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HUALAPAI TRIBE HAZARDOUS AND
EMERGENCY PLANNING AND TOXIC
~~COMMUNITY RIGHT TO KNOW~~ SUBSTANCE
ORDINANCE

Ordinance No. _____

§1. PURPOSE

- (a) This Ordinance establishes a program for improved Hazardous Chemicals management in order to maintain a clean, healthy, and safe environment on the Hualapai Reservation. This Ordinance establishes an Emergency Operations Planning Committee (EOPC) and sets out procedures for forming Local Emergency Planning Committees (LEPC's). This Ordinance also sets forth facility notification requirements necessary for the development and implementation of Emergency Response Plans. Additionally, the Ordinance contains reporting requirements which provide the Hualapai community with important information on the nature, location, and quantity of Hazardous Chemicals in their community.
- (b) This Ordinance provides the framework for emergency response to natural disasters and other emergencies.

§ 2. DEFINITIONS

In this Ordinance, unless otherwise provided:

- (a) "CAS number" means the chemical abstract service registry number of a chemical.
- (b) "Council" means the Legislative Council of the Hualapai Tribe.
- (c) "Emergency Planning District" means the geographic area subject to an Emergency Response Plan of the EOPC.
- (d) "EOPC" means the Emergency Operations Planning Committee appointed by the Tribal Council.
- (e) "Emergency Response Organization" means any tribal, other governmental, or private entity equipped, or created for responding to environmental, health, or other emergencies. This definition includes, among other things, federal agencies and their departments, police departments, hospitals, fire departments, emergency airlift or other medical response entities, and environmental cleanup or containment crews or companies.
- (f) "Extremely Hazardous Substance", "Hazardous Chemical", and "Toxic Chemical" have the meaning set forth in Section 328 of SARA Title III, 42. U.S.C. §11049, and regulations promulgated under SARA Title III, currently found at 40 CFR Part 355 et seq.

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- (g) **"Facility"** means all buildings, equipment, structures, and other stationary items that are located on a single site or on contiguous or adjacent sites and which are owned and operated by the same person (or by any person which controls, is controlled by, or under common control with such person). *Facility* shall include manmade structures as well as all natural structures in which chemicals are purposely placed or removed through human means such that it functions as a containment structure. For purposes of emergency release notification, the term includes motor vehicles, trains and aircraft.
- (h) **"Hazardous Chemical"** means a substance defined as a Hazardous Chemical in 29 CFR §1910.1200(c), except that such term does not include the following: (1) Any food, food additive, color additive or cosmetic regulated by the Food and Drug Administration; or (2) any substance present as a solid in any manufactured item to the extent exposure to the does not occur under normal conditions of use.
- (i) **"Hazardous Substance"** means a substance on the list defined in section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) (42 U.S.C. §9601 (14), as amended by SARA, and regulations promulgated under CERCLA, currently located at 40 CFR §302.4, or a substance as defined as a Hazardous Substance by the Hualapai Tribe.
- (j) **"Lands of the Tribe"** means all lands within the territorial jurisdiction of the Tribe, whether or not the Tribe has ownership interest in the land, including by not limited to tribal trust land, allotted land, patented land, homesteads, leased land, and rights of way.
- (k) **"EOPC"** means the Emergency Operations Planning Committee appointed by the Tribal Council.
- (l) **"Manufacture"** means to produce, prepare, import or compound a toxic chemical.
- (m) **"Material Safety Data Sheets (MSDS's)"** means written or printed material concerning a Hazardous Chemical which is prepared in accordance with 29 CFR §1910.1200(g).
- (n) **"Person"** means any individual, trust, firm, joint stock company, corporation (including government and tribal corporations), partnership, association, State, Federal Government or Division or Agency thereof, Tribe, municipality, commission, political subdivision of a State or Nation, or interstate body.
- (o) **"Process"** means the preparation of a toxic chemical after its manufacture for distribution in commerce either:
- (1) In the same form or physical state as, or in a different form or physical state from, that in which it was received by the person so preparing such a substance, or;
 - (2) As part of an article containing the toxic chemical. Process also applies to the processing of a toxic chemical contained in a mixture or trade name product.

