

**BLUE LAKE RANCHERIA
SOLID WASTE DISPOSAL AND
WASTE REDUCTION ORDINANCE**

06-2000

The Business Council of the Blue Lake Rancheria, empowered by the Tribal Constitution to enact ordinances, hereby ordains the following:

§1. Findings

The Business Council finds and declares as follows:

- (a) The Blue Lake Rancheria is the permanent homeland of the Tribe.
- (b) The Tribe has the inherent and constitutional authority as a sovereign and as a matter of territorial management to protect and preserve the homeland of the Tribe.
- (c) The uncontrolled disposal of solid and hazardous waste poses a serious threat to the health, safety and welfare of Tribal members and non-members living on, or passing through, the Blue Lake Rancheria.

Therefore, the Business Council adopts this Ordinance to protect and promote the political integrity, economic security, health, safety and welfare of the Tribe, its members, and all persons living on, or passing through, the Blue Lake Rancheria and to protect and preserve the environment, lands, culture, religion, and natural resources of the Blue Lake Rancheria.

§2. Definitions

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

- (a) The term "approved disposal site" means any site designated and approved by the Tribal EPA for the collection and disposal of solid waste.
- (b) The term "Business Council" means the Business Council of the Blue Lake Rancheria.
- (c) The term "composting" means depositing in an appropriate on-site container at a residential location vegetative materials from a household's waste stream to create a mixture of organic matter used for fertilizing and conditioning land, such as for use in gardens.
- (d) The term "disposal" means the discharge, abandonment, deposit, injection, dumping, spilling, leaking, or placing of any solid waste or hazardous waste into on any land or water within the Rancheria or other territory over which the Tribe has jurisdiction so that such solid waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including groundwaters; provided that composting is

excluded from the definition of disposal.

- (e) The term “hazardous waste” means a solid waste, or combination of solid wastes, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may —
- (1) cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness; or
 - (2) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed.
 - (3) The term hazardous waste shall include the following:
 - (A) all plastics, foam, and styrofoam, as those terms are commonly used, that is no longer being used or has been discarded;
 - (B) hazardous waste as defined in 40 C.F.R. section 261.3, as amended from time to time;
 - (C) any hazardous air pollutant listed under the Clean Air Act, as codified in part at 42 U.S.C. section 7412, as amended from time to time; and
 - (D) any hazardous substance contained in 49 C.F.R. section 172.101, Appendix A (List of Hazardous Substance and Reportable Quantities), as amended from time to time.
- (f) The term “littering” means throwing solid waste out of any vehicle or scattering solid waste in any manner.
- (g) The term “nuisance” means a condition that occurs as a result of the handling, treatment, storage, or disposal of solid waste, which condition is injurious to human health or the environment, is indecent or offensive to the senses, is an obstruction to the free use of property, or interferes with the comfortable enjoyment of life or property.
- (h) The term “open dump” means any facility or site at which solid waste is disposed of that is not an approved disposal site.
- (i) The term “person” means any individual, corporation, firm, partnership, joint venture, association, social club, estate, trust, federal, tribal, state, county, city, or district government, or other political subdivision thereof, or any other group or combination acting as a unit whether incorporated or not, including a person acting in fiduciary or representative capacity.
- (j) The term “Rancheria” means all land, air, and water located within the exterior boundaries of the Blue Lake Rancheria.
- (k) The term “recycling” means the recovery of materials from solid waste for re-use or re-manufacturing to create a new product.
- (l) The term “recovery” means the recovery of materials or energy from solid waste.

- (m) The term “sludge” means any solid, semisolid or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility or any other such waste having similar characteristics and effects.
- (n) The term “solid waste” means any garbage, trash, rubbish, refuse, sludge, an other discarded material, including solid, liquid, semisolid, or continued gaseous material resulting from industrial, commercial, mining, and agricultural operations, and from community activities, such as ashes, dead animals, abandoned vehicles, street and parking lot cleanings.
- (o) The term “State” means the State of California or any administrative agency thereof.
- (p) The term “storage” or “store” mean confining, containing or stockpiling of solid waste prior to collection and transport to an approved disposal site or facility authorized to accept solid waste that is outside the boundaries of the Rancheria or other territory over which the Tribe has jurisdiction.
- (q) The term “Tribal EPA” means the Tribal Environmental Protection Agency of the Blue Lake Rancheria.
- (r) The term “Tribe” means the Blue Lake Rancheria, a federally recognized Indian tribe.
- (s) The term “violation” means any violation of this Ordinance..

