

HUALAPAI TRIBAL COUNCIL
RESOLUTION NO. 31-2004
OF THE GOVERNING BODY OF THE
HUALAPAI TRIBE OF THE HUALAPAI RESERVATION

WHEREAS, the Hualapai Tribe is a federally recognized Indian Tribe located on the Hualapai Indian Reservation in Northwestern Arizona; and

WHEREAS, the Hualapai Tribal Council finds and declares that development activities within the Reservation and other lands within the Tribe's jurisdiction have a direct effect on or may threaten the political integrity, the economic security, and the health, welfare and safety of the Tribe and its members, including the environmental and cultural resources of the Tribe; and

WHEREAS, Resolution 52-2003 was adopted to create the Hualapai Tribe Public Facilities and Transportation Board with a mission to:

- Assure that utilities systems can meet capacity efficiently, economically, and meet environmental quality demands.
- Improve and extend all utility infrastructure and roads in a manner that supports desirable development patterns.
- Deal with CRSP Power allocations, all new energy projects and existing projects.
- Rehabilitate aging infrastructure to maintain the quality service levels expected by agency health standards.
- and incorporate the tasks and duties of the Tribal Environmental Review Commission (TERC); and

WHEREAS, Resolution 77-2003 was adopted to rescind the TERC; and

WHEREAS, the adoption of Resolutions 52-2003 and 77-2003 eliminated the continuity and regulatory authority of tribal ordinances such as Cultural Resources, Water Resources, Wetlands, Air Quality and Home Site; and

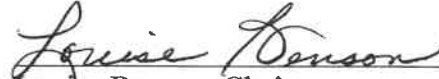
WHEREAS, to ensure the consistent, uniform authority of the Hualapai Tribal Council the following resolutions shall be rescinded, 52-2003, Creation of a Hualapai Tribe Public Facilities & Transportation Board and 77-2003, Tribal Environmental Review Commission Rescinded; and

NOW, THEREFORE, BE IT RESOLVED that the adoption of this resolution will reinstate the Tribal Environmental Review Commission (TERC) and its responsibilities. Members of the Public Facilities and Transportation Board will still have the same mission as well as the Tribal Environmental Review Commission responsibilities.

BE IT FINALLY RESOLVED that the TERC in the administration of their responsibilities shall have the IDT scope projects, permit requests related to the National Environmental Protection Act compliance and forward recommendations to the TERC.

CERTIFICATION

I, the undersigned as Chairwoman of the Hualapai Tribal Council hereby certify that the Hualapai Tribal Council of the Hualapai Tribe is composed of nine **(9)** members of whom **6** constituting a quorum were present at a **Regular Council Meeting** thereof held on this **04th day of May, 2004**; and that the foregoing resolution was duly adopted by a vote of **5 - in favor, 1 - opposed, 2 - excused, 1 - absent**, pursuant to authority of Article V, Section (a) of the Constitution of the Hualapai Tribe approved March 13, 1991.



Louise Benson, Chairwoman
HUALAPAI TRIBAL COUNCIL

ATTEST:



Adeline Crozier, Assist. Secretary

HUALAPAI TRIBAL COUNCIL
RESOLUTION NO. 77-2003
OF THE GOVERNING BODY OF THE
HUALAPAI TRIBE OF THE HUALAPAI RESERVATION

(Tribal Environmental Review Commission Rescinded)

WHEREAS, the Hualapai Tribal Nation is a federally recognized Indian Tribe located on the Hualapai Indian Reservation in northwestern Arizona; and

WHEREAS, the Constitution and Bylaws of the Hualapai Indian Tribe provide that the governing body of the Hualapai Indian Tribe is the Hualapai Tribal Council; and

WHEREAS, the Hualapai Tribal Council has the power and the authority to enact laws and ordinances to protect the land and resources of the Hualapai Tribe for the Hualapai people; and

WHEREAS, the Hualapai Tribal Council has approved the creation of a Tribal Environmental Review Commission (TERC) per the Hualapai Environmental Review Codes (HERC), August 4, 1997 per Resolution No. 50-97; and

WHEREAS, the TERC has never functioned officially per its procedure or performed "issuing permits for all development activities", and has proved to be an ineffective and obstructive act to allow effective and sensitive economic development; and

WHEREAS, that over 5 years has passed since its enactment that the Act 03 (09) "the Hualapai Tribal Council reserves the right to use its sovereign authority to rescind TERC authority for the welfare of the tribe as a whole"; and

NOW, THEREFORE, BE IT RESOLVED, that the Hualapai Tribal Council, hereby, resolves that TERC and its regulatory authority and regulations be rescinded. That HERC continue its authority without TERC and its regulation component.

FURTHERMORE, BE IT RESOLVED, that the Planning and Zoning/Economic Development Dept. would be designated the primary authority under direction of the Hualapai Tribal Council for regulating Land use and Development in accordance with all Hualapai Tribal Nation planning and zoning ordinances, including IDT and its operating procedure; and that plan review for building codes and compliance requirements is accomplished with appropriate public involvement and necessary permits be issued to protect the welfare and safety of the Hualapai people and general public.

