

Environmental Policy Compliance Ordinance

The Shingle Springs Band of Miwok Indians
of the
Shingle Springs Rancheria
of
El Dorado County, California

AUTHORITY:

WHEREAS, the Shingle Springs Band of Miwok Indians on June 19, 1976, did adopt the Articles of Association for the management of all Tribal affairs; and

WHEREAS, Article VI, Section 1(d) of the Shingle Springs Rancheria Articles of Association authorizes the Tribal Council to regulate, by ordinance, the use and development of all Tribal lands, whether assigned or unassigned, and to manage, lease or otherwise operate all unassigned Tribal property; and

WHEREAS, the Band undertook an Environmental Management Program in May 1997 that identified numerous environmental goals, problem areas, and potential solutions; and

WHEREAS, the Band desires to form a Tribal Environmental Department to ensure Federal Environmental Policy Compliance for the benefit of all tribal members

WHEREAS, it is the desire of the Band to meet the needs of its members in an environmentally responsible manner.

NOW THEREFORE, be it known that the Tribal Council of the Shingle Springs Rancheria does ordain as follows:

SECTION 1: DEFINITIONS

Wherever used in this ordinance, the following terms shall have the following meaning:

- A. "APCD" means El Dorado County Air Pollution Control District.
- B. "Band" refers to the Members of the Shingle Springs Band of Miwok Indians of the Shingle Springs Rancheria.
- C. "Commercial" refers to property that will be used for the development of retail and service-oriented establishments such as gaming, shopping centers, restaurants, offices, entertainment enterprises, and services.

- D. "Emergency" Shall be defined as any action or event resulting in the violation of this Ordinances or that has the imminent threat if causing and unexpected or sudden occurrence of a serious and urgent nature that demands immediate action to protect the Health and Safety of the Public, Property, or Environment.
- E. "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social and technological factors.
- F. "Project" means any significant expansion of a present structure or any significant new construction including any significant excavation, construction or development on the Rancheria, as determined by the Tribal Council.
- G. "Rancheria" refers to the Shingle Springs Rancheria.
- H. "Rancheria Land User" refers to any individual who resides on the Shingle Springs Rancheria as an assignee or a lessee or any persons visiting or performing any activities on Rancheria.
- I. "Tribe" refers to the Members of the Shingle Springs Band of Miwok Indians.
- J. "Tribal Council" refers to the governing body of the Shingle Springs Band of Miwok Indians.
- K. "Tribal Environmental Department" refers to the Tribal Environmental Protection Agency General Assistance Program and Environmental Protection Agency Section 106 Programs. The Tribal Environmental Department is responsible for ensuring Tribal Environmental Compliance with Federal Environmental Policies for the benefit of all Tribal Members.
- L. "Tribal Office" refers to the administrative offices located on the parcel designated as Tribal Activity Area.

SECTION 2: JURISDICTION

The provisions of this ordinance shall apply to the Shingle Springs Rancheria as it currently exists, and to such future annexations of property as are approved by the Tribal Council and BIA.

SECTION 3: ADMINISTRATION

- A. The Shingle Springs Tribal Council shall administer the provisions of this ordinance, and shall propose future amendments to this ordinance, as it deems necessary and prudent.
- B. The duties of the Shingle Springs Tribal Council with respect to this ordinance shall be as follows:

- (1) To administer and enforce the provisions of this ordinance;

- (2) To provide for written terms and conditions of the necessary permits;
- (3) To issue permits as provided by this ordinance;
- (4) To keep such records as may be required.
- (5) All or any portion of the above four duties may be delegated by the Tribal Council to a Tribal agency such as the Tribal Environmental Department.
- (6) Cease and desist-approved by Tribal Chairman and issued by Tribal Environmental Department