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- (p) *"Release"* means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment (including abandonment or discarding of barrels, containers, and other closed receptacles) of any Hazardous Chemical, Extremely Hazardous Substance, Toxic Chemical, or Hazardous Substance.
- (q) *"SARA III"* means Title III of the Superfund Amendments and Reauthorization Act of 1986 (P.L. 99-499), also called the Emergency Planning and Community Right-to-Know Act, as amended, found at 42 U.S.C. §11001 to §11050.
- (r) *"Threshold Planning Quantity"* means a quantity of a substance that triggers reporting requirements under this Ordinance, as listed in 40 CFR Part 355, Appendix A and B, as part may be amended or revised in the future, or as listed and published by the Tribe.
- (s) *"Trade Secret"* means any confidential formula, pattern, process device, information or compilation of information that is used in a submitter's business, and that give the submitter an opportunity to obtain advantage over competitors who do not know or use it.
- (t) *"Tribe"* means the Hualapai Tribe, a federally recognized Indian tribe, organized under a constitution adopted by the Hualapai Tribe February 14, 1991 and approved March 13, 1991 by the Secretary of the Interior, this constitution supersedes the Amended Constitution and Bylaws of the Hualapai Tribe, of the Hualapai Reservation, Arizona, adopted October 22, 1955, and approved by the secretary of the Interior on January 16, 1956.

§ 3. AUTHORITY

- (a) This Ordinance is adopted under the inherent sovereign authority of the Tribe.

§ 4. EMERGENCY OPERATIONS AND PLANNING COMMITTEE: FORMATION & RULES OF OPERATION

- (a) The Emergency Operations and Planning Committee was established by Resolution 14-92 by the Tribal Council. Approved March 13, 1992.

{ Since the resolution is incomplete, a complete copy has not been found, a proposal for the following rules of operation should be considered }

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- (1) The EOPC shall have at least Ten (10) members, composed of the director/president, manager, chief, or respective designee, of the:
 - (A) Hualapai Police Department (BIA)
 - (B) Hualapai Tribe Fire Department (1 Volunteer & 1 BIA)
 - (C) Emergency Medical Services
 - (D) Environmental Office, (or other named department with primary responsibility for environmental protection and natural resources of the Tribe)
 - (E) Department of Planning and Economic Development
 - (F) Hualapai Department of Public Services (Utility/Maintenance)
 - (G) Indian Health Services
 - (H) Peach Springs School District
 - (I) Bureau of Indian Affairs
 - (2) The Chairperson of the Tribe may appoint sufficient other individuals from the list in § 6(b)(1) as necessary to carry out the duties and responsibilities of the EOPC.
- (b) The President of the EOPC shall be appointed by the Chairperson of the Tribe, with the approval of the Council, from among the members of the EOPC. The President of the EOPC shall appoint a Coordinator for the EOPC, who shall serve as the central contact for the regulated facilities.
 - (c) Any member of the EOPC may be removed by the Chairperson of the Tribe upon the recommendation of a majority of the full membership of the EOPC for inefficiency, neglect of duty, malfeasance, misfeasances or nonfeasance in office. An EOPC member may also be removed voluntarily upon request and approval by a majority of the full membership of the EOPC and the Chairperson of the Tribe. Vacancies shall be filled immediately by the director, manager, or chief of the department or agency which removed member represented.
 - (d) Members of the EOPC and the President of the EOPC shall serve until removed.
 - (e) The members of the EOPC shall serve without compensation. Members whose employers do not pay their travel expenses incurred while fulfilling duties of the EOPC, subject to available funds.
 - (f) The EOPC shall meet as often as necessary and may organize itself into such support committees as necessary to implement the Ordinance. The full EOPC shall meet at least four (4) times a year.
 - (g) A majority of the EOPC shall constitute a quorum to transact business. When a vacancy occurs in the EOPC, the remaining commissioners may exercise all the powers of the EOPC until the vacancy is filled. The EOPC shall annually elect a Vice-President to act in the absence or disability of the President or in case of a vacancy in the office of the President.

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- (4) Prepare, coordinate proposals, and administer federal grants available under SARA III and any other relevant programs. All grant applications and awards shall be approved by the Chairperson of the Tribe and the Legislative Council.
- (5) Establish standard operating procedures for hazardous materials management and emergency response for members of the EOPC, LEPC's, and any department, enterprise, business, contractor or private party operating within the lands of the Tribe.
- (6) Collect, collate and publish statistical and other information relating to hazardous materials within the lands of the Tribe. The EOPC shall prepare an annual report on hazardous materials management and emergency response for submission to the Council by December 31 of the reporting year, which shall end on September 30.
- (7) Conduct or participate in investigations of causes, origins, and circumstances of hazardous materials incidents within the lands of the Tribe or affecting the Tribes' populace or environment.
- (8) Provide training, seek funding for such training, in the control, containment, transportation, and handling of hazardous materials and cooperate with other governments (local, tribal, state and federal), institutions and groups to provide such training.
- (9) Employ specialized testing services to evaluate evidence and conditions involved in hazardous materials incidents subject to the availability of funding for said purposes.
- (10) Any action taken by the EOPC pursuant to § 5(a)(3) and (4), shall be taken only upon approval by the Council.