*Res 31-2004
Rescinded 77-2004
Reinstated TERC*

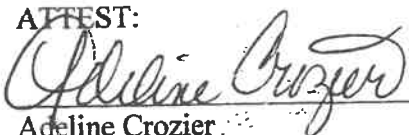
CERTIFICATION

I, the undersigned as Chairwoman of the Hualapai Tribal Council hereby certify that the Hualapai Tribal Council of the Hualapai Tribe is composed of nine (9) members of whom 8 constituting a quorum were present at a Special Council Meeting held on this 15th day of November, 2003; and that the foregoing resolution was duly adopted by a vote of 6 -in favor, 2-oppose, 0-not voting, 1-excused; pursuant to authority of Article V, Section (a) of the Constitution of the Hualapai Tribe approved March 13, 1991.



Louise Benson, Chairperson
HUALAPAI TRIBAL COUNCIL

ATTEST:



Adeline Crozier,
Assist. Secretary

HUALAPAI ENVIRONMENTAL REVIEW CODE

SUBTITLE A. ENVIRONMENTAL REVIEW PROCESS AND PERMIT REQUIREMENTS FOR DEVELOPMENT

PART 1. POLICY AND PURPOSES

01. STATEMENT OF FINDINGS

The Hualapai Tribal Council finds and declares that development activities within the Hualapai Reservation and other lands within the Tribe's jurisdiction have a direct effect on and may threaten the political integrity, the economic security, and the health, welfare and safety of the Tribe and its members, including the environmental and cultural resources of the Tribe.

The Hualapai Tribal Council also finds that natural and cultural resources within Hualapai tribal lands are affected by Glen Canyon Dam and Hoover Dam operations.

Further, because of the Hualapai Tribe's proximity to Grand Canyon National Park and Lake Mead National Recreation Area, the Council finds that there is a continuing need to manage and protect against unwanted intrusions and impacts from recreation and tourism, particularly in order to protect sacred and ceremonial sites and cultural resources and to maintain the Tribe's culture and identity.

In addition, some tribal lands are isolated within tracts of federal and public lands, and the Council finds that Hualapai resources on these lands are not adequately protected.

02. POLICY

By an Executive Order that created the Hualapai Reservation in 1883, Hwal'Bay -- "the people of the Tall Pines" -- are now confined in our economic, social, ceremonial and traditional activities to an area which is less than one seventh of our ancestral territory. Hwal'Bay, the Hualapai Tribe, now has jurisdiction over nearly 1 million acres, including 108 miles of the Colorado River on the south rim of the Grand Canyon in northwestern Arizona.

Grand Canyon, the Colorado River and the environment that surrounds this areas is sacred to the Hualapai. Locations along the Colorado River and in the canyons were the places from which people emerged into the world to form families, bands (or clans) and Indian Nations. Grand Canyon's landscapes, waters, rock formations, plants, wildlife and the locations of the various tribal human activities and home places are of both historical and contemporary significance to the Hualapai. Furthermore, the Hualapai were acknowledged by other Indian Nations and tribal trading partners as having stewardship over the natural environment and resources within our traditional and ancestral Hualapai homelands and

territory.

Since the beginning of time as we know it, Hualapai have exercised their stewardship responsibilities throughout the sacred lands of the Hualapai Reservation, as well as upon ancestral lands outside the Reservation boundaries. At locations outside our Reservation boundaries are religious sites, sacred objects and natural materials that are fundamental to our existence and to our freedom to practice ceremonial and traditional rites. Hualapai have demonstrated their respect and sought to protect all traditional lands that are prominent in Hualapai oral traditions, origin accounts, beliefs and traditional cultural practices.

As such, the Hualapai Tribe has a continuing interest in these ancestral lands. The traditional southern Hualapai boundaries extend from our Reservation to the Verde Valley near Cottonwood on the southeast and along the Santa Maria and bill Williams Rivers on the southwest. The Tribe also has strong ancestral ties to the Pai Pai of Northern Mexico. Our traditional eastern boundary is along the Little Colorado River. The Hualapai traditional northern and western boundary is the middle of the Colorado River, or "Ha' yitad."

The Hualapai Tribal Council hereby declares that it is the policy of the Hualapai Tribe to protect the natural environment, including the land, air, water, minerals and all living things, of all Hualapai tribal lands; to take affirmative action to restore and enhance environmental quality in areas that have been subject to degradation; and to ensure that no proposed development that might cause significant environmental degradation will be permitted prior to the completion of a thorough environmental review in which alternatives and mitigation measures are fully considered. To meet the objectives of this policy, the Hualapai Tribal Council will develop appropriate tribal environmental laws, programs, and services which are in compliance with the Constitution of the Hualapai Indian Tribe and which are at least as stringent as federal environmental statutes.