SECTION 4: WASTE WATER DISPOSAL

- A. The purpose of this section is to provide existing and future residences, businesses, and Tribal enterprises located on the Shingle Springs Rancheria with adequate and safe wastewater disposal.
- B. Septic systems.
 - a. Education. The Tribal Environmental Department shall develop and implement a Tribal Outreach Program that provides Rancheria residents with information concerning the proper and regular maintenance of their septic system.
 - b. Monitoring. In cooperation with United States Environmental Protection Agency, the Tribal Environmental Department shall implement a monitoring/corrective action program to detect septic daylighting (any water from septic system coming to the surface).
 - c. Reporting. Rancheria residents shall report any daylighting or odor to the Tribal Council or designated Tribal environmental staff as soon as possible following discovery. Designated Tribal environmental staff shall respond to these reports and evaluate the potential failure of the system.
 - d. Repairing. If the Tribal Council or designated Tribal environmental staff determines that corrective action is required, the Tribal Council shall assist the resident in identifying corrective measures or put the resident in contact with the appropriate agencies/companies. Corrective measures shall be implemented by the resident and certified by the Tribal Council within 90 days of initial discovery. Should the resident fail to implement corrective measures to the satisfaction of the Tribal Council, the Tribal Council may implement or cause to be implemented corrective measures. The Tribal Council may hold the resident responsible for the full costs of implementing these corrective measures, including any administrative costs incurred in arranging for the implementation of corrective measures.

SECTION 5: SOLID WASTE DISPOSAL

- A. The purpose of this section is to assure that solid waste generated by Rancheria Land Users is disposed of in an environmentally sound manner that promotes recycle/reuse.
1. Definition of solid waste. Solid waste includes:
 - i. Waste collected by a disposal service for disposal in a landfill by a contractor;
 - ii. Recyclable material including but not limited to, cardboard, paper products, plastics, aluminum, and glassware;
 - iii. Household and garden waste;
 - iv. Lumber, junk, garbage, refuse, trash, or debris;
 - v. Abandoned, discarded, or unused objects or equipment such as automobiles, furniture, stoves, refrigerators, freezers, cans, or containers.
- B. Solid Waste Disposal.
1. Rancheria land user.
 - i. Each individual Rancheria land user will be responsible for keeping their land/assignment in a state of good repair and in a neat and sanitary condition. No Rancheria land user shall keep, deposit, or scatter solid waste on their premises except that household waste, garden waste, and recyclables may be stored in containers for proper disposal or recycling.
 2. Dumping.
 - i. It shall be unlawful for any person, firm, or corporation to throw or dispose of any solid waste on any portion of the Rancheria, including any road, public place, stream or other body of water. The Tribal Council or designated staff shall assess dumping incidents reported or witnessed by Tribal Staff or Tribal Members on the Rancheria.
 - ii. The Tribal Council may cite any person, firm, or corporation found to be violating the provisions of Section 5. After repeated refusal to correct the condition, the Tribal Council may order the clean up and may levy a fine for the reasonable costs associated with the clean up.

3. Open pit burning.
 - i. Rancheria land users may burn non-toxic waste and garden waste in open pits provided all burning takes place during a specified burn day as dictated by the APCD. Each instance of open pit burning on a day not specified as a burn day by the APCD constitutes a violation of this subsection.
- C. Recycling. The Tribal Council shall develop a Shingle Springs Rancheria Recycling Program with assistance from El Dorado Disposal, the U.S. Environmental Protection Agency, and other Tribes. This recycling program must include a plan for recycling at least the following materials:
1. Aluminum cans,
 2. Paper (newspaper, colored, and white),
 3. Glass,
 4. Motor oil,
 5. Oil filters,
 6. Tires and
 7. Other products as deemed necessary.
- D. Education.
1. The Tribal Environmental Department shall develop a tribal education program that educates tribal residents about the correct methods for solid waste disposal, including information about the following:
 - i. Materials that can be recycled,
 - ii. Materials that can be placed into trash containers,
 - iii. Burning during proper burn days,
 - iv. The health consequences of not following sound disposal principles and
 - v. Waste containing hazardous materials.
 2. The Tribal Council shall reduce the volume of yard waste being burned by Rancheria land users by:
 - i. Offering composting workshops to Rancheria residents, and

- ii. Offering chippers/grinders for use by Rancheria residents.