§ 6. LOCAL EMERGENCY PLANNING COMMITTEES

(a) Creation of Local Emergency Planning Committee Districts.

- (1) Each future district of the Hualapai Tribe may choose to have its own LEPC. If it so chooses, it shall pass a resolution that:
 - (A) Creates a LEPC for the District,
 - (B) Appoints members to the LEPC, in accordance with § 6(b), and
 - (C) Agrees to follow this Ordinance and any other relevant laws and codes.
- (2) Each District that chooses to have a LEPC shall be designated as one Emergency Planning District for the purposes of preparing and implementing an Emergency Response Plan.

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- (3) The EOPC shall perform the functions of an LEPC for those Districts that do not choose to have their own LEPC. All Districts that do not choose to have their own LEPC shall be considered as one Emergency Planning District for the purposes of preparing and implementing an Emergency Response Plan.
- (b) Compositions of LEPC's
 - (1) An LEPC may include one or more representatives from each of the following enumerated groups or organizations:
 - (A) Elected officials of the Tribe or the Districts
 - (B) Law enforcement, ranger, civil defense, fire fighting, first aid, health, environmental, hospital and transportation personnel.
 - (C) Broadcast and print media
 - (D) Community groups
 - (E) Owners or operators of facilities subject to the requirements of this Ordinance.
 - (c) All LEPC's shall appoint a chairperson/president and shall adopt procedural rules by which the LEPC shall function. Such rules shall be effective upon approval by the District Council.

§ 7. COMPREHENSIVE EMERGENCY RESPONSE PLANS

- (a) The LEPC shall prepare and annually review a comprehensive Emergency Response Plan. This Plan shall be based on information collected by the EOPC, of the Hualapai Tribe, District sources, as well as information obtained from facilities subject to this Ordinance, in order to address emergencies due to releases from facilities and transportation vehicles in its Emergency Planning District. After completing the Emergency Response Plan, the LEPC shall provide a copy of the Plan to the Council and submit a copy to the EOPC. The EOPC shall review the plan and make recommendations to the LEPC on revisions that may be necessary to ensure it meets the requirements of this Ordinance or any rules adopted under this Ordinance. The EOPC shall further ensure that the plan is coordinated with the emergency response plans of adjoining emergency planning districts, as applicable.
- (b) The LEPC shall evaluate the need for resources necessary to develop, implement, and exercise the Emergency Response Plan in its Emergency Response District and shall make recommendations to the EOPC regarding these needs.
- (c) The Emergency Response Plan shall include:
 - (1) The identification of Emergency Response Organizations in, adjacent to, or otherwise available to the Emergency Planning District. The Emergency Response Organization shall work with the EOPC in making determinations necessary to implement the Emergency Response Plan.

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- (2) Mutual aid agreements with other jurisdictions, and any allocation of emergency response resources for responding to releases subject to this section, if applicable.
- (3) Identification of facilities subject to the emergency planning requirements of this Ordinance that are within the planning the emergency planning district; routes likely to be used for the transportation of substances on the list of extremely hazardous substances; and any additional facilities, such as hospitals or natural gas facilities, contributing or subjected to additional risk due to their proximity to facilities subject to the emergency planning requirements of this Ordinance;
- (4) Methods and procedures to be followed by facility owners and operators and local emergency and medical personnel to respond to any release, as defined herein;
- (5) Designation of a community emergency coordinator and a facility emergency coordinator for each facility subject to the emergency planning requirements of this Ordinance, who will make determinations necessary to implement the emergency response plan;
- (6) Procedures providing reliable, effective, and timely notification by the facility emergency coordinators and the community emergency coordinator to persons designated in the emergency response plan, and to the public, that a release has occurred;
- (7) Methods for determining the occurrence of a release and the area or population likely to be affected by such a release;
- (8) A description of emergency equipment and facilities in the community and at each facility in the community subject to the emergency planning requirements of this Ordinance, including an identification of the persons responsible for such equipment and facilities;
- (9) Evacuation plans, including provisions for precautionary evacuation and alternative traffic routes;
- (10) Training programs, including schedules for training of local emergency response and medical personnel; and
- (11) Methods and schedules for exercising the emergency response plan.