03. PURPOSES

It is the purpose of this Act to protect the environment, including the land, air, water and natural resources, of all Hualapai tribal lands; to encourage the economic use of Hualapai tribal lands in ways that are compatible with tribal cultural values; and to provide a mechanism through which the Tribe can establish and carry out a tribal land use and development policy, including:

- (a) designation of the Office of Planning and Community Vision, under the direction of the Hualapai Tribal Council, as the primary authority for planning development within all Hualapai tribal lands;
- (b) designation of the Tribal Environmental Review Commission ("TERC") as the primary authority, under the direction of the Hualapai Tribal Council, for regulating land use and development in accordance with the system established in this Act, including the Land Use and Development Plan prepared by the

Office of Planning and Community Vision and adopted by the Hualapai Tribal Council, pursuant to Part 4 of this Act:

- (c) establishment of a system to ensure the prompt resolution of disputes involving land use and development decisions;
- (d) provision of a fair and effective means for enforcement of land use and development regulations and orders;
- (e) establishment of a system for recording land use and development regulations and decisions so that such rules and decisions will be implemented in an efficient and consistent manner;
- (f) establishment of a system for ensuring that financial support for capital improvements, whether provided by federal agencies, private parties, the state of Arizona or the Tribe, will be used in ways that are consistent with the Tribe's land use and development policies;
- (g) establishment of a system to administer federal environmental regulatory programs when such programs are delegated to the Hualapai Tribe for implementation; and
- (h) designation of the Hualapai Department of Natural Resources as the primary authority over all natural resources of the Tribe, entrusted with ensuring the overall goal of long-term sustainable and balanced multiple use of natural resources under the direction of the Hualapai Tribal Council.

04. APPLICABILITY

- (a) The provisions of this Act and of regulations promulgated under this Act shall apply to all persons residing or doing business on Hualapai tribal lands and to all property located within Hualapai tribal lands.
- (b) The Board may, by rule, exempt specified traditional uses and practices from regulation under this Act.

05. SEVERABILITY

If any provision of this Act or the application of any provision to any person or circumstance is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall remain unaffected, and to this end the provisions of this Act are declared to be severable.

PART 2. DEFINITIONS

01. DEFINITIONS

For the purposes of this Act, the following terms shall have the meanings set forth below and are exclusive to the Act and its subtitles until such time that the Tribal Law and Order Code is revised:

- (a) "Applicant" means any person, including the Hualapai Tribe or a tribal department or corporation, who applies for a development permit pursuant to Part 5 of this Subtitle.
- (b) "Board" means the Board of Commissioners of the Tribal Environmental Review Commission.
- (c) "Cultural resource" means a place, object, product of human activity or natural resource of particular significance to the Hualapai people's beliefs, customs or traditions, and includes but is not limited to religious sites, sacred objects, plants used in ceremonial and traditional rites, buildings, landforms, archaeological sites and artifacts.
- (d) "Development" means the building of any structure, the making of any material change in the use or appearance of any structure, or the making of any material change in the use, appearance, quality or protection of land, water (including wetlands), other natural resources or cultural resources of the Hualapai Tribe.
- (e) "Environmental Assessment" or "EA" means a brief document, typically 10 - 20 pages long, required under Section 505 of this Subtitle to be completed before applying for a general development permit in order to assist the Board in determining whether a proposed action may result in significant environmental impacts and to provide information for tribal planning and decision-making. An EA required under this Act must comply with any guidance issued by the Tribal Environmental Review Commission and must include brief discussions of:
 - (1) the need for the proposed action;
 - (2) alternatives to the proposed action if it involves unresolved conflicts concerning alternative uses of available resources;
 - (3) the environmental impacts of the proposed action and alternatives; and
 - (4) agencies and persons consulted.

- (f) "Environmental Impact Statement" or "EIS" means the detailed written statement required by Section 102(2)(C) of the National Environmental Policy Act, as amended, 42 U.S.C. § 4321 et seq.
- (g) "General development" means all development except "low impact" development, as defined in paragraph (i).
- (h) "Hualapai tribal lands" means all lands over which the Hualapai Tribe has jurisdiction, including all land within the exterior boundaries of the Hualapai Reservation and all other Hualapai Indian country, as that term is defined in 18 U.S.C. § 1151.
- (i) "Low impact development" means those development activities which the Board has identified, in a rulemaking agreed to by unanimous vote of the Commissioners, as having little impact on the natural environment.
- (j) "Person" means any individual, public or private corporation, company, partnership, association or society of persons, the federal, state or local governments or any of their programs, agencies or departments, or any Indian tribe, including the Hualapai Tribe, or any of its programs, agencies, departments, corporations or entities.
- (k) "Traditional uses and practices" means those uses of the land and practices affecting the land that are a part of Hualapai culture and religious beliefs, including [need examples].
- (l) "Tribal Environmental Review Commission" or "TERC" means the administrative body established under Section 301.

PART 3. ESTABLISHMENT OF THE TERC

01. ESTABLISHMENT OF THE TRIBAL ENVIRONMENTAL REVIEW COMMISSION

- (a) There is hereby established a Tribal Environmental Review Commission ("TERC" or "Commission") to review and regulate, including issuing permits for, all development activities that are proposed for any site within Hualapai tribal lands, in order to ensure that:
 - (1) no development activity will be carried out without a permit; and
 - (2) all development activities will be carried out in accordance with all applicable tribal and federal environmental protection laws and regulations.