SECTION 7: AIR QUALITY

- A. The purpose of this section is to protect and improve the air quality within the Rancheria to the maximum extent possible.
- B. Education. The Tribal Environmental Department shall develop and implement an educational program for Environmental Staff that will educate the Tribal Members about the air quality effects of land use / transportation decisions on the Rancheria. The program should include staff attendance at appropriate educational workshops, and staff meetings with APCD planners, the U.S. Environmental Protection Agency, and other tribal land use planners.
- C. Off-road driving. Recreational off-road driving of vehicles, including automobiles, trucks, all-terrain-vehicles, and motorcycles, shall be prohibited in areas deemed sensitive to disturbance and in areas identified by Tribal Council or Tribal Environmental Department, (see attached map of sensitive areas). When off-road, vehicles shall not be driven faster than 15 miles per hour.
- D. Dust control
 - a. Construction. All construction activities taking place within the Rancheria shall perform the following best management practices to reduce dust emissions:
 - i. Water all active construction areas as needed;
 - ii. Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard (i.e., the minimum required space between the top of the load and the top of the trailer);
 - iii. Pave, apply water, or apply (non-toxic) soil stabilizers on all unpaved areas and staging areas at construction sites;
 - iv. Sweep streets daily (preferably with water sweepers) if visible soil material is carried onto adjacent public streets;
 - v. Hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas (previously graded areas inactive for ten days or more);
 - vi. Enclose, cover, water, or apply (non-toxic) soil stabilizers to exposed stockpiles (dirt, sand, etc.);

- vii. Restrict or ban work on days of high winds (>30 miles per hour) or when air quality violations are expected (as determined by the APCD);
 - viii. Limit traffic speeds on unpaved roads to 15 miles per hour;
 - ix. Install sandbags or other erosion control measures to prevent silt runoff to public roadways;
 - x. Replant vegetation in disturbed areas as quickly as possible; and
 - xi. Designate a person or persons to oversee the implementation of a comprehensive dust and erosion control program that includes a provision to increase watering, if necessary.
- b. Off-road driving. Recreational off-road driving of vehicles, including automobiles, all-terrain-vehicles, and motorcycles, shall be prohibited in areas deemed sensitive to disturbance and in areas identified by Tribal Council or Tribal Environmental Department, (see attached map of sensitive areas). When off-road, vehicles shall not be driven faster than 15 miles per hour.
- c. Enforcement. Any person, firm, or corporation found to be violating the provisions of Section 8(D) shall be subject to fines for each violation as determined by the Tribal Council. The Tribal Council shall determine the amount of any fine levied according to the severity of the violation.

E. Monitoring.

- a. The Tribal Environmental Department shall periodically monitor air quality on the Rancheria.
- b. For each new commercial development project proposed on the Rancheria (proposed project), the contractor shall implement a monitoring program (corrective measures) program for construction and operational emissions, unless the Tribal Council anticipates no air emissions from both the construction and operation of the proposed project. If the Tribal Council anticipates air emissions from either the construction or operation of the proposed project, then a monitoring program is required only for the portion of the proposed project that is anticipated to produce air emissions. The monitoring program shall be in place before air emissions produced by the proposed project are anticipated to take place.

SECTION 8: RESOURCE MANAGEMENT

- A. The purpose of this section is to preserve, protect, and enhance natural habitat areas on the Rancheria, including creek and riparian corridors, oak woodlands, wetlands, and scenic vistas.

- B. Timber.
1. Any harvesting of wood shall be done in accordance with the Shingle Springs Rancheria Fuel Wood Policy Statement (See Attachment A).
 2. In addition to the terms in the attached Fuel Wood Use Policy Statement, the following provisions apply to all timber cutting operations:
 - i. Trees cleared from future development projects shall be used for fuel wood for Rancheria residents.
- C. Soil.
1. Construction. All construction activities taking place within the Rancheria shall perform the following best management practices to reduce erosion:
 - i. Implement Section 7(D)(a) (i-xi).

