

BISHOP PAIUTE TRIBE  
BISHOP PAIUTE RESERVATION

TRIBAL ENVIRONMENTAL POLICY ORDINANCE  
NO. 98-02

AS AMENDED MARCH 29, 2012

## TABLE OF CONTENTS

TITLE I - FINDINGS; DECLARATIONS OF POLICY	1
101 - Tribal Council Findings	1
102 - Declarations of Policy	1
TITLE II - JURISDICTION	1
201 - Purpose	1
202 - Definitions	2
TITLE III-TRIBAL ENVIRONMENTAL PROTECTION AGENCY	2
301 - Establishment of TEPA	2
302 - Governing Body; Appointment; Terms; Vacancies	4
303 - Chairman; Vice Chairman; Quorum; Meetings	4
TITLE IV - TRIBAL ENVIRONMENTAL MANAGEMENT OFFICE	4
401 - Establishment of Tribal Environmental Management Office	4
402 - Authority of TEMO to Regulate and Enforce This Ordinance	4
403 - Emergency Abatement of Pollution	6
TITLE V - TRIBAL COURT	6
501 - Procedure for Issuance of Temporary Restraining Order	6
502 - Tribal Court Issuance of Preliminary or Permanent Injunction	7
503 - Review of TEPA Actions	8
504 - Commencement of Action by TEMO	9
505 - Service of Process	9
506 - Remedies	11
507- Limited Waiver of Immunity	12
TITLE VI - MISCELLANEOUS PROVISIONS	12
601 - Unlawful Act	12
602 - Paiute Palace Casino	13
603 - Amendments	14
604 - Effective Date	14
CERTIFICATION	

TRIBAL ENVIRONMENTAL POLICY ORDINANCE NO 98-02

AS AMENDED May ,2010

**TITLE I**

**FINDINGS; DECLARATIONS OF POLICY**

**101. Tribal Council Findings.** The Bishop Tribal Council (the "Tribal Council") the Federally recognized governing body for the Bishop Paiute Tribe, after careful review of the quality of the natural environment of the Bishop Paiute Reservation (the "Reservation") and the federal laws and policies relating to environmental regulation, finds and declares as follows:

(a) The federal government, through its various agencies and departments, cannot provide adequate protection for the land, air, water and other natural resources of the Bishop Paiute Tribe (the "Tribe").

(b) Current, past, and proposed future uses of the natural resources of the Reservation have created, or may create, a threat to the environment and to the health, safety, and welfare of the residents of the Reservation.

(c) The Tribal Council, pursuant to its inherent sovereignty and federal law, possesses the authority to provide for the comprehensive regulation of environmental quality within the exterior boundaries of the Reservation.

**102. Declarations of Policy.** It is the policy of this Tribal Environmental Policy Ordinance ("TEPO") to promote the general health, safety, and welfare of all residents of the Reservation and, in furtherance of the sovereign right of self-governance of the Tribe, the Tribal Council declares its commitment to the establishment and maintenance of the highest attainable standards of environmental quality within the exterior boundaries of the Reservation. The provisions of TEPO and of regulations promulgated under TEPO shall apply to all persons residing or doing business on the Reservation and to all property located within the Reservation to the fullest extent possible, all tribal laws, regulations, and policies shall be interpreted and administered in accordance with TEPO.

**TITLE II**

**JURISDICTION**

**201. Purpose.** The Tribe recognizes that the actions of persons and/or entities not located on Tribal lands have the potential to harm the natural environment of the Reservation and the health, safety and welfare of the Tribe, its members and territory. Because of Tribal concern and interest in, and duty to protect the environmental quality and integrity of its lands and health and safety of its members, the Tribe finds it necessary to have the ability to call persons who

cause harm within Tribal jurisdiction to account for their acts or omissions before the tribal administrative and tribal judicial system. The Tribe and its members also have a substantial interest in providing a forum where a resident may seek whatever redress is due him or her. The Tribe also has an interest from the point of view of the orderly administration of the laws in assuming jurisdiction where the alleged violation or injury occurred within its borders. The Tribe therefore intends for this ordinance to provide the means by which the Tribe may exercise tribal administrative and judicial jurisdiction over such persons and entities.