- (b) The TERC shall be governed by a three-member Board of Commissioners ("Board"), each of whom shall be appointed by the Hualapai Tribal Council. Each Commissioner shall serve a three-year term, except that the first time that Commissioners are appointed, one will be appointed to serve a three-year term, one a two-year term and the other a one-year term. Thereafter, one Commissioner shall be appointed each year. Commissioners shall be eligible for re-appointment without limitation. The Commissioners shall elect one member to serve as Chairperson. Upon resignation, removal or death of a Commissioner, the Council shall appoint a replacement to fill the remaining term. The Tribal Council shall decide upon the qualifications for Commissioners.
- (c) The TERC shall work cooperatively with the Hualapai Tribal Council and all Tribal agencies and departments to enforce tribal and federal environmental laws. Until such time as the TERC employs a sufficient number of employees to carry out all of its responsibilities, other tribal agencies or departments shall provide staff support to the TERC; provided, that the TERC shall conduct an independent review of all development applications for which the Tribe itself is an applicant.
- (d) The TERC shall receive notice and be included by the Tribal Council in consultation on proposed federal undertakings on Hualapai tribal lands and on ancestral Hualapai territory outside tribal jurisdiction.
- (e) Approval of permits and other activities governed by this Subtitle shall be granted only by the affirmative vote of a majority of the Board, except as provided in § 302, and if an affirmative vote is received the TERC will adhere to all Hualapai constitutional limits on development.

02. ORGANIZATION OF THE TERC

The Board is authorized to prescribe the internal organization of the TERC. The Board shall prescribe its own decision-making process, except to the extent that specific requirements are established in this Subtitle and in Subtitle C. The Board may allow certain categories of decisions to be made by the Chairperson or by a single designated Commissioner and may require other categories of decisions to be made by the entire Board. All decisions of the Board must be made in compliance with the Hualapai Tribal Constitution. The Board shall issue rules, pursuant to Section 304, setting forth its decision-making process.

03. AUTHORITY OF THE TERC

- (a) Powers and duties

In carrying out the purposes of this Act, the Board is authorized to:

- (1) promulgate regulations, in accordance with Section 304 and Subtitle C of this Act, as necessary to carry out its responsibilities under this Act;
- (2) Recommend the hiring of employees to carry out the duties of the TERC, which employees shall be treated as tribal employees and shall be subject to tribal personnel policies;
- (3) enforce the provisions of this Act and the regulations promulgated hereunder, pursuant to the provisions of Part 8 of this Subtitle;
- (4) conduct hearings related to any aspect of or matter within the authority of this Act and, in connection therewith, compel the attendance of witnesses and the production of records;
- (5) issue guidelines, permits (including conditions of permits) and orders in connection with the implementation of this Act;
- (6) assess and collect fees and service charges in connection with permit applications;
- (7) accept, receive and administer grants or other funds from public or private agencies, including the federal government, to carry out any of the purposes of this Act;
- (8) perform such other activities as the Board may find necessary to carry out its functions under this Act.
- (9) the Hualapai Tribal Council reserves the right to use its sovereign authority to recend TERC authority for the welfare of the Tribe as a whole.

(b) Delegation of authority

The Board may delegate to any officer or employee of the TERC such powers and duties under this Act, except the making of regulations, as it may deem necessary or expedient.

04. RULES

The Board shall issue rules governing its procedures and supplementing the substantive law prescribed in this Subtitle. The TERC's rules shall be developed and adopted in accordance with laws governing tribal administrative procedures. At a minimum, the Board

shall issue its rules in proposed form shall request comments and shall hold one or more public hearings to assist it in developing rules. Any rules issued by the Board shall not take effect until 30 days after they have been provided to the Hualapai Tribal Council. The Hualapai Tribal Council, or by its designation a Tribal department, agency or the TERC staff, will make the rules available to applicants for development permits and to other interested persons.

05. HEARINGS

- (a) **General.** In carrying out its responsibilities, the Board shall hold public hearings as part of the rulemaking process and administrative hearings on permit applications and on alleged violations of this Act. All hearings shall be conducted in accordance with applicable provisions of law governing tribal administrative procedure, including Subtitle C herein. All hearings may be conducted in either the Hualapai language or the English language or both, as warranted by the circumstances.
- (b) **Rulemaking hearings.** In developing rules, the Board shall hold at least one hearing in which Tribal members and others who may be affected by rules issued by the Board are given the opportunity to express their views. Notice of rulemaking hearings shall be provided at least 30 days prior to the date of the hearing and the text of the proposed rules, with explanatory materials, shall be made available to the public at least 30 days prior to the date of the hearing.
- (c) **Administrative hearings.** The Board shall hold administrative hearings in permit and enforcement proceedings, for example, when it decides whether to approve an application for a development permit or whether there has been a violation of this Act. In a permit hearing, the burden is on the applicant to demonstrate that the issuance of a permit would be consistent with the Tribe's Land Use and Development Plan, this Act or other tribal or federal laws. In an enforcement hearing, the TERC staff shall have the burden of proving that a violation of this Act has occurred and that the person(s) charged was (were) responsible for the violation. The Board shall find that a violation has occurred if it finds that the charges are supported by substantial evidence and that a preponderance of the evidence supports a finding that a violation has occurred. For all administrative hearings, a written transcript shall not be required, but the applicant or alleged violator shall be entitled to a written decision. The Commission shall provide written notice to the Tribal Council at least one week prior to the scheduled date of the hearing, which notice shall be posted in the Tribal Office and at such other places as may be specified in the Commission's rules.
- (d) **Procedures.** The Board shall, by rule, establish procedures for administrative hearings, as provided for in Subsection C of this Subtitle, to ensure that all

persons whose rights and interests are adjudicated by the Commission are afforded due process of law.