SECTION 9: WATER QUALITY

- A. The purpose of this section is to assure that the various existing and planned uses on the Rancheria promote the maintenance of a high level of water quality within the Rancheria's waterways.
- B. The Tribal Council shall coordinate with EPA Section 106 to develop and implement a Water Monitoring Program for the Rancheria waterways.
- C. The Tribal Council shall implement the following measures to control water quality degradation:
- a. Construction. All construction activities taking place within the Rancheria shall perform the following best management practices to reduce water erosion:
 - i. Implement Section 7(D)(a);
 - ii. Designate a person or persons to oversee the implementation of a comprehensive storm water control program that includes a spill prevention and countermeasure plan, which will identify proper storage, collection, and disposal measures for potential pollutants (such as fuel storage tanks) used on-site, if necessary;
 - iii. Stabilize any land cuts required for future home site preparation by maintaining slopes of less than 15% and to hydroseed around building pads and road cuts where slopes exceed 15%;
 - iv. Retain existing vegetation where possible;

- v. To the extent feasible, limit grading activities to the immediate area required for construction;
 - vi. Employ temporary erosion control measures (such as silt fences, staked straw bales, and temporary revegetation) for disturbed areas;
 - vii. Ensure erosion control measures are in place at disturbed surfaces between October and May (the wet season); and
 - viii. Retain sediment on-site by a system of sediment basins, traps, or other appropriate measures.
- b. Off-road driving. Vehicular travel across creek beds and wet areas will be limited to designated areas. Recreational off-road driving of vehicles, including automobiles, all-terrain-vehicles, and motorcycles, shall be prohibited in areas deemed sensitive to disturbance and in areas identified by Tribal Council or Tribal Environmental Department, (see attached map of sensitive areas). When off-road, vehicles shall not be driven faster than 15 miles per hour.
- c. Creek beds. The Tribal Council shall ensure the repairs and maintenance of creek beds in order to control unchannelized flow.

SECTION 10: ENVIRONMENTAL REVIEW PROCESS FOR NEW DEVELOPMENT

- A. The purpose of this section is to establish a mechanism by which the Tribal Council may analyze potential on-reservation environmental impacts of on-reservation development projects.
- B. Applicability. These procedures apply to all development projects that have the potential to cause significant environmental impacts on the Rancheria.
- C. Definitions. The following words have the following meanings as used in this section:
- a. "Environmental Analysis" means any environmental assessment, environmental impact report or similar environmental study prepared in connection with a project.
 - b. "Mitigation" includes:
 - i. avoiding the impact altogether by not taking a certain action or parts of an action;
 - ii. minimizing impacts by limiting the degree or magnitude of the action and its implementation;

- iii. rectifying the impact by repairing, rehabilitating, or restoring the affected environment;
- iv. reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action; and
- v. compensating for the impact by replacing or providing substitute resources or environments.

D. Preparation of Environmental Analysis.

- a. Prior to the commencement of any project, the Tribal Council may prepare or cause to be prepared an environmental analysis of the project's on-reservation environmental impacts.
- b. If the Band decides to prepare an environmental analysis, the document shall be prepared according to the following standards:
 - i. Persons qualified by training, education or experience to make the analyses and determinations required hereunder shall prepare the environmental analysis.
 - ii. The environmental analysis shall include, at a minimum:
 - 1. A description of the proposed project;
 - 2. A description of the environment of the area(s) that will or may be affected by the proposed project;
 - 3. A discussion of the significant adverse on-reservation environmental impacts of the proposed project, if any, and
 - 4. An identification and discussion of proposed mitigation measures to lessen or avoid significant adverse on-reservation environmental impacts of the proposed project.
 - iii. Appropriate Mitigation and Decision to Proceed With Project.
 - 1. Following completion of the process described in above, the Tribal Council shall determine whether and to what extent mitigation measures are necessary or appropriate with respect to significant adverse on-reservation environmental impacts, if any.
 - 2. In the event the Tribal Council determines that specific economic, social or other conditions make infeasible such mitigation measures, the proposed project may proceed in spite of the existence of one or more significant adverse on-reservation environmental impacts.

SECTION 11: EFFECTIVE DATE

This Ordinance shall be effective on the date approved by the Tribal Council.