**202. Definitions.** For the purpose of this Code:

(A) "Person" includes any individual Indian or non-Indian, corporation, association, governmental agency (State or Federal), or other entity.

(B) "Tribal Court(s)" (Court) means any judicial or other type of adjudicatory body established by the Bishop Tribal Council.

(C) "Territory" means all areas within the present exterior boundaries of the Bishop Paiute Reservation over which the Tribe exercises jurisdiction, as trust or non-trust land, including land, waters, roads and bridges, and any future holdings.

(D) "Act" is any activity carried out by a person or an agent of the person.

(E) "Omission" means the failure to take action to deter or prevent occurrence of injury or harm.

### **TITLE III**

#### **TRIBAL ENVIRONMENTAL PROTECTION AGENCY**

**301. Establishment of TEPA.**

1. There is hereby established the Tribal Environmental Protection Agency (TEPA) which is charged with the responsibility of assisting, advising and supporting the Tribal Environmental Management Office (TEMO) in the implementation of the following:

(a) Develop environmental policy through the drafting of ordinances, regulations and procedures to protect the environment and promote the quality of the land, air, water, and other natural resources of the Reservation; to encourage use of Tribal lands in ways that are compatible with Tribal cultural values; to provide a mechanism by which to establish and carry out a Tribal land use and development policy; and, to propose for review and adoption such ordinances, regulations, and procedures for adoption by the Tribal Council where appropriate after the holding of public hearings.

(b) Establish a system and guidelines for development and enforcement of programs and activities for mitigation of environmental impacts as required by Environmental

Assessments or Environmental Impact Statements issued pursuant to the provisions of NEPA, and TEPO.

(c) Establish rules and procedures to ensure maximum public participation in the decisions of the TEMO consistent with applicable Tribal and federal laws.

(d) Issue, modify, and revoke permits and establish terms and conditions for any pollutant (including solid waste) discharged or allowed to accumulate into or upon the land, air, water, or other natural resources of the Reservation.

(e) Establish and assess fees and conditions for the issuance, continuance, modification, and revocation of any permit.

(f) Subject to the approval of the Tribal Council, establish a system of civil fines, sanctions, and penalties for violations of Tribal environmental laws and regulations, provided however, that no fine or penalty shall exceed the maximum permitted under applicable law, and provided further, that no fine or penalty shall be imposed without notice and an opportunity for a hearing before TEPA, with the right of appeal to the Tribal Court.

(g) Hire such staff and enter into such contracts for technical services as budgeted and as may be necessary and appropriate for maintaining and enforcing Tribal environmental laws and regulations and for the furtherance of the work of TEMO. TEPA may participate in staff selection process per request of TEMO.

(h) Establish rules and procedures for the conduct of the business of the TEMO.

(i) Establish rules and procedures to protect the confidentiality of information that is proprietary in nature.

(j) With the approval of the Tribal Council, apply for and receive financial assistance for the purpose of promoting and protecting the quality or the environment.

(k) Prepare an annual budget for the operation of TEMO to be submitted to the Tribal Council for approval and funding.

(l) Exercise regulatory jurisdiction over all tribal environmental laws and recommend new ordinances as needed.

2. The TEPA is also to:

(a) Conduct hearings and receive testimony and documentary evidence in any form relating to the quality of the environment on the Reservation, including but not limited to appeals of any Statement of Violation, and in connection therewith, compel the attendance of witnesses and the production of records by way of subpoena and render orders and decisions in keeping with the policy of the Ordinance.

(b) Hire, as needed, one or more hearing officers and other experts to assist the TEMO and TEPA in the resolution of disputes and the acquisition of information.