PART 4 LAND USE DEVELOPMENT AND PLANNING

01. LAND USE AND DEVELOPMENT PLAN

- (a) The Hualapai Tribal Council shall cause to be prepared or updated a Tribal Land Use and Development Plan for the management of all lands and resources within the Tribe's jurisdiction. The Office of Planning and Community Vision is charged with lead responsibility for the preparation of this Plan in cooperation and coordination with other departments and agencies of the Tribe. The staff of the TERC shall assist the staff of the Office of Planning and Community Vision in the preparation of this Plan, as well as in the preparation of any planning studies that may be conducted.
- (b) The Plan shall include:
 - (1) the Tribe's objectives, policies and standards to guide tribal and private development within Hualapai tribal lands over the long term; and
 - (2) the Tribe's short-term program (one to five years) of tribal actions to achieve the long-term objectives of the Plan.

02. ADOPTION OR AMENDMENT OF LAND USE AND DEVELOPMENT PLAN

- (a) The Office of Planning and Community Vision shall hold a public hearing on any Tribal Land Use and Development Plan that it proposes or proposes to amend, during which such Plan or amendment thereto shall be explained to tribal members and others who may be affected by such Plan or amendment and their views shall be sought.
- (b) Following the hearing, the Hualapai Tribal Council, the Office of Planning and Community Vision and the TERC shall jointly meet to consider the Plan in light of comments expressed at the hearing, and shall attempt to reach a consensus on the specific content of the Plan.
- (c) If the Hualapai Tribal Council, the Office of Planning and Community Vision and the TERC succeed in reaching consensus, any such Plan or amendment thereto shall be formally adopted by resolution of the Hualapai Tribal Council.
- (d) In the absence of consensus, the Hualapai Tribal Council shall determine the content of and shall adopt the Tribal Land Use and Development Plan.

03 ANNUAL LAND USE AND DEVELOPMENT REPORTS

- (a) The Commission shall submit annual reports to the Hualapai Tribal Council regarding land use and development on Hualapai tribal lands. These annual reports shall briefly summarize:
- (1) progress that has been made toward the accomplishment of the short-term program and long-term objectives;
 - (2) major problems that have arisen or that remain unresolved;
 - (3) the extent to which there have been changes in the assumptions of information on which the Tribe's Land Use and Development Plan was based; and
 - (4) any recommendations for changes in the Tribe's Land Use and Development Plan.
- (b) The Hualapai Tribal Council will consider the Commission's annual report and take action as may be appropriate. Action by the Hualapai Tribal Council may include adopting, by resolution, changes in the Land Use and Development Plan and/or directing the Commission to hold a public hearing to seek the views of tribal members and the public on any proposed changes.

04. DESIGNATION OF AREAS OF SPECIAL TRIBAL CONCERN

The Tribal Land Use and Development Plan may include the designation of Areas of Special Tribal Concern in order to provide added protection for important tribal interests. The Hualapai Tribal Council may designate such areas for a variety of reasons, including but not limited to their importance for religious or cultural practices, wildlife habitat or sources of water supply. If there is a need to maintain confidentiality regarding the precise location of any such area, its location need not be shown on maps that are incorporated into the Land Use and Development Plan, provided that the Hualapai Tribal Council and the Commission may establish some confidential means of recording the location of the area. Any development that is proposed within an Area of Special Tribal Concern is subject to additional review requirements prescribe in Section 604 of this Subtitle.

PART 5. APPLICATIONS FOR DEVELOPMENT PERMITS

01. PERMITS REQUIRED FOR ALL DEVELOPMENT

There shall be no development on any Hualapai tribal lands unless the developer has been issued a permit by the Commission. This requirement for a permit applies to all tribal members, all lessees and permittees of the Tribe or of tribal members, the Tribe or any

agency thereof and any other person who performs development activities on Hualapai tribal lands.

02. PROCEDURE FOR LOW-IMPACT DEVELOPMENT PERMITS

- (a) Any person proposing to perform low-impact development activities shall submit an application to the TERC using such forms as the TERC shall prescribe and shall include all supporting information required by the TERC. The application shall include a signed statement that:
 - (1) the applicant believes that the proposed development is "low-impact" development as defined in the TERC's regulations; and
 - (2) the applicant will comply with any conditions that the TERC has included in the development permit.
- (b) The TERC shall issue written guidance pertaining to applications for low-impact development permits and shall make such guidance available to prospective applicants.
- (c) Applications for low-impact development permits will be acted upon by the TERC as provided in Section 601 of this Subtitle. If the TERC's staff determines that the proposed development cannot be properly treated as low-impact development, the staff shall advise the applicant to file for a general development permit pursuant to Section 503 of this Subtitle.

03. PROCEDURE FOR GENERAL DEVELOPMENT PERMITS

- (a) Any person proposing to perform general development activities shall submit an application to the TERC using such forms as the TERC shall prescribe in its regulations. The application shall include:
 - (1) a brief description of the proposed development;
 - (2) if the applicant is other than the Hualapai Tribal Council or a Tribal agency or department, and the proposed development would be located entirely or partially on Indian trust or restricted lands, a certification by the Office of Planning and Community Vision, the Bureau of Indian Affairs that the applicant either possesses or has applied for the requisite property interest (lease) in the trust or restricted land to proceed with the development should a permit be issued;
 - (3) a draft environmental assessment (EA) in accordance with Section 505 of this Subtitle unless a categorical exclusion applies; and

- (4) all supporting information required by the TERC.
- (b) The TERC shall issue written guidance pertaining to applications for general development permits and shall make such guidance available to prospective applicants.
- (c) The TERC's staff will screen each application to determine if it is sufficiently complete to be accepted and processed. The staff may require the applicant to revise or supplement an application, or the staff may accept a substantially complete application and perform whatever actions are necessary to complete it.

