERS ON THE ROUND VALLEY RESERVATION

I. Purpose: To qualify for treatment as a state under the Federal Clean Water Act, Environmental Protection Agency rules require that the tribe exercise emergency powers comparable to those granted the EPA Administrator under CWA Section 504 (54 Fed. Reg. 14358 (Interim Revision of 40 C.F.R. §35.260 (b))), and have adequate contingency plans to implement such authority. This plan sets forth a statement of emergency tribal authority and the tribe's implementing contingency plans.

II. Emergency Powers: Section 7 of the Round Valley Indian Tribes Ordinance prohibiting Discharge of Any Pollutant Into the Waters of Reservation Lands establishes authority in the Tribal Council that is equivalent to that of the power granted the EPA Administrator under the Clean Water Act. Section 7 provides as follows:

"SECTION- 7 EMERGENCY ENFORCEMENT

Notwithstanding any other provisions of this ordinance, the Tribal Council, upon receipt of evidence that a pollution source or combination of sources is presenting an imminent and substantial endangerment to the health of persons or to the welfare of persons where such endangerment is to the livelihood of such persons, may bring suit on behalf of the tribe in any court of competent jurisdiction to immediately restrain any person causing or contributing to the alleged pollution to stop the discharge of pollutants causing or contribution to such pollution or to take such other action as may be necessary."

III. Contingency Plan: Since all lands subject to tribal regulation under the tribe's Ordinance are trust land, the Tribe may exercise both regulatory authority, and authority as beneficial owners of the land and resources at issue. Discharge of prohibited pollutants in or on tribal territory, in addition to violating tribal standards subjecting a violator to civil penalties, is unlawful and an unauthorized use of tribal resources and thus may be immediately restrained.

The Tribal Council, upon receipt of evidence that a pollution source or combination of sources is presenting an imminent and substantial endangerment to the health of persons or to the welfare of persons where such endangerment is to the livelihood of such persons, by and through its attorney, shall petition a court of competent

*defined in Ordinance
in § 7.2.1.1*

jurisdiction for the issuance of an injunction to immediately restrain any person causing or contributing to the alleged pollution to stop the discharge of pollutants causing or contributing to such pollution or to take such other action as may be necessary.

The Tribal Council, by and through its attorney, shall select a judicial forum in which to petition for injunctive relief according to the following priorities:

1. The forum's jurisdiction over all parties to dispute is certain.
2. A clear and definite mechanism is available to enforce the court's orders protecting the water resource.
3. Tribal law will be applied.

CERTIFICATION

The foregoing Contingency Plan was passed at a Tribal Council meeting held on _____ by the following:

Vote: _____ For _____ Against _____ Abstain _____

Kenneth Wright, Tribal Chairman

ATTEST:

Executive Secretary

CLEAN WATER ACT §504 EMERGENCY POWERS

CWA § 504: " Notwithstanding any other provisions of this Act, the Administrator upon receipt of evidence that a pollution source or combination of sources is presenting an imminent and substantial endangerment to the health of persons or to the welfare of persons where such endangerment is to the livelihood of such persons, such as the inability to market shellfish, may bring suit on behalf of the United States in the appropriate district court to immediately restrain any person causing or contributing to the alleged pollution to stop the discharge of pollutants causing or contributing to such pollution or to take other such actions as may be necessary."