

CHAPTER 8. WATER POLLUTANT DISCHARGE

The Tribal Council of the Smith River Rancheria does hereby ordain as follows:

ARTICLE I – FINDINGS AND DECLARATION

The Tribal Council for the Smith River Rancheria finds and declares that:

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

ARTICLE II – DEFINITIONS

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

1. "Council" shall mean the Tribal Council of the Smith River Rancheria.
2. "Environmental Protection Personnel" shall mean the person or persons employed by the Smith River Rancheria in an environmental protection position.
3. "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.
4. "Rancheria" shall mean all land, air, and water located within the exterior boundaries of the Smith River Rancheria.
5. "Water or waters" means any water, surface or underground located on or running through the Rancheria.
6. "Quality of the water or waters" shall mean any chemical, physical, biological, bacteriological, radiological, or any other property or characteristic of water which affects its use.
7. "Pollutant" shall mean any substance that will alter the quality of the waters of the Rancheria.

ARTICLE III – PROHIBITED DISCHARGES

No person shall discharge any pollutant into the waters of the Rancheria.

ARTICLE IV – CIVIL PENALTY

Any person discharging any pollutant into the waters of the Rancheria 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. Any court of competent jurisdiction, in accordance with Articles V and VI of this Ordinance, shall impose the civil fine required by this Article.

ARTICLE V – CLEAN UP AND ABATEMENT

Any person that discharges any pollutant into the waters of the Rancheria shall immediately, or in any case within twenty-four (24) hours of the time of the discharge, notify the Environmental Protection Personnel of said discharge. The person that discharges shall fully disclose to the Environmental Protection Personnel any and all information regarding the discharge, including but not limited to the type of pollutant discharged and any other information required by the Environmental Protection Personnel. Any person who discharges any pollutant into the waters of the Rancheria shall be liable for all costs associated with or necessary to clean up, abate, or remove said pollutants from the waters of the Rancheria and restore the quality of the waters of the Rancheria to their condition as they existed immediately prior to the discharge. The costs for clean up or abatement shall be in addition to any fines levied in accordance with Article IV of this Ordinance.

ARTICLE VI – COURT ACTION AND INJUNCTIONS

Upon failure of any person to comply with any of the provisions of this Ordinance, the 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 Articles IV and V of this Ordinance, as the facts may warrant.

ARTICLE VII – EFFECTIVE DATE AND LEGISLATIVE HISTORY

This ordinance shall take effect immediately upon passage. This Ordinance shall take effect immediately upon passage. This Chapter was originally adopted as the Water Pollutant Discharge Ordinance (Ordinance 01-01) on January 9, 2001.