**302. Governing Body; Appointment; Terms; Vacancies.** TEPA shall be composed of five (5) Commissioners, all of whom shall be resident members of the Bishop Paiute Tribe. The Commissioners shall be appointed, after public notice has been given of the vacancies, by a majority of the Bishop Tribal Council. Each Commissioner shall serve for a term of four (4) years, provided that, in order to stagger the terms of office, three (3) of the original Commissioners shall be appointed for a term of four (4) years. New Commissioners shall be appointed for a term of two (2) years. Commissioners may be re-appointed for consecutive terms. A vacancy on the TEPA, however caused, will be filled by the appointment procedure set forth in this section, provided that any appointment that does not begin coincident with the staggered terms will be shortened as necessary to maintain the staggered terms. Any member of the TEPA may be removed for cause by a majority vote of Tribal Council Members at a meeting regularly called and after sufficient notice to the TEPA of such meeting. The Tribal Chairman shall have a vote as part of the voting process.

**303. Chairman; Vice Chairman; Quorum; Meetings.** The Commissioners shall elect a Chairman and Vice Chairman from among themselves. The business of the TEPA will be conducted at meetings of the TEPA duly called and noticed and at which a quorum is present. A quorum shall consist of three (3) Commissioners. Any substantive action of the TEPA must be taken by the affirmative votes of at least two (2) Commissioners and must be recorded in written minutes. The Chairman shall be a voting member. The TEPA shall meet at such places and times as may be necessary for the discharge of its duties. Meetings of the TEPA may be called by the Chairman or by two (2) of the Commissioners. Meetings of the TEPA shall be preceded by at least five (5) days notice to the Commissioners. An emergency meeting may be called at any time by any Commissioner with less than five (5) days notice provided that all reasonable efforts are made to notify each Commissioner of the emergency meeting.

## TITLE IV

### TRIBAL ENVIRONMENTAL MANAGEMENT OFFICE

**401. Establishment of the Tribal Environmental Management Office.** The Tribal Environmental Management Office (TEMO) is charged with the day to day administration of this Ordinance and is empowered to manage, implement and carry out the scope and policy of this Ordinance as set out herein above in Title II section 201 and Title III section 301. The TEMO reports to and is directly responsible to the Tribal Council.

**402. Authority of the TEMO to Regulate and Enforce This Ordinance.**

(1) The TEMO in carrying out its duties and responsibilities under this Ordinance is granted the authority to issue a Statement of Violation to individuals or entities that are engaged in any on or off Reservation activity regulated by any environmental Tribal ordinance or federal

law, regulation., code, or permit, including to but not limited to solid waste management activities, wherein the activity may endanger or cause damage/injury to the public health, safety or welfare of individuals or the environment on the Reservation and to file civil actions where there is non-compliance with a Statement of Violation. The TEMO may as needed, appoint a duly authorized individual other than a TEMO employee to issue a Statement of Violation under this Ordinance.

(2) If after investigation of an alleged violation the TEMO concludes that there is a present or potential danger as herein above set out, TEMO is authorized, empowered and mandated to issue a written Statement of Violation to the person or entity which is the subject matter of the investigation. The Statement of Violation shall set out in clear unambiguous language the nature of the violation and the remedy sought by the Statement of Violation. That is, how the violation is to be abated, mitigated or otherwise addressed by the individual/entity served with the Statement of Violation.

The Statement of Violation shall also advise the individual/entity served of the right to appeal directly to the TEPA in writing within thirty (30) days of being served. The Statement of Violation will also advise the individual/entity served that if they do not appeal the Statement of Violation within the thirty (30) days the appeal process will have been waived.

(3) If the person or entity served with the Statement of Violation does not appeal to the TEPA within the thirty day period, the individual or entity served with the Statement of Violation must comply with the terms and conditions of the Statement of Violation.

(4) In the event that there is an appeal of the Statement of Violation to the TEPA, the appealing individual/entity must be given a prompt hearing before the TEPA within thirty days of filing the appeal notice as provided herein.

All appeals to the TEPA must be filed directly with the TEMO office. The date of filing is either the date the appeal is personally filed with the TEMO office or the post mark date, plus five (5) days if the appeal is mailed.

The final decision of the TEPA must be in writing and mailed to the appealing individual/entity with the post mark date not more than five (5) days from the date of the decision. If the appeal to the TEPA is unsuccessful, the notice of decision must state that an appeal of the TEPA decision/order may be taken to the Tribal Court.