04. PROCEDURE WHEN THE HUALAPAI TRIBAL COUNCIL OR A TRIBAL AGENCY OR DEPARTMENT IS THE APPLICANT

When the Hualapai Tribal Council or a Tribal agency or department is the applicant for a development permit (either low-impact or general), The TERC's staff may cooperate with and assist other tribal staff and officials in preparing the necessary application; provided, that to ensure against improper political influence in decisions made by the TERC on such tribal applications, the issuance of a permit by the TERC must comply with the additional requirements provided in Section 603 of this Subtitle.

05. ENVIRONMENTAL ASSESSMENTS

- (a) EA normally required. An environmental assessment (EA) is required for all applications for general development permits, except:
 - (1) An EA is not required if the TERC staff determines that the environmental impacts of the proposed development are adequately addressed in an earlier EA or environmental impact statement ("EIS"). In such cases, a copy of the earlier EA or EIS will be used by the TERC in deciding whether to issue the permit.
- (b) Responsibility for preparation of the EA. The applicant is normally responsible for preparing the EA. If the applicant is the Hualapai Tribal Council or a Tribal agency or department, and the proposed development involves a joint venture with any other party, responsibility for preparation of the EA may be determined by agreement between the joint venture partners.
- (c) Review by the TERC. The TERC's staff will review each EA to determine its adequacy. The applicant may submit a draft EA for review prior to submitting the permit application or may submit a completed EA and permit application at the same time. The staff may require additional information, analyses or consultation with appropriate federal, tribal or state agencies. If an EA is

almost adequate but lacking in some minor way, the staff may accept the EA without requiring revisions; provided, that in such cases, the staff shall advise the Chairperson of the TERC in writing of the nature of any inadequacies in the EA.

06. OTHER ENVIRONMENTAL REVIEW AND CONSULTATION REQUIREMENTS

The EA prepared for each permit application shall identify any environmental review and consultation requirements established by tribal laws and regulations other than this Subtitle or by federal laws and regulations. If an EA discusses alternatives to the proposed development, the EA shall indicate whether an environmental review or consultation requirement applies to all alternatives considered or only to certain alternative(s). If any environmental review and/or consultation requirements apply to the proposed development, the EA shall document steps taken to achieve compliance. Normally, compliance should be achieved prior to submitting the application for the development permit under this Subtitle. If compliance has not been achieved at the time the development permit application is submitted, the application shall state a target date by which the applicant expects to have achieved compliance.

07. REQUIREMENTS FOR AREAS OF SPECIAL TRIBAL CONCERN

If the applicant is proposing to conduct development activities within an Area of Special Tribal Concern designated pursuant to Section 404 of this Subtitle, the EA shall include a discussion of alternative locations or an explanation of why alternative locations are not practicable. In addition, a permit authorizing development within an Area of Special Tribal Concern may be issued only after compliance with the procedural requirements provided in Section 604 of this Subtitle.

08. REVIEW OF PERMIT APPLICATIONS BY THE TERC STAFF

- (a) The TERC staff shall review each application for a development permit and shall prepare a staff report containing findings on the following:
- (1) Whether the proposed development is consistent with the Tribe's Land Use and Development Plan.
 - (2) Whether the EA adequately discusses the environmental impacts of the proposed development and alternatives.
 - (3) Whether the EA identifies all applicable environmental review and consultation requirements established by Tribal laws and regulations other than this Subtitle and by Federal laws and regulations, and whether compliance with such requirements has been accomplished or is likely to be accomplished in the near future.

(4) Whether, in the judgment of the staff, the proposed development may or will result in significant environmental impacts. If the staff reaches such a conclusion, the staff report will indicate whether any of the alternatives considered in the EA would avoid such significant environmental impacts.

(5) Whether, if the TERC issues a permit as requested, any conditions should be included in the permit to ensure that the development will: (A) be consistent with the Tribe's land use and development plan; (B) comply with any applicable other environmental review and consultation requirements; and (C) adequately mitigate any adverse environmental impacts that may result from the development. If the staff recommends that conditions be included in a permit, the staff report will include recommended conditions.

(b) The staff report shall be submitted to the Board for action in accordance with part 6 of this Subtitle. The Board may release the staff report to the applicant with notice of a possible denial.

09. FILING FEES AND SERVICE CHARGES

The Commission is authorized to charge applicants filing fees for the costs associated with processing their applications and to assess service charges for the costs of helping applicants to complete their applications. The Commission will also provide a list to the applicant of organizations capable of helping complete their EA. Prior to assessing any filing fees or service charges, the Commission shall establish a policy on fees, charges and waivers through rules pursuant to Section 304 of this Subtitle.

PART 6. ISSUANCE OF PERMITS AND ORDERS BY THE TERC

01. LOW-IMPACT DEVELOPMENT PERMITS

The Chairperson of the Board is authorized to issue permits for low-impact development. The Chairperson may delegate this authority to either or both of the other Commissioners, pursuant to Section 302. No administrative hearing shall be required for action on such permits. The Board shall post notice of the issuance of any low-impact development permit within one week after the date of issuance. Such notice shall be posted in the Tribal Office and at such other locations as the Board shall specify in its rules.