§3. Jurisdiction

- (a) The applicability of this Ordinance shall extend to all persons who transport, handle, store, or dispose of solid waste within the Rancheria or other territory over which the Tribe has jurisdiction.
- (b) Any person who enters onto the Rancheria or other territory over which the Tribe has jurisdiction shall become subject to this Ordinance and shall be deemed to have consented to the jurisdiction of the Tribe and to be bound by the lawful enactments of the Tribe.

§4. Responsibility for Storage, Transport and Disposal of Solid Waste

- (a) Any person who generates solid waste shall be responsible for the proper storage, transport and disposal of that solid waste. Responsibility includes, but is not limited to, liability for any costs incurred in the clean-up of solid waste that is improperly stored, transported, or disposed of, as set forth in this Ordinance.
 - (1) Contracting with an authorized hauler of solid waste shall be deemed satisfaction of the responsibility to transport and dispose of solid waste.
- (b) Any person transporting solid waste or any person who by contract, agreement or otherwise,

arranges for the recovery, transport, or disposal of solid waste is responsible for the proper transport and disposal of that solid waste. Responsibility includes, but is not limited to, liability for any costs incurred in the clean-up of solid waste that is improperly stored, transported, or disposed of, as set forth in this Ordinance.

- (c) Any person disposing of solid waste shall be responsible for the proper disposal of that solid waste. Responsibility includes, but is not limited to, liability for any costs incurred in the clean-up of solid waste that is improperly stored, transported, or disposed of, as set forth in this Ordinance.

§5. Storage of Solid Waste

- (a) Solid waste may be temporarily stored at residences, businesses or tribal offices within the Rancheria or other territory over which the Tribe has jurisdiction.
- (b) Any person storing solid waste on the Rancheria or other territory over which the Tribe has jurisdiction must store the solid waste in durable containers with close fitting lids in a neat and tidy fashion. Containers shall be maintained in such a manner so as to prevent the creation of a nuisance or a threat to the public health.
- (c) No person shall store hazardous waste at their residence or business location except under the following conditions:
 - (1) Small quantities of hazardous waste associated with regular and normal residential use may be stored at a person's residence for no longer than six (6) months.
 - (2) Small quantities of hazardous waste associated with regular and normal business use and practice may be stored at the business location, including the tribal offices, for no longer than six (6) months.
 - (3) Any person storing hazardous waste at a residence or business location must take precautions to protect the health, safety and welfare of the residents and environment of the Rancheria or other territory over which the Tribe has jurisdiction.
 - (4) No hazardous material shall be stored in such a manner as to create a nuisance.

§6. Transportation of Solid Waste

Any person transporting solid waste within, on or through the Rancheria or other territory over which the Tribe has jurisdiction shall cover, tie or otherwise secure such solid waste so no waste will be blown or dropped from the transport vehicle.

§7. Disposal of Solid Waste

- (a) No person shall dump, deposit or dispose of solid waste anywhere within the Rancheria or other territory over which the Tribe has jurisdiction, except within an approved disposal site.
- (b) No person shall burn or incinerate hazardous waste or any pesticide, as defined in the

Pesticide Control Ordinance adopted by the Tribe, anywhere within the Rancheria or other territory over which the Tribe has jurisdiction.

- (c) No person shall improperly dump, deposit or dispose of solid waste in a trash bin or other temporary solid waste storage container that is not intended for the use of that person.
- (d) No person shall maintain an open dump on their property, whether owned or rented, residential or business.

§8. Littering Prohibited

No person shall litter anywhere within the Rancheria or other territory over which the Tribe has jurisdiction.

§9. Recycling and Solid Waste Education Program

- (a) The Tribal EPA is authorized to create and adopt such regulations as are necessary for the safe and sanitary collection, handling, transport, storage, and disposal of recycled materials, including composting, within the Rancheria or other territory over which the Tribe has jurisdiction.
 - (1) In developing any such regulations, the Tribal EPA shall allow for input and comment by tribal members, Business Council members, and other residents of the Rancheria or other territory over which the Tribe has jurisdiction.
- (b) All persons within or passing through the Rancheria or other territory over which the Tribe has jurisdiction, including residents and businesses, are encouraged, and may be required pursuant to any Tribal EPA regulations adopted pursuant to sub-section (a), to implement source separation to allow for recycling and composting of materials from the solid waste stream. If such activities are required, the Tribal EPA may provide appropriate containers to enhance and control the source separation and recycling program. If the Tribal EPA does not provide such containers, it is the generator's responsibility to provide separation containers meeting the approval of the Tribal EPA.
- (c) The Tribal EPA is authorized to develop and implement an environmental education program within the Rancheria or other territory over which the Tribe has jurisdiction.