(5) The notice concerning the appeal of the TEPA decision/order must state that the notice of appeal to the Bishop Paiute Tribal Court (Tribal Court) must be made within thirty (30) days of the TEPA decision being served on the appealing individual/entity. The appeal to the Tribal Court must be in writing and must be filed directly with the Clerk of the Tribal Court. The Tribal Court will thereafter process the appeal according to its roles of court and make a determination as to setting the Court's trial calendar for purposes of hearing the appeal. See Title V.

(6) In the event that a party fails to comply with a TEPA order or decision or a statement of violation and that order or decision is not appealed to the Tribal Court, TEMO may file a petition with the Court for an order imposing one or more of the remedies provided in section 506. A hearing date would be set by the Tribal Court to hear the petition and all affected parties would be required to be given notice, as provided in the Tribal Court Code of Civil

#### **403. Emergency Abatement of Pollution.**

##### **Issuance of Temporary Restraining Orders.**

TEMO upon receiving information and investigation may prepare a Statement of Violation stating that an individual or entity is engaged in any on or off Reservation activity regulated by any environmental Tribal Ordinance or federal law, regulation, code, or permit, including but not limited to solid waste activities, and the activity will endanger or cause **immediate irreparable damage** to the public health, safety or welfare of the environment, and may petition the Tribal Court for a temporary restraining order to restrain any individual/entity from engaging in such activity.

## **TITLE V**

### **TRIBAL COURT**

#### **501. Procedures for Issuance of Temporary Restraining Order:**

(A) A Temporary Restraining Order (TRO) may be issued by the Tribal Court on Petition of the TEMO without prior notice to the owner, operator, agency or individual with apparent or actual responsibility for the violation at the site of the activity if the petition establishes to the satisfaction of the Tribal Court that the activity complained of, will endanger or cause irreparable damage to the public health, safety or welfare of the environment. The Temporary Restraining Order shall be personally served or attempted to be served within 24 hours of issuance on the subject of the TRO.

In the event the TRO cannot be served within 24 hours of issuance, the return of service shall spell out in detail the attempts made to serve the TRO and why the service was not accomplished within the 24 hour period. The return of service shall state the date of actual personal service.

If personal service cannot be accomplished (Section 505 Personal Service) the proof of service shall clearly state the service procedure followed in accordance with Section 505(D), (E) and (O).

(B) Every TRO shall:

(i) be written, endorsed with the date and hour of issuance, and a return of service filed with the Tribal Court within three (3) days of its service and entered on record,

(ii) define the injury; shall be specific in terms; and shall describe in clear language the act or acts sought to be enjoined, and

(iii) expire within such time as is specified therein, but not to exceed fifteen (15) days. Within the fifteen days, the Tribal Court shall set a hearing for a preliminary or permanent injunction to be held within the fifteen-day period with at least 5 days notice by personal service or 8 days service by mail. For good cause shown, such as inability to provide 5 days notice, the Tribal Court may extend the temporary restraining order until a hearing is held on the request or motion for a preliminary or permanent injunction. Such hearing, however, shall be held within 30 days of the date of the issuance of the original temporary restraining order. As such, the maximum time that a temporary restraining order can be in force is thirty days.

**502. Tribal Court Issuance of Preliminary and Permanent Injunction**

(A) Authority. The Tribal Court may issue a preliminary or permanent injunction on request of the TEMO to restrain any individual or entity from engaging in any activity regulated by this Ordinance or any other environmental Tribal ordinance, Federal law, order, or permit, which may endanger or cause damage to public health, safety, or welfare or the environment.

(B) Procedures for Issuance of Preliminary or Permanent Injunction:

(i) The motion for a preliminary or permanent injunction shall be set for hearing by the Tribal Court at the earliest possible time, but no later than fifteen (15) days after the request for preliminary or permanent injunction is filed and shall take precedence over all matters except older matters of the same character. A request or motion for a preliminary or permanent injunction can be commenced only by the TEMO or other Tribal agency.