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§ 8. EXTREMELY HAZARDOUS SUBSTANCES

- (a) Unless otherwise provided in this Ordinance, a substance is subject to the requirements of this code if:
 - (1) It is an Extremely Hazardous Substance as listed and published by the Administrator of the United States Environmental Protection Agency ("USEPA") or its successor, and it is held in quantities at or above the threshold planning quantity, or
 - (2) It is an extremely hazardous substance as listed and published by the Hualapai Tribe.

§ 9. FACILITIES: EMERGENCY PLANNING REQUIREMENTS

- (a) A facility is subject to emergency planning requirements if a substance identified under § 8 of this Ordinance is present at the facility in an amount at or in excess of the threshold planning quantity for that substance.
- (b) The owner or operator of a facility subject to this section shall notify the EOPC that such facility is subject to the requirements of this Ordinance.
- (c) The EOPC may designate additional facilities which are subject to this Ordinance. The designation shall be accomplished after notification to the facility of the proposed designation.
- (d) The owner or operator of a facility subject to this Ordinance shall provided to the LEPC the identity of a facility representative who will participate in the emergency planning process as the facility emergency coordinator.
- (e) Upon request, the owner or operator of a facility subject to this Ordinance shall provide the LEPC any information necessary for developing and implementing the emergency plan. Such information may include:
 - (1) Names, addresses and emergency telephone numbers of facility emergency coordinator and alternate.
 - (2) Description of employee emergency response training and facility emergency preparedness programs.
 - (3) Description of appropriate emergency equipment necessary to respond to a release.
 - (4) Description of emergency response procedures including notification procedures and evacuation plans in the event of a release.
 - (5) Identification of transport routes and transportation methods used to transport extremely hazardous substances to and from the facility.
 - (6) Identification of Hazardous Substances or Hazardous Chemicals present at the facility, including submittal of Material Safety Data Sheets or other information as provided for in this Ordinance.

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- (f) Facilities shall work with the EOPC and LEPC to reduce, to the maximum extent practicable, inventories of Extremely Hazardous Substances, Hazardous Chemicals, and Toxic Chemicals.

§ 10. EMERGENCY NOTIFICATION OF REPORTABLE RELEASES

- (a) If a release of a reportable quantity of an Extremely Hazardous Substance or a Hazardous Substance occurs from a facility or Transportation vehicle, the owner or operator of the facility or transportation vehicle or unit shall immediately notify the Hualapai Police Department, through the 911 operator or other working number, who shall provide such notification as required under the Hualapai Hazardous Material Accident or Spill Initial Notification Scheme.
- (b) The notification shall occur immediately after the facility emergency coordinator or designee, or operator or owner of the transportation vehicle has knowledge of the reportable release, unless impractical under the circumstances. The notice of the reportable release shall include the following to the extent known at the time of notice, and as long as no delay in responding to the emergency results:
 - (1) The specific location of the release.
 - (2) The chemical name or identity of substance(s) released and a description of the container or vessel from which the release occurred.
 - (3) An estimate of the quantity of substance(s) which were released into the environment.
 - (4) The time and duration of the release.
 - (5) The medium or media into which the release occurred.
 - (6) Any known or anticipated acute or chronic health risks associated with the release and, where appropriate, advice regarding medical attention necessary for exposed individuals.
 - (7) Proper precautions to take as a result of the release, including evacuation and other proposed response actions.
 - (8) The name and telephone number of the person or persons to be contacted for further information.
- (c) Within thirty (30) days after a reportable release, the owner or operator of a facility where a release occurred requiring notification pursuant to this section shall submit to the LEPC and to the EOPC a written follow-up emergency notice, stating and updating the information originally provided pursuant to subsection (b) of this section and including the following additional information:
 - (1) Actions taken to respond to and contain the release,
 - (2) Any known or anticipated acute or chronic health risks associated with the release,
 - (3) If appropriate, advice regarding medical attention necessary for exposed individuals, and
 - (4) Measures which have been or will be taken at the facility to avoid a reoccurrence of similar releases.

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- (d) After additional information becomes known, the owner or operator shall update the notice in writing within seven (7) calendar days.