SECTION 12: ENFORCEMENT

- A. Enforcement of this Ordinance shall be by the Tribal Council.
- B. Violations of this Ordinance shall be subject to the jurisdiction of the Shingle Springs Rancheria. The Tribal Council shall act on all reported violations of this Ordinance. Wherever possible, the Tribal Council shall grant the alleged violator an opportunity to correct the reported violation within a specified time.
- C. If the alleged violator fails to take corrective action upon being given the opportunity, the Tribal Councils determination shall be to provide to notification to the alleged violator by certified mail, return receipt requested.
- D. The alleged violator has thirty (30) days to appear before the Tribal Council to present his/her case.
- E. The Tribal Council shall conduct a hearing at the scheduled time and place and then and there may make its final decision whether or not the alleged violator appears, provided that good cause has not been shown at the time for the non-appearance.
- F. When the Tribal Council upon hearing and after due deliberation has reached its final decision, such decision shall be confirmed in a letter issued by the Tribal Council and directed to the alleged violator by certified mail, return receipt requested.

This letter shall cover all of these items:

- (1) the nature of the decision;
- (2) whether the alleged violator has been found innocent or guilty;
- (3) in the event of a finding of guilty, the exact remedy that is to be carried out by the Tribal Council;
- (4) the period of time allowed for removing or otherwise disposing of personal property, which period shall not be less or more ? than six (6) months from the date of the letter. If a person is ordered to leave tribal lands, he/she shall have at least thirty (30) days to do so.

- G. An emergency shall be defined as any action or event resulting in the violation of this Ordinance or that has the imminent threat of causing an unexpected or sudden occurrence of a serious and urgent nature that demands immediate action to protect the Health and Safety of the Public, Property, or Environment. Emergencies, shall be determined by the Tribal Council or party delegated this responsibility by the Tribal Council.
- Upon determination of the occurrence of an emergency condition, the Tribal Council or party delegated this responsibility by the Tribal council shall take all practical steps to assure that the cause of the violation immediately ceases and corrective actions are implemented.

SECTION 13: APPEALS

- A. Any person aggrieved by an action of the Tribal Council, a Tribal agency, or other Tribal staff under this ordinance may make an appeal by filing a notice of appeal with the Tribal Office within 30 days of the action appealed from.
- B. The Tribal Council shall consider the appeal and the record upon which the action appealed from was taken.
- C. Within 60 days of the filing of the notice of appeal, the Tribal Council must render its decision on the matter. Failure of the Tribal Council to render its decision on the matter within 60 days of the filing of the notice of appeal shall be deemed to be a denial of the appeal and an affirmation of the action appealed from.
- D. The decision of the Tribal Council upon an appeal is final and conclusive as to all things involved in the matter.

SECTION 14: SOVEREIGN IMMUNITY

Nothing contained herein shall be deemed to limit, modify, waive or otherwise affect the sovereign immunity of the Shingle Springs Band of Miwok Indians from uncontested suit.

SECTION 15: AMENDMENTS

This Ordinance, or any section herein, may be amended by a majority vote of the Tribal Council at a duly called regular or special meeting.

Section 16: Severability

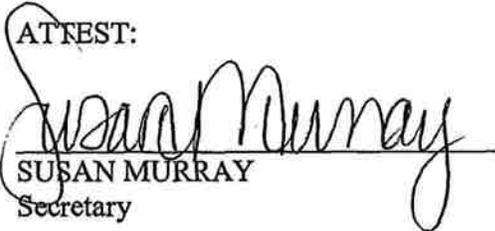
The parts of this Ordinance are declared separable. If any provision, clause, sentence or paragraph of this Ordinance is held to be unconstitutional or otherwise illegal, the invalid provision shall be severed and the remaining provisions shall remain in full force and effect.

CERTIFICATION

We, the undersigned, as duly elected Officers of the Shingle Springs Tribal Council, do hereby certify the foregoing Ordinance was enacted by the Shingle Springs Tribal Council at a duly-called meeting, at which a quorum was present on the 21st day of September, 2002, by a vote of 7 FOR, and 0 AGAINST, and 0 ABSTAINING, and that this Ordinance has not been rescinded or amended in anyway.


NICHOLAS FONSECA
Chairperson

Sept 21, 2002
DATE

ATTEST:

SUSAN MURRAY
Secretary

9-21-02
DATE