(ii) When the motion/request is heard, any party may move for the dissolution or modification of an existing Temporary Restraining Order pending final determination of the motion and, in that event, the Tribal Court shall proceed to hear and determine such motion as expeditiously as the ends of justice require.

(iii) No preliminary or permanent injunction shall be issued without reasonable notice to the Adverse Party and a hearing. Reasonable notice is at least ten (10) days personal service or thirteen (13) days service by mail. This section applies where there has been no Temporary Restraining Order issued. If a Temporary Restraining Order has been issued, the service requirement of 501(B) applies.

(iv) A preliminary or permanent injunction may be granted on any of the following grounds:

(a) When a TRO has been issued, and after proper notice, and it appears by the pleadings or declarations on file that the complaining party is entitled to the relief requested and a hearing on these issues has been held after notice to the adverse party;

(b) When it appears by the pleadings or declarations on file that the commission or continuance of some act which may endanger or cause damage to the public health, safety, or welfare or the environment and a hearing on these issues has been held after notice to the adverse party;

(c) When it appears that the Adverse Party is doing, threatens, or is about to do, or is procuring or suffering to be done, some act in violation of a tribal or federal law, regulation, code, ordinance, order, or permit and a hearing on these issues has been held after notice to the adverse party;

(v) Every order granting an injunction shall be specific in terms, shall describe in reasonable language, and not by reference to the complaint or other document, the act or acts sought to be enjoined; and is binding only upon the parties to the action, their officers, agents, servants, employees, attorney, and advocates, and upon those persons in active consent or participation with them who receive actual notice of the order by personal service or otherwise.

(vi) Injunctions issued pursuant to this Ordinance may be either mandatory, prohibitive or a combination of both.

(C) All parties to a Tribal Court hearing may be represented by legal counsel and may present whatever documentation is considered in the parties best interests and is not in violation with any Tribal Court rules concerning admission of evidence or procedures for hearing requests/motions for injunctions.

### **503 Review of TEPA Actions**

(a) Tribal Court (Court). The Tribal Court shall hear appeals from final orders or decisions of the TEPA in accordance with such rules and procedures as TEPA or the Court may establish by regulation and as approved by the Bishop Tribal Council. Any affected party may seek review of any final order or decision of the TEPA by filing a written appeal with the Tribal Court within thirty (30) days from which the notice of the order /decision of TEPA has been served on the individual/entity. The notice from TEPA shall advise the parties that a written appeal must be filed with the Tribal Court within thirty (30) days of service of the notice of the decision! order of TEPA. The Tribal Court shall hear appeals from the final order or decisions only after exhaustion of all administrative remedies if any, provided by TEPA. All appeals must first be filed in writing with the Tribal Court with a copy to TEPA.

(b) The Tribal Court shall, upon the petition of an appealing party, conduct a review of the record of the proceedings of TEP A, but shall not take new evidence unless the

evidence has first been presented to TEPA for its consideration and action if any, and was not presented at the TEPA hearing. The Tribal Court may modify or reverse a decision or order of TEPA only where such order or decision is not supported by law, or there is a clear abuse of discretion as to questions of fact. Questions of fact are to be presumed in favor of the TEPA unless the finding of the TEPA is arbitrary and capricious. TEPA, upon request of the Tribal Court, shall provide to the Tribal Court a certified copy of all documents, records, transcripts, or other information that formed the basis for any order or decision which an affected party seeks review. The decision/ order of the Tribal Court on appeal shall be final.

#### **504. Commencement of Action By TEMO.**

(A) **Filing the Complaint.** A civil action for non-compliance with a Statement of Violation or failure to comply with a TEPA decision or order is commenced by the TEMO by filing a written Complaint and Summons with the Clerk of the Tribal Court and by delivery of the Summons and Complaint by the TEMO or their attorney or representative to the appropriate officials for purpose of service on the defendants. The Tribal Court shall have jurisdiction at the time the complaint is filed and properly served upon the defendant and a return of service is filed with the Clerk.