02. GENERAL DEVELOPMENT PERMITS

(a) Administrative hearing normally required. Applications for general development permits shall normally be reviewed by the Board in an administrative hearing, conducted pursuant to Section 703 and the rules issued

thereunder. This shall be an informal hearing in which the applicant will describe the proposed development, explain how it would be consistent with the Tribe's Land Use and Development Plan, describe actions taken to ensure compliance with any other environmental review and consultation requirements established by tribal or federal law, and respond to questions from the Commissioners. An oral presentation to the Board by the TERC staff is mandatory and may be supplemented by the presentation or inclusion of additional information from representatives of the Tribal Council or other Tribal departments.

- (b) Exceptions to the hearing requirement. The Commission may, by rule, establish certain kinds of development permit applications on which the Commission may take action without first holding an administrative hearing. Such exceptions may include applications which are excluded from the requirement to prepare an EA. In any such case, if the Board denies a permit without holding a hearing, the applicant may request that a hearing be held and the Board shall do so.

03: ADDITIONAL REQUIREMENTS WHEN THE HUALAPAI TRIBAL COUNCIL OR A TRIBAL AGENCY OR DEPARTMENT IS THE APPLICANT

- (a) When the Hualapai Tribal Council, a Tribal agency or Tribal department is the applicant, the Board shall independently determine whether:
- (1) the proposed development would be consistent with the Tribe's Land Use and Development Plan,
 - (2) the environmental assessment is adequate, and
 - (3) the proposed development may have significant environmental impacts.
- (b) To help make such an independent determination, the Commissioners shall question the TERC staff on these points, but this questioning need not take place during the administrative hearing.
- (c) The development order issued in any such case shall include a statement that the Board has independently made the determinations listed in paragraph (a) of this section.

04. ADDITIONAL REQUIREMENTS FOR AREAS OF SPECIAL TRIBAL CONCERN

Any application that proposes development within any Area of Special Tribal Concern must be presented to the Hualapai Tribal Council for ultimate resolution. In any such case, the Council and the Commission shall both present their views on the proposed development

in a meeting of the Council called to consider such proposed development and a public notice of such meeting shall be posted, except that portions of the meeting may be closed to the public if necessary to preserve the confidentiality of the area.

05. DEVELOPMENT ORDERS

- (a) The decision of the Board to issue a permit, to deny a permit, or to issue a permit subject to conditions, for general or low-impact development, shall be recorded in a brief document known as a "development order." Each development order shall:
- (1) briefly set forth the reason(s) in support of the Board's decision;
 - (2) advise the applicant of the procedure to be followed if the applicant chooses to appeal the decision;
 - (3) inform the applicant of what the conditions are, if the permit is issued subject to conditions;
 - (4) if the permit is denied, advise the applicant whether the Board would reconsider the application if certain changes were made; and
 - (5) advise the applicant that failure to comply with the order may be grounds for enforcement and penalties under Section 704.
- (b) The Board shall provide a copy of each development order to the Hualapai Tribal Council and to the applicant, shall post a copy of the order at the Tribal Offices and shall take other appropriate steps to inform members of the Hualapai Tribe of the orders that the Board issues.
- (c) In the case of an application for which an administrative hearing has been held, the development order shall be issued no later than 30 days after the close of the hearing.

06. DETERMINATION THAT AN ENVIRONMENTAL IMPACT STATEMENT WILL BE REQUIRED FOR PROPOSED DEVELOPMENT

In certain cases, the Commission may determine that the environmental assessment submitted with an application for development does not support a conclusion that the proposed development will not result in significant environmental impacts. In such a case, if an action by a federal agency (such as the Bureau of Indian Affairs) would be required for such proposed development to be permitted, an environmental impact statement may be required. In any such case, the Commission shall suspend consideration of the permit application and inform the applicant that an FIS will be required for the proposed

development. The applicant may revise the proposed development to avoid significant environmental impacts or may resubmit the application after an EIS has been prepared in accordance with federal regulations.

07. PROCEDURE WHEN AN EIS IS REQUIRED

When an EIS is required, the applicable procedure is specified in the federal regulations issued by the Council on Environmental Quality (40 C.F.R. Parts 1500-1508). If the Hualapai Tribal Council or a Tribal agency or department is the applicant, or is associated with the applicant, the Council may direct an appropriate Tribal agency or department to participate in the preparation of the EIS as a cooperating agency.

PART 7. ENFORCEMENT AND JUDICIAL REVIEW

01. INVESTIGATIONS

The Commission is authorized to investigate compliance with development orders that it has issued and to investigate whether activities are being carried out without a permit in violation of this Subtitle. As part of an investigation, the Commission's staff may serve any person with a letter of inquiry. Any such letter of inquiry shall inform the person to whom it is addressed that answers must be provided to the Commission within sixty (60) days and that failure to respond may result in the imposition of civil penalties.

02. NOTICES OF VIOLATION

If the Commission's staff has reason to believe that a violation of this Subtitle has occurred or that there is a substantial likelihood that a violation will occur in the near future, the Commission's staff shall so advise the Board. In the case of an apparent violation of this subtitle, the Board is authorized to issue a Notice of Violation to the person(s) apparently responsible for the violation, and, if the apparent violation occurred on property owned by a person other than the alleged violator, a Notice of Violation shall also be issued to the landowner. A Notice of Violation will include a Summons to appear before the Commission at an enforcement hearing at a specified time and date, and shall advise the alleged violator that failure to appear may result in the imposition of penalties.