§10. Approval of Disposal Sites

- (a) No site for the disposal of solid waste shall be operated within the Rancheria or other territory over which the Tribe has jurisdiction without a permit to operate as an approved disposal site.
- (b) No site for the collection of recycling materials from multiple generators shall be operated within the Rancheria or other territory over which the Tribe has jurisdiction without a permit

to operate as an approved recycling collection site.

- (1) Individual households or businesses collecting recycling materials generated on-site by that individual household or business are exempt from this requirement.
- (c) The Tribal EPA is authorized to do the following:
- (1) Study the waste stream produced by residents and businesses of the Rancheria or other territory over which the Tribe has jurisdiction.
 - (2) Assess and determine whether there is a need to create a solid waste disposal site on the Rancheria or other territory over which the Tribe has jurisdiction.
 - (3) Assess and determine whether the creation of a solid waste disposal site on the Rancheria or other territory over which the Tribe has jurisdiction would negatively impact the health, safety and welfare of the residents and environment of the Rancheria or other territory over which the Tribe has jurisdiction.
 - (4) Assess and determine whether the Tribe could mitigate or control any negative impact on the health, safety and welfare of the residents and environment of the Rancheria or other territory over which the Tribe has jurisdiction projected to be associated with a solid waste disposal site.
 - (5) Designate a solid waste disposal site within the Rancheria or other territory over which the Tribe has jurisdiction if the health, safety and welfare of the residents and environment of the Rancheria or other territory over which the Tribe has jurisdiction can be fully and adequately protected from negative impacts associated with such a site and can comply with federal regulations without undue economic burden on the Tribe or operator of the proposed solid waste disposal site.
 - (6) Adopt regulations governing any such designated solid waste disposal site described in sub-section (b)(5).
 - (7) If authorized to do so by the Business Council, permit an operator of any such designated solid waste disposal site described in sub-section (b)(5) and charge a reasonable fee for any such permit; provided that the Tribe and operator of any such solid waste disposal site shall comply with all applicable federal regulations before commencing operations.
 - (A) All other factors being equal, preference shall be given to those operators who include credible and achievable waste minimization and/or recycling provisions in their Solid Waste Management Plans.

§11. Civil Penalties

Any person violating any provision of this Ordinance is subject to a civil fine not to exceed 5,000.00 dollars per violation, depending on the gravity of the violation and any effects on human health or the environment resulting from the violation.

§12. Civil Damages and/or Injunctive Actions

In the event that any person, as a result of his or her actions that constitute a violation, should proximately cause any physical damage to any other person(s) residing within, or to any real or personal property situated in, the Rancheria or other territory over which the Tribe has

jurisdiction, the Tribal EPA or other person authorized by the Tribe, or the person(s) adversely affected shall have the right to seek monetary and/or injunctive relief, including the imposition of penalties as set out in section 11, in any judicial forum of competent jurisdiction.

§13. No Other Remedies Affected

Nothing in this Ordinance shall in any way limit an individual's right to pursue, in any judicial forum of competent jurisdiction, a private action for damages resulting from actions that would be considered violations of this Ordinance.

§14. Environmental Protection Fund

- (a) All monies collected or received by the Tribe as a result of violations of this Ordinance shall be deposited with the Tribe to be credited to the Environmental Protection Fund.
- (b) The Environmental Protection Fund shall be used for expenses related to protecting human health and the environment within the Rancheria and other territory over which the Tribe has jurisdiction, enforcing the provisions of the various environmental ordinances adopted by the Tribe, promoting environmental projects, and furthering environmental education for tribal members and residents of the Rancheria and other territory over which the Tribe has jurisdiction.

§15. Effect of Ordinance on Other Tribal Ordinances

This Ordinance supercedes any conflicting or contrary superceding ordinances passed by the Tribe.

§16. Severability

If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, its invalidity does not affect other provisions or applications of this Ordinance, and to this end the provisions of this Ordinance are severable.

§17. Sovereign Immunity

The sovereign immunity of the Tribe is in no manner waived by this Ordinance or by any action by the Business Council, the Tribal EPA, or other staff of the Tribe acting pursuant to this Ordinance.

§18. Amendments

This Ordinance may be amended at any time by the Business Council.

§19. Effective Date

This ordinance shall take effect immediately upon passage.

CERTIFICATION

As the Chairperson of the Business Council for the Blue Lake Rancheria, I hereby certify that the Business Council adopted this Ordinance at a duly called meeting at which a quorum was present by a vote of 5 for, with 0 against, with 0 abstaining, with 0 absent, on this 2nd day of January, 2000.

Claudia Brundin
Claudia Brundin, Chairperson

Jan. 2, 2000
Date

Melanie Shelanskey
Melanie Shelanskey, Tribal Secretary

Jan. 2, 2000
Date