(B) **Contents of the Summons.** The Summons shall be issued and signed by the Clerk of the Court, be under the seal of the Court, contain the names of the parties, be directed to the defendant and state the name and address of the plaintiff(s) or their attorney or representative in the action. The Summons shall State where, how and when the defendant must respond to or answer the Complaint. The Summons shall further notify the defendants that failure to respond to the Complaint as required may result in a judgment by default against the defendant for the relief demanded in the Complaint

#### **505 Service of Process.**

(A) Summons and Complaint may be served within the exterior boundaries of the Reservation by any law enforcement officer or other person, not a party, 18 years of age or older. Service of Summons and Complaint upon any party outside the exterior boundaries of the Reservation may be made in the manner prescribed for service of process in that jurisdiction. However, service may not be defeated because the rules of the foreign jurisdiction in which the person is being served are not consistent with the procedure ordered by the Court. The Court may exercise its discretion in determining the proper service of process and extension of personal jurisdiction so long as the substantive rights of the person against whom process was issued would not be prejudiced thereby.

(B) **Personal Service.** Service of process shall consist of delivering to the party served a copy of the Complaint along with a Summons. Service of the Summons and Complaint in the following manner shall constitute personal service:

(1) If the action is against a corporation or any group or organization, service shall be made on the President, Secretary, Cashier, Treasurer, a Director, or managing or registered agent thereof and such service may be made within or outside this jurisdiction. In case

the process server shall return the Summons with his certification that no such officer, director, agent or individual can conveniently be found, service may be made by leaving a copy of the Summons and Complaint at any office of the corporation or organization with the person in charge of such office and mailing a copy of the complaint and summons by 1<sup>st</sup> class mail to the subject of the summons.

(2) . If the action is against a minor, service shall be made on a parent or person having custody and if the minor is over the age of 14 years, then also upon the minor personally, and in any event, on the legally appointed general guardian if one exists. If a guardian ad litem has been appointed, service shall also be made on the guardian ad litem.

(3) If the action is against a person judicially declared to be of unsound mind or who is an inmate of any institution or mentally incompetent or for whom a general guardian has been legally appointed, service shall be made on such guardian and upon the superintendent of such institution or person having custody of the defendant and also upon the incompetent defendant.

(4) Service upon a state shall be according to the Rules of Civil Procedure of the State of California and the California Government Code.

(5) Service upon any branch or agency of the federal government shall be according to the Federal Rules of Civil Procedure.

(6) Whenever the manner of service of process is specified in any statute or rule specifically relating to the action, remedy or special proceeding, the manner of service there specified shall be followed.

(7) In all other cases on the defendant personally. If the defendant cannot be conveniently found, service may be made by leaving a copy of the Summons and Complaint at the defendant's dwelling house with some adult person who is a resident therein.

(C) Personal service shall be deemed completed if the person to be served is informed of the purpose of the service and provided copies of the papers being served and copies are either offered to the person to be served or left in his presence. Whether the person accepts or refuses to accept said copies is immaterial.

(D) **Service by Mail.** If personal service pursuant to subsection (B) cannot reasonably be accomplished, service may be obtained by means of certified mail, return receipt requested.

(E) **Service by Publication.** If the plaintiff can establish to the satisfaction of the Court by affidavit that he has made a diligent effort to obtain personal service as provided by these rules upon a defendant both within and without this jurisdiction, and that despite such diligent effort, personal service cannot be obtained on a defendant, then the Court may authorize service by publication of the Summons. Service by publication shall consist of publishing the contents of the Summons in a local newspaper of general circulation at least once a week for four

consecutive weeks and by mailing by first class mail, postage prepaid, a copy of the Summons and Complaint to the defendant at his last known post office address.

(F) All papers required to be filed shall be served as under this rule, and except for the Complaint and Summons may be served on the attorney or representative of a party. The original of all papers served upon a party shall either be filed with the Court prior to service or filed with the Court together with proof of service immediately upon service. Service of all papers except for the complaint may be made by mail, first class postage, prepaid and properly addressed.

