

**Pala Band of Mission Indians
Ordinance No. 15
Prohibited Pollutants in the
San Luis Rey River**



**Adopted
July 14, 1995**

**ORDINANCE
PALA BAND OF MISSION INDIANS
PROHIBITING THE DISCHARGE OF ANY POLLUTANT INTO THE
WATERS OF THE SAN LUIS REY RIVER**

The General Council of the Pala Band of Mission Indians does hereby ordain as follows:

Section 1. Findings and Declaration. The General Council for the Pala Band of Mission Indians finds and declares that:

1. It wishes to eliminate all discharges of pollutants into the waters of the Pala Indian Reservation.

2. Elimination of all discharges of pollutants into the waters of the Pala Indian Reservation is necessary at this time in order to maintain water quality for consumption and other domestic purposes by residences of the Reservation.

3. This ordinance is being enacted at this time as an emergency measure to maintain the quality of Reservation waters until such time as the Pala General Council can enact a new water ordinance comprehensively regulating water quality and the discharge of pollutants on the Reservation.

Section 2. Definitions. For the purpose of this ordinance, the following words shall have the following meaning:

A. "Band" shall mean the Pala Band of Mission Indians.

B. "Committee" shall mean the Executive Committee of the Band.

C. "Person" shall mean any individual, corporation, firm, partnership, joint venture, association, social club, estate, trust, the United States, Tribe, State, County, City, district or other political subdivision of any state, or any other group or combination acting as a unit.

D. "Pollutant" means any substance that will alter the quality of the waters of the Reservation.

E. "Quality of the water or waters" means any chemical, physical, biological, bacteriological, radiological, and other properties and characteristics of water which affect its use.;

F. "Reservation" means all land, air, and water located within the exterior boundaries of the Pala Indian Reservation.

G. "Water or waters" means any water, surface or underground located on or running through the reservation.

Section 3. Prohibited Discharges. No person shall discharge any pollutant into the waters of the Reservation.

Section 4. Civil Penalty.

(a) Any person discharging any pollutant into the waters of the Reservation or entering the Reservation for the purpose of discharging any pollutant into its waters shall be guilty of trespass. The Executive Committee may initiate a hearing upon such violations and may impose a penalty in an amount not to exceed five thousand dollars (\$5,000) for each day in which the violation occurs.

(b) Violation of any provision of this ordinance shall be deemed a public nuisance. The Executive Committee may initiate a hearing upon such violations and may impose a penalty in an amount not to exceed five thousand dollars (\$5,000) for each day in which the violation occurs.

(c) The Executive Committee may sue for damages for trespass, public nuisance, and any other applicable common law or statutory cause of action in any court of competent jurisdiction. The provisions of Section 5 of this ordinance shall be enforceable by the Executive Committee in addition to the provisions of this section and may be enforced by the same means as the provisions of this section. In any suite for violation of this ordinance the Executive Committee shall have judgment for the costs of suit and reasonable attorney fees.

Section 5. Clean-up and Abatement. Any person that discharges any pollutant into the waters of the Reservation shall immediately, but in any case not less than twenty-four (24) hours from the time of the discharge, notify the Executive Committee of said discharge and shall fully disclose to the Executive Committee any and all information regarding the discharge, including but not limited to the type of pollutant discharged, the amount of pollutant discharged, the location of the discharge and any other information required by the Executive Committee. Any person who discharges any pollutant into the waters of the Reservation shall be liable for all costs associated with or necessary to cleaning up, abate, or remove said pollutants from the waters of the Reservation and restore the quality of the waters of the Reservation to their condition as they existed immediately prior to the discharge.

Section 6. Court Action and Injunctions. Upon failure of any person to comply with any of the provisions of this Ordinance, the Council, by and through its attorney, shall petition a court of competent jurisdiction for the issuance of an injunction requiring such person to comply therewith. In any such suite, the court shall have

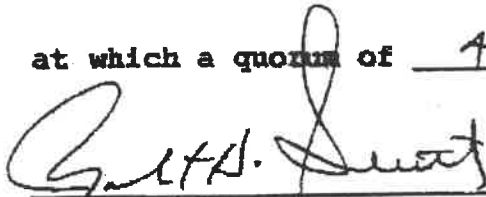
jurisdiction to grant a prohibitory or mandatory injunction, either preliminary or permanent, and to levy such fines in accordance with Section 4 of this Ordinance, as the facts may warrant.

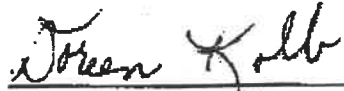
Section 7. Effective Date. This ordinance shall take effect immediately upon passage.

The foregoing ordinance was passed at a meeting of the General Council held on July 19, 1995, by the following vote:

YEAS: 38 NOES: 0 ABSTAINING: 7

at which a quorum of 45 members were present.


Robert H. Smith, Chairman


Doreen Kolb, Vice-Chair


Stanley McGarr, Secretary


Juliana Rodriguez, Tre


Marcus Mojado, Committee


LeeAnn Hayes, Committee