



SUSANVILLE INDIAN RANCHERIA

DISCHARGE OF POLLUTANTS INTO THE WATERS OF THE SUSANVILLE INDIAN RANCHERIA

ORDINANCE NO. 2003 – 001 AMENDMENT 1

A. TITLE

This Ordinance shall be titled “Discharge of Pollutants into the Waters of the Susanville Indian Rancheria”.

B. STATEMENT OF FINDINGS

The Susanville Indian Rancheria (“SIR” or “Tribe”) by and through the SIR Tribal Business Council (TBC) finds and declares as follows:

1. It has a primary responsibility to protect, control and conserve the water resources of the Susanville Indian Rancheria.
2. There are numerous water resources on the Susanville Indian Rancheria, which have profound significance to the tribal members and those that have used these resources for cultural, ceremonial and domestic purposes.
3. Protection of water resources is a pro-active approach to managing tribal water supplies and focusing on the prevention of contaminants from entering these water sources is of utmost importance.
4. It seeks to eliminate all discharges of pollutants into waters of the SIR.

C. PURPOSE

The purpose of this ordinance is to prohibit the discharge of any pollutant into the waters of the Susanville Indian Rancheria. The provisions of this ordinance shall apply to all existing and proposed point and non-point source pollution discharges into surface or ground waters, and all activities which have the potential to affect cultural, public health and safety, water quality and other beneficial uses of the water by the tribe.

D. AUTHORITY

The Susanville Indian Rancheria's General Council, via the Tribal Constitution, delegated to the Tribal Business Council the authority to conduct business on behalf of the Susanville Indian Rancheria effective May 18, 2005. Specifically, Article VI, Section 2, subsections (f.), (k.), and (l.) allow the Tribal Business Council to enact ordinances for the purpose of protecting tribal lands, water, minerals, and all other natural resources within tribal jurisdiction and to provide enforcement of these ordinances.

E. JURISDICTION

The provisions of this ordinance shall apply to all present and future lands within the boundaries of the Susanville Indian Rancheria, and lands owned by the Tribe in fee or by the United States of America in trust for the Tribe.

F. DEFINITIONS

In construing the provision of this ordinance, the following words or phrases shall have the meaning specified below, unless a different meaning is expressly provided, or the context clearly indicates otherwise:

Beneficial Uses means all lawful uses of waters identified in the SIR Water Quality Assurance Program Plan (QAPP). Such uses may include, but are not limited to, agricultural, commercial, cultural, domestic, industrial, recreational, and traditional uses, and uses by fish and wildlife for habitat or propagation.

NRD means the Susanville Indian Rancheria Natural Resources Department.

Nonpoint Source means any pollution sources which are diffuse and do not have a single point of origin or are introduced into a stream from a non-specific inlet.

Person means any individual, association, corporation, estate, firm, partnership, joint venture, social club, trust, or state or federal government agencies, departments or a political subdivisions, or any other group or combination acting as a unit

Point Source means any discernible, confined and discrete conveyance, including, but not limited, to any channel, concentration of an animal feeding operation, conduit, culvert, ditch, pipe, tunnel, and/or well.

Pollutant means any substance that will have an adverse effect on water quality.

Water Quality means measurements of the characteristics of water, which can include chemical, biological, physical, and radiological characteristics. This is usually measured relative to human

needs, though it can also be looked at in terms of how the quality of water affects animal and plant ecosystems.

Rancheria means any land owned by the tribe or any land held in trust for the Tribe by the United States of America.

SIR means the Susanville Indian Rancheria.

Tribal Business Council means the Susanville Indian Rancheria, California, Tribal Business Council created pursuant to the Tribe's Constitution.

Tribe means the Susanville Indian Rancheria, California, acting through its duly constituted Tribal Business Council.

Water or Waters includes, but is not limited to, streams, springs, seasonal drainages, wetlands, groundwater, stormwater, or stormwater drains located on the Rancheria.

G. APPLICABILITY

The Discharge of Pollutants into the Waters of the Susanville Indian Rancheria Ordinance shall apply to any Person discharging any pollutants into the waters of the Susanville Indian Rancheria or on any lands of the Rancheria that reduces the water quality of these same waters.

H. PROHIBITIONS

No Person shall discharge any pollutant into the waters of the Rancheria from any location, whether on or off the Rancheria.

I. RECOVERY OF COSTS

1. If a Person violates this ordinance and the tribe arranges for the cleanup of the unlawful discharge of pollutants into the waters of the Susanville Indian Rancheria, that Person shall be liable to the Tribe for all reasonable costs and expenses associated with the cleanup.
2. The Natural Resources Department (NRD) will report to the Tribal Business Council any violation of this ordinance. Upon receipt of the report and a determination of probable cause to believe such violation has occurred, the Tribal Business Council shall direct the issuance of a ten (10) days notice of intention to abate any unlawful discharge of pollutants into the waters of the Susanville Indian Rancheria. The notice shall be personally served or mailed (by registered or certified mail) to such Person or Persons. Notice served by registered or certified mail shall be deemed served when the receipt is signed or 48 hours after deposited in the mail, whichever occurs first.