(G) Proof of Service. Proof of the regular service of a Summons and Complaint or any other legal document must state the time, place and manner of such service and must be made as follows:

(1) If served by a law enforcement officer or other process server, his certification thereof.

(2) If served by any other person, his declaration thereof.

(3) If admitted by the party upon whom service may have been made, then by the written admission of such party or his attorney or representative,

(4) If served by certified mail, the return receipt on such delivery and the affidavit of the person serving, or

(5) If served by publication, by the affidavit of the publisher of the newspaper or other employee showing such regular publication, or a copy of the relevant part of the newspaper, and an affidavit of the party or his attorney or representative showing regular mailing of copies to the party to be served at the last known post office address.

**506 Remedies** In the event that a party fails to comply with a Tribal Court order, decision/judgment after an unsuccessful (or non appeal) appeal of a Statement of Violation or TEPA order or decision or as a result of an unfavorable decision, order/judgment as a result of a civil complaint filing, the Tribal Court may order that anyone or more of the following actions be taken until there is compliance with the TEP A/Tribal Court order, decision or judgment:

(1) Order the suspension of selective Tribal services identified and limited to DMV exemptions, enrollment card verification, and sales tax certification within the discretion of the Tribal Court.

(2) Order the suspension of eligibility to receive Tribal per capita and State of California Special Distributions, or in the alternative, the use of such Tribal per capita and state distributions to satisfy any and all outstanding orders/judgments of the Tribal Court.

(4) Issue a permanent injunction against the activities/conduct complained of in the Statement of Violation and complaint.

(5) Order compliance with some or all of the TEPA prior orders issued as a result of the Statement of Violation.

(6) Order monetary recovery for proven damage/injuries as a result of the violations alleged and proven within the Statement of Violation.

**507 Limited Waiver of Immunity.** The Tribal Council hereby waives the sovereign immunity of TEMO and TEPA for the express and sole purpose of allowing reviews of TEMO and TEPA actions by the Tribal Court under Title V, provided that any such appeal must be timely and properly filed, and provided further that such waiver is made only to the extent necessary to subject TEMO and TEPA to the jurisdiction of the Tribal Court for the sole purpose of declaring and adjudging rights and obligations under the environmental laws and regulations of the Bishop Paiute Tribe and federal laws and policies. **This waiver is strictly limited and specifically does not waive TEMO's or TEPA's immunity from suit for monetary damages, specific performance, or injunctive relief and specifically does not waive the sovereign immunity of the Bishop Paiute Tribe, Bishop Tribal Council or any officer, employee, or agent thereof.**

## TITLE VI

### MISCELLANEOUS PROVISIONS

#### **601 Unlawful Act.**

(a) It is prohibited for any person:

(1) to forcibly, or by bribe, threat, or other corrupt practice, to obstruct or impede the activities of TEPA or the Tribal Court;

(2) to commit fraud, or knowingly to assist another in the commission of fraud, with the intent to evade or defeat Tribal environmental laws or regulations; or

(3) with knowledge and intent, to falsely verify by written declaration any report, application for permit, or any other document submitted to or requested by TEMO or TEPA.

(b) Any person who commits any of the above prohibited acts may be subject to certain penalties and also be liable for any civil damage caused by the commission of such acts and may be excluded from the Reservation.

(c) Any person who commits any of the above prohibited acts, or whose employees or agents in the course of their employment or agency commit any of the above

prohibited acts, may have its rights to engage in activities on the Reservation suspended or terminated.

(d) The damages and sanctions for violation of this Section may be enforced by TEPA through the Court as TEPA may establish by regulation and approved by the Bishop Tribal Council.

**602 Paiute Palace Casino.** The Bishop Paiute Tribe (Tribe) has entered into a Class III Tribal-State Gaming Compact (Compact), with the State of California.

Under the Compact the Tribe is to adopt an ordinance providing for the preparation, circulation, and consideration by the Tribe of environmental impact reports concerning potential off-reservation environmental impacts of any and all Gaming Projects to be commenced after the effective date of the Compact.

Projects are defined as any expansion or any significant renovation or modification of an existing gaming facility.