§ 11. LISTS OF HAZARDOUS CHEMICALS: MATERIAL SAFETY DATA SHEETS

- (a) A person who owns or operates a facility which is subject to emergency planning under this Ordinance, shall submit to the LEPC, the EOPC, and the Fire Department with jurisdiction over the facility a MSDS for each chemical, or a list of Hazardous Chemicals, present at the facility at any one time in amounts equal to or greater than 10,000 pounds and for Extremely Hazardous Substances present at the facility in an amount greater than or equal to 500 pounds, or the threshold planning quantity, whichever is lower.
- (b) If a list of Hazardous Chemical is submitted under this section it shall include:
 - (1) The chemical name or the common name of each chemical for which an MSDS is required, categorized as required by the EOPC, and
 - (2) The CAS number applicable to each such chemical and substance, if available.
 - (3) Any hazardous component of each such chemical as provided on the MSDS.
 - (4) An indication of whether the owner elects to withhold information about the Hazardous Chemical or Extremely Hazardous Substance from disclosure as a trade secret.
- (c) On request of the LEPC, the EOPC, or the Fire Department with jurisdiction over the facility, an owner or operator of a facility who has submitted a list pursuant to this section shall also submit the MSDS for any chemical on the list to the requesting agency. On request by any person, the LEPC may make available a MSDS or transmit the request to the EOPC which shall make the MSDS available, subject to the trade secret provisions and regulations adopted under SARA III (42 U.S.C. §11042, 40 CFR Part 350). If the LEPC or EOPC does not have the requested MSDS the LEPC or EOPC shall request the MSDS from the facility owner or operator. The facility owner or operator shall make the MSDS available within thirty (30) days after receiving the request to the LEPC or EOPC and the LEPC or EOPC shall in turn make the MSDS available to the requesting party, subject to the trade secret provisions and regulations adopted under SARA III (42 U.S.C. §11042, 40 CFR Part 350).
- (d) Within three (3) months after discovery, by an owner or operator of a facility, of significant new information concerning an aspect of a Hazardous chemical for which a list or MSDS was submitted, or within three (3) months after a facility obtains a new Hazardous Chemical subject to the reporting requirement of this section, the owner or operator shall update and submit a revised list or MSDS to the LEPC, the EOPC and the Fire Department with jurisdiction over the facility.

§ 12. EMERGENCY AND HAZARDOUS CHEMICAL INVENTORY FORM

- (a) A person who owns or operates a facility which is required to provide a MSDS or chemical listing under Section 11 shall submit to the LEPC, the EOPC, and the Fire Department, with jurisdiction over the facility, an emergency and hazardous chemical inventory form ("Tier II Form") provided by the EOPC.
- (b) The Tier II Form shall be submitted on or before March 1 of each year, and shall contain data on Hazardous Chemicals present at the facility during the preceding calendar year above or equal to the Threshold planning quantities.
- (c) The Tier II Inventory Form shall contain the following information:
 - (1) The chemical name or the common name of the chemical as provided on the Material Safety Data Sheet (MSDS) and the CAS number.
 - (2) An estimate, in ranges, of the maximum amount of the Hazardous Chemical present at the facility at any time during the previous year.
 - (3) An estimate, in ranges, of the average daily amount of the Hazardous Chemical present at the facility during the previous year.
 - (4) A brief description of the manner of storage of Hazardous Chemical(s).
 - (5) The location of the Hazardous Chemical at the facility.
 - (6) An indication of whether the owner elects to withhold location information or other information about a specific Hazardous Chemical from disclosure to the public.
- (d) An owner or operator of a facility subject to this section shall submit the information required by this section on the Tier II Inventory Form provided by the EOPC.

§ 13. TOXIC CHEMICAL RELEASE FORMS

- (a) A person who owns or operates a facility subject to the requirements of this Ordinance shall complete a toxic chemical release form as provide by the EOPC for each chemical that is:
 - (1) Listed as an "EPCRA Section 313 Toxic Chemical" in the Title III List of Lists, EPA Document Number EPA 740-R-95-001, April 1995, as revised and amended, and
 - (2) manufactured, processed, or otherwise used during the preceding year in quantities equal to or exceeding 10,000 pounds.
- (b) The release forms required under this section are intended to provide information to the Tribe and to the public, including citizens of communities surrounding facilities covered by this section. The release form shall be available consistent with the trade secret provisions of SARA III (42 U.S.C. §11042, 40 CFR Part 350) to inform persons about releases of toxic chemicals to the environment and to assist the Tribe in reducing chemical releases.