3. If the unlawful discharge of pollutants into the waters of the Susanville Indian Rancheria is not resolved in accordance with the requirements of this ordinance within said ten (10) days of when notice is serviced and the Tribal Business Council determines after consideration of evidence or argument submitted by the Person or business alleged to be in violation of this ordinance, that Person is liable for the costs for the cleanup of the unlawful discharge or any other penalties or fines imposed under the provisions of this ordinance, it shall issue an order setting forth the Person's liability. The payment of the liability shall be enforced as provided in section (K) of this Ordinance.
4. If the Person identified as being responsible for the unlawful discharge of pollutants into the waters of the Susanville Indian Rancheria is a non-tribal member, the Tribal Business Council or its designee shall pursue all remedies, whether administrative or judicial, at law or in equity, including referral to the Environmental Protection Agency.

J. REGULATIONS

To attain and maintain Water Quality, the Susanville Indian Rancheria adopts all provisions of 40 CFR Section 125.62 for both Nonpoint Source and Point Source discharges. The adoption of Section 125.62 assures protection of public water supplies; assures the protection and propagation of a balanced indigenous population of shellfish, fish, and wildlife; and allows recreational activities.

K. ENFORCEMENT

1. The Natural Resources Department, along with the help of the Tribal Administration and Public Works Department, will be charged with the responsibility of conducting investigations, including the inspections of relevant properties, for any reported violations of this ordinance.
 - 1.1. Investigations of such violations shall be initiated upon the report of any violation of this ordinance.
 - 1.2. NRD shall document the violation on a form developed by the Natural Resources Department and shall include, at a minimum, the following information:
 - Name of the complainant;
 - Date and time of the alleged violation;
 - Location of the alleged violation; and
 - A brief description of the factual basis for the complaint.
 - 1.3. NRD staff shall initiate an investigation of the complaint within twenty-four (24) hours of receiving the complaint to determine if a violation has occurred.

- 1.4. Following an investigation, if the NRD staff has determined that a violation has occurred, NRD may take any one of the following actions that it deems most appropriate considering the gravity of the offense, harm to any human health or the environment resulting from the violation, and the circumstances of the person committing the violation.
 - 1.4.1. Informally contact any alleged violator about possible violations of this Ordinance, or practices that may result in violations of this Ordinance, to assist the alleged violator in adhering to practices that protect water quality and comply with this Ordinance.
 - 1.4.2. Issue a warning of violation, in the form of a letter from the Susanville Indian Rancheria to the alleged violator, explaining the basis for the warning; possible measures which the alleged violator may take to mitigate the basis of the warning; and an explanation of the steps NRD may take if the alleged violator does not take positive corrective action.
 - 1.4.3. Upon finding that a violation is taking place or appears imminent, and that such activity if allowed to proceed will present an immediate hazard or cause irreparable damage, the Susanville Indian Rancheria may issue an order to the Person responsible for such activity to cease and desist from further commission of such violation.
2. Any Person discharging any pollutant into the waters of the Rancheria shall pay a civil fine in an amount not to exceed \$1,000 for each day in which the violation occurs. The civil fine required by this section shall be imposed by the Tribal Business Council and may be enforced in any court of competent jurisdiction.
3. Any Person may appeal the fine by giving written notice to the Susanville Indian Rancheria Tribal Business Council within thirty (30) days of the assessment of the penalty for violation of this ordinance. The assessment of the penalty for violation of this ordinance shall be personally served or mailed (by registered or certified mail) to such Person or Persons. Notice served by registered or certified mail shall be deemed served when the receipt is signed or 48 hours after deposited in the mail, whichever occurs first.
4. If an appeal is received within thirty (30) days of the assessment of the penalty for violation of this ordinance, the Tribal Business Council must hold an administrative hearing within thirty (30) days of receiving the appeal. If the Person appealing the fine makes a showing, supported by a declaration or other written documentation, in the appeal request submitted to the Tribal Business Council that the proposed enforcement action will result in great financial loss or harm to the person or property

before the Tribal Business Council required to hold a hearing, the Tribal Business Council may hold a hearing immediately, or may delay or reverse any enforcement action until the Tribal Business Council can hold the requested hearing.

5. If a Person does not request an appeal hearing within thirty (30) days of receipt of the notice of assessment, the civil penalty or other enforcement action will become permanent and the person shall lose all rights to appeal.
6. The NRD may file a civil action in any court of competent jurisdiction to recover clean-up costs or other damages caused by a violation of this ordinance in addition to any fine imposed under Section K.2 of this ordinance. In any such court action a determination of the TBC after providing notice and an opportunity for a hearing shall be binding on the parties to that administrative proceeding.

L. AMENDMENTS

This ordinance may be amended by a simple majority vote of the Tribal Business Council. Should any section, paragraph, sentence, or clause of this ordinance be declared unconstitutional or invalid for any reason, the remainder of said ordinance shall not be affected thereby.


M. EFFECTIVE DATE

This ordinance is effective upon the date it was approved at a duly called meeting of the Tribal Business Council.

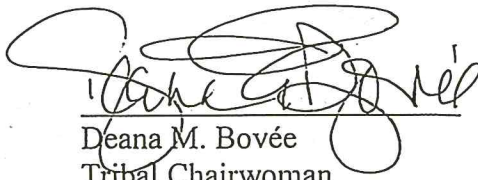
CERTIFICATION

We hereby certify that the Discharge of Pollutants into the Waters of the Susanville Indian Rancheria Ordinance No. 2003-001, Amendment 1 was adopted by the Susanville Indian Rancheria Tribal Business Council at a duly called meeting held October 03, 2017 with a vote of 6 for, 0 against, 1 abstain.

ATTEST;



Aaron Dixon, Sr.
Secretary/Treasurer



Deana M. Bovée
Tribal Chairwoman