The TEPA and TEMO in addressing off-reservation environmental issues raised by any gaming project, shall in addition to the Tribe's various environmental ordinances, take into consideration Section 10.8 of the Compact

With reference to a potential gaming project and prior to commencement thereof, TEPA and TEMO shall be responsible for establishing that the following at a minimum have been complied with:

1. Review of an environmental report addressing potential off-reservation impacts associated with the potential gaming project.
2. On a Project-by-Project basis as applicable and consistent with the Tribe's governmental interest, make a good faith effort to incorporate the policies and purposes of the National Environmental Policy Act and the California Environmental Quality Act.
3. Inform the public of the planned potential gaming project.
4. Take appropriate actions to determine whether the potential gaming project will have any significant adverse impacts on the off-reservation environment
5. Submit all environmental impact reports concerning the proposed gaming project to the State Clearing House in the Office of Planning and Research and the County Board of Supervisors.
6. Meet with and provide an opportunity for comment by those members of the public residing off-reservation within the vicinity of the proposed gaming project.
7. During the conduct of the gaming project;
  - a. Keep the Board of Supervisors and potentially affected members of the public apprised of the gaming project's progress.
  - b. Make good faith efforts to mitigate any and all significant adverse off-reservation environmental impacts.

It is understood that the Tribal ordinances dealing with various environmental issues shall be the governing authority to evaluate and assess environmental impacts if any, of a proposed gaming project on the Reservation.

**603 Amendments.** This Ordinance and the procedures promulgated hereunder may be amended or rescinded by the Tribal Council at a duly called regular or special meeting.

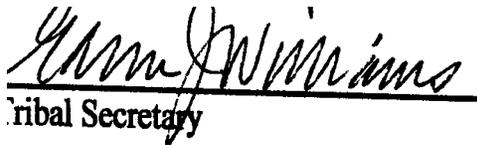
**604 Effective Date.** This amended Ordinance shall be effective from the date of its approval by the Tribal Council.

### CERTIFICATION

The foregoing amended Ordinance was passed at a duly called meeting of the Bishop Tribal Council held on the 29<sup>th</sup> day of March, 2012, with a quorum present and voting: 3AYES, 0 NAYS 0 ABSTAINING, and 1 ABSENT.

**BISHOP TRIBAL COUNCIL:**

  
Tribal Chairman

  
Tribal Secretary



**BISHOP TRIBAL COUNCIL  
RESOLUTION T2012-18**

**SUBJECT:** Amended Tribal Environmental Policy Ordinance 98-02

**WHEREAS:** The Bishop Paiute Tribe is a federally recognized Indian Tribe and the Bishop Tribal Council is the duly elected federally recognized governing body, Bishop Paiute Reservation, Bishop California hereinafter referred to as "Tribe"; and

**WHEREAS:** The Tribal Environmental Policy Ordinance (98-02) has periodically been amended to reflect the changing environment and needs of the Bishop Paiute Reservation; and

**WHEREAS:** It has been determined that the presently proposed Amended Tribal Environmental Policy Ordinance is a required and necessary update for purposes of meeting environmental protection issues.

**NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:**

That the Bishop Tribal Council hereby authorizes the amendment of the Tribal Environmental Policy Ordinance which shall have a footer date of February 9, 2012 and the Tribal Council authorizes its Tribal Chairman or Vice Chair to execute the Certification portion at page 14 of the Amended Tribal Environmental Policy Ordinance.

**CERTIFICATION**

We, the undersigned, as the Chairman and Secretary of the Bishop Tribal Council, hereby certify that the Bishop Tribal Council, at a duly called meeting which was convened and held on the 29<sup>th</sup> day of March, 2012, at the Tribal offices in Bishop, the State of California approved the foregoing resolution, by a vote of 3 For, 0 Opposed 0 Abstaining.

ATTEST:

/s/ Dale Delgado  
Dale Delgado, Jr., Chairman.  
/s/ Earleen J Williams  
Earleen Williams, Secretary

4/9/12  
Date  
4-10-12  
Date