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- (c) The form shall be submitted to the Administrator of the EOPC on or before July 1 of every year and shall contain data reflecting releases during the preceding calendar year.

§ 14. INSPECTION BY THE HUALAPAI FIRE DEPARTMENT

- (a) For the purposes of this Ordinance, upon reasonable notice, the Hualapai Fire Department may enter and inspect facilities in order to determine compliance with this Ordinance and for gathering information on Hazardous Chemicals for the purposes of emergency planning. Facilities within the lands of the Tribe shall allow on-site inspection and shall provide to the Hualapai Fire Department specific location information on Hazardous Chemicals at the facility.
- (b) The Hualapai Fire Chief, or any other authorized officer, may execute a search warrant issued by the Hualapai Judicial Court in matters arising under this Ordinance. Such warrant shall issue with or without a showing of probable cause that an offense has been committed. If issued without probable cause, the applicant must show the inspection is part of a neutral scheme of inspection and review pursuant to this Ordinance.
- (c) The Hualapai Judicial Court has jurisdiction upon the filing of a verified complaint by the Hualapai Fire Department to issue a warrant for the inspection of a facility subject to this Ordinance. If necessary, the warrant shall be executed with the assistance of the Hualapai Police Department.
- (d) At the time of such inspection, the manager or the manager's designee shall, upon inquiry, advise the Hualapai Fire Department of the existence and location of any substance whose character is unknown, but which is suspected of being subject to regulation under this Ordinance. The Hualapai Fire Department shall be allowed access to such substance and, if it is subject to such regulation, the Hualapai Fire Department may assist the inspected party to undertake proper storage and handling, or disposal. The Hualapai Fire Department shall not, however, be responsible for such disposal, and that responsibility shall remain at all times with the facility and its manager(s).

§ 15. VIOLATION: PENALTIES AND INJUNCTIVE RELIEF

- (a) *Civil penalties.* Any person who fails to comply with the provisions of this ordinance shall be subject to civil penalties of up to \$25,000 per day for each day during which the violation continues. In the case of a second or subsequent violation, any such person may be subject to civil penalties up to \$75,000 for each day the violation continues.
- (b) *Injunctive Relief.* Upon proper application to the Hualapai Judicial Court an injunction may be issued to compel action or prohibit action in order to achieve compliance with this ordinance.

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- (c) Any fines or penalties collected shall be transmitted to the Tribe's Accounting Department for deposit in {an Environmental Trust Fund as ^{1 Sec.} estab. by Section 4.102 Enforcement of the or Wildl Hualapai Solid Waste Management Code.} + conservation
of special fund to that fund

§ 16. IMMINENT DANGER

- (a) The Hualapai Court has jurisdiction upon the filing of a verified complaint by the EOPC to restrain any hazardous materials, conditions practices or transportation in any place within the lands of the Tribe which could reasonably be expected to cause death or serious physical harm. Such authority may be immediately utilized where it reasonably appears that the imminence of such danger cannot be eliminated through other lawful available means. Any order issued under this section may require such steps to be taken as may be necessary to avoid, correct, or remove the imminent danger and may prohibit the presence of any individual in locations or under conditions where such imminent danger exists; except, however, that individuals whose presence is necessary to avoid, correct or remove the imminent danger or to maintain the capacity of a continuous process operation to resume normal operations or where cessation of operations is necessary to permit such to be accomplished in a safe and orderly manner shall not be so restrained.
- (b) Whenever and as soon as the EOPC or its authorized representative concludes that the conditions or practices described in subsection (a) exist in any place within the lands of the Tribe, it shall inform the general public or specific population affected of the imminent danger and the action being taken.

§ 17. NOT A CONSENT TO BE SUED OR WAIVER OF SOVEREIGN IMMUNITY

- (a) The establishment of the EOPC and any LEPC, and the authority granted to them by this Ordinance shall not constitute consent to be sued nor a waiver of the sovereign immunity of the Tribe, its agents, or representatives in any manner whatsoever.

§ 18. SEVERABILITY

- (a) If any provision of this Ordinance or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable.

§ 19. REPEAL OF PRIOR INCONSISTENT LEGISLATION

- (a) Enactment of this Ordinance repeals any prior legislation of the Tribe which is inconsistent with this Code, and supersedes any prior enactment of the Districts which are inconsistent with this code.