03. ADMINISTRATIVE ENFORCEMENT

- (a) **Enforcement Orders.** Within 30 days after the date of any enforcement hearing, the Commission shall issue a written decision. If the Commission determines that a violation has occurred and that the person(s) charged was (were) responsible for the violation, the Commission's decision shall state with specificity the nature of the violation and shall include an Enforcement Order. The Enforcement Order may require the violator(s) to comply immediately

with the requirements of this Act, may suspend or revoke a development permit for failure to comply, and may specify a time and conditions for compliance.

- (b) Administrative Penalties and Corrective Action. An Enforcement Order shall direct any person(s) found to have committed a violation of this Subtitle to take whatever corrective action the Commission deems appropriate under the circumstances. An Enforcement Order may impose penalties in accordance with a schedule of penalties prescribed in the Commission's rules. Alternatively, an Enforcement Order may impose penalties in the event that a person found to have committed a violation does not take corrective action in accordance with the Order within the prescribed time frame. If a person who has been found to have committed a violation does not take corrective action within the prescribed time frame, an appropriate department or agency of the Tribal government may take the necessary corrective action, in which case, the amount of any penalty shall be increased by twice the amount of the cost incurred by the tribal department or agency in taking the corrective action.

04. EMERGENCY ORDERS

Notwithstanding any other provision of this Subtitle, if the Board determines that noncompliance with this Act is presenting an imminent and substantial threat to the public health, welfare or environment and determines, in consultation with the Tribe's attorneys, that it is not practicable to assure prompt protection of the public health, welfare or environment of an administrative or judicial enforcement action under this Part, the Board may issue such orders as may be necessary to protect the public health, welfare or environment. Any such order shall be effective immediately upon issuance and shall remain in effect for a period not to exceed 60 days.

05. JUDICIAL ENFORCEMENT

- (a) The Board may request the Hualapai Tribal Council to authorize the Tribal Attorney General or other tribal attorney to file an action in Tribal Court pursuant to this Act for a temporary restraining order, a preliminary injunction, a permanent injunction or any other relief provided by law, including the assessment and recovery of civil penalties (except that any suit against the Tribe or a tribal department or agency shall be for injunctive relief only and not for penalties or other money damages), in any of the following instances:
- (1) whenever a person has violated, or is in violation of, any provision of this Act, including, but not limited to, a regulation, permit or order issued pursuant to this Act;
 - (2) whenever a person submits false information under this Act or

regulations promulgated under this Act and

- (3) whenever a person is creating an imminent and substantial endangerment to the public health, welfare, environment or cultural resources of the Hualapai Tribe, in which case the Board shall request the Attorney General or other tribal attorney to pursue injunctive relief but not the assessment of penalties, unless the endangerment is caused by a violation, as specified in paragraphs (1) and (2).

06. SPECIAL PROVISIONS FOR TRIBAL DEPARTMENTS AND AGENCIES

In any case in which the Hualapai Tribal Council or any Tribal agency or department is alleged to have violated the terms and conditions of a development order, or to have conducted development activity without a permit, the Chairperson of the Commission shall bring the matter to the attention of the Chairperson of the Tribal Council who shall consider taking action to ensure compliance with this Subtitle. If the matter cannot be resolved informally, the Commission shall conduct an enforcement hearing for the purpose of making factual determinations and issuing a decision recommending a course of corrective action if necessary.

07. JUDICIAL REVIEW

Any person who is aggrieved by the issuance or denial of a development permit without respect to whether that person, corporation or other entity is a party to such permit application, or who is the subject of an Enforcement Order, may file an appeal in the Tribal Court of Appeals, in accordance with the rules of the Court. The Court is authorized to hear such appeals.

PART 8. COORDINATION WITH FEDERAL ENVIRONMENTAL LAWS

01. POLICY OF TRIBE REGARDING "TREATMENT AS A STATE" BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY

Certain federal environmental laws authorize the U.S. Environmental Protection Agency (EPA) to treat Indian tribes as "states" for purposes of implementing those laws. The Commission is directed to submit a report to the Hualapai Tribal Council on an annual basis providing recommendations on whether the Tribe should seek treatment as a state under one or more federal statutes, and which purposes and programs under the federal statutes should be the Tribe's priorities.

02. THE TERC TO ISSUE INTERIM GUIDANCE ON COMPLIANCE WITH FEDERAL ENVIRONMENTAL LAWS

Until such time as the EPA designates the Tribe as a "state" for purposes of federal

environmental laws, the TERC shall issue written guidance to assist applicants for Tribal development permits to identify and achieve compliance with any requirements or federal environmental law that may be applicable to the proposed development. Such guidance need not be issued through the rulemaking process and may be made in consultation with federal agencies.

PART 9. SEPARABILITY AND REVIEW

01. SEPARABILITY

If any provision of this Act, or the application thereof, is held invalid, the remainder of this Act, or other applications of such provisions, shall not be affected.

02. REVIEW

Within a period of five years, this Act will be subject to complete review and revision. If found necessary, by the Tribal Council, in order to remain current and meet new demands which are presently unforeseen.