

DRAFT FOR PUBLIC REVIEW

THE PULIKLA TRIBE OF YUOK PEOPLE TRIBAL WATER QUALITY ORDINANCE

Ordinance Number 01-2002

Revised 2026



DRAFT

FORWARD

The Pulikla Tribe of Yurok People Water Resources Department (WRD) has primary responsibility for protecting water quality on the Reservation of the Pulikla Tribe of Yurok People (Reservation). The water quality standards set forth in this Water Quality Ordinance (Ordinance), and any subsequent amendments, are intended to fully protect the beneficial uses of Reservation waters. The Ordinance sets forth the Tribe's regulatory program. The Ordinance enumerates the water quality standards for all surface and ground waters of the Reservation and all waters over which the Tribe has jurisdiction, which includes both designated beneficial uses and the narrative and numerical criteria which must be either maintained or attained to protect those uses. It identifies general types of water quality issues which can threaten beneficial uses. The Ordinance sets forth a Water Management Program, an anti-degradation and regulatory policy and law requiring existing high water quality levels be maintained and prescribing criteria for protection of high-quality Reservation waters.

AUTHORITY

The Reservation was purchased on January 7, 1938, when Gus Resighini, by warranty deed, sold the lands in Del Norte County, California, which constitute the Reservation, to the United States. The purchase of the Reservation by the United States in trust was made under the authority of Section 5 of the Act of June 18, 1934 (Indian Reorganization Act) (IRA), 25 U.S.C. § 465, which authorized the Secretary of the Interior "to acquire through purchase, relinquishment, gift, exchange or assignment, any interest in lands, water rights or surface right to land within or without existing reservation, including trust or otherwise restricted allotments, whether the allottee be living or deceased."

The Reservation was established by the federal government as the Coast Indian Community of the Resighini Rancheria for the landless Indians of Del Norte and Humboldt Counties for agricultural and residential purposes. The Reservation consists of approximately 238.7 acres riparian to the Klamath River. Other contiguous lands have been gifted to or purchased by the Tribe, and these lands are being processed into trust status. The Reservation is located at U. S. Highway 101 and the Klamath River in Del Norte County, California.

The Tribe is a federally recognized Indian tribe of Yurok Indians organized under the authority of the IRA under a written Constitution which was ratified by its members on February 20, 1975, and approved by the Secretary of the Interior on April 10, 1975. On June 3, 1998, the Tribe amended its Constitution; these changes were adopted by the General Council of the Tribe on June 3, 1998 and approved by the Secretary of the Interior on July 3, 1998. The amended Constitution changed the name of the Reservation from The Coast Indian Community of the Resighini Rancheria to The Resighini Rancheria. In May 2024, the Bureau of Indian Affairs and the Tribe conducted a Secretarial Election and Tribal Citizens voted to amend the Tribe's Constitution and change their name to the Pulikla Tribe of Yurok People.

Pursuant to federal law as determined by the U.S. Supreme Court in cases such as *Montana v. United States*, 450 U.S. 544 (1981) and reaffirmed in *Strate v. A-1 Contractors*, 117 S.Ct. 1404 (1997), the Tribe possesses inherent sovereign authority to regulate on-Reservation pollution discharges that affect fundamental Tribal interests and public health and safety, including when such activities are conducted by non-members of the Tribe on privately owned land contiguous to or within the Reservation.

Under 1988 amendments to the Clean Water Act, 33 U.S.C. § 1377, Indian Tribes are entitled to be certified by the U.S. Environmental Protection Agency as authorized to exercise exclusive jurisdiction (Tribal Primacy) over all on-Reservation surface and groundwater quality matters, including over on-Reservation portions of waters, such as those of the Klamath River, Waukell Creek, natural rain fall, and all other waters of the Reservation that flow through other jurisdictions. In general, the State of California, through its resource and regulatory agencies, the Hoopa Valley Tribe and the Yurok Tribe, respectively, are the jurisdictions responsible for the quality of water entering the Reservation. As a sovereign power recognized by the Federal Government, exercising its powers of self-governance as a co-manager of natural resources, and by the U.S. Environmental Protection Agency for purposes of water pollution control, the Tribe maintains jurisdiction over waters that flow into and through the Reservation, regardless of the geographic origins of water sources.

The Tribe was granted treatment in a manner similar to a state (TAS) under Section 518 of the Clean Water Act by U.S. EPA on August 31, 2021. This status makes the Tribe eligible to administer a Clean Water Act water quality standards (WQS) program. The original version of this Ordinance was approved by the Tribal Council on October 25, 2002 and revised on June 14, 2006 and 2015. Once approved by U.S. EPA, the WQS in the 2025 version of this Ordinance will be in effect for Clean Water Act purposes.

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**THE PULIKLA TRIBE OF YUOK PEOPLE
TRIBAL WATER QUALITY ORDINANCE
(A Reservation-wide Water Management Program)**

Section 1 - Short Title, Findings and Purpose

101 Short Title: This Ordinance shall be known as the **Tribal Water Quality Ordinance** of the Pulikla Tribe of Yurok People.

102 Findings: The Tribal Council of the Pulikla Tribe of Yurok People hereby finds as follows:

(A) Since time immemorial, the Klamath River, Waukell Creek, Junior Creek and the numerous other unnamed creeks, streams, ponds, springs and their tributary streams, the streambeds thereof and the riparian areas adjacent thereto, have been natural resources of profound significance to the Yurok People of the Reservation who have used these resources for cultural, ceremonial, religious, fishery, seasonal residential and other purposes fundamental to the Tribe's way of life.

(B) The members of the Pulikla Tribe of Yurok People have a primary interest in the protection, control and conservation of the water resources which flow into and through the Reservation, and the quality of such waters must be protected to insure the health, economic, aesthetic and cultural well-being of the people of the Tribe.

(C) Various sites along the waters of the Reservation are or may be contaminated with toxic or hazardous materials as a result of previous land use activities, many of which were authorized without adequate review of impacts or without adequate disclosure to the Tribe of the potential for such impacts, and the contamination at these sites may pose significant risks to water quality and public health if not properly contained and cleaned up.

(D) The Tribal Council hereby finds that wellhead protection is a pro-active approach to managing public groundwater supplies focusing on preventing contaminants from entering recharge areas to public water supply wells. Protecting wellheads involves: knowing the location and boundaries of the recharge area; identifying any potential sources of contamination in the recharge area; controlling those potential sources to prevent the release of contaminants; and, controlling future land use in the recharge area to prevent activities which are known to threaten groundwater quality. Groundwater shall not contain chemical constituents, toxicants, radioactivity, pesticides or substances which produce tastes or odors in concentrations that produce detrimental physiological responses in human, plant, animal or aquatic life associated with designated beneficial uses. Groundwater used for domestic or municipal supply shall not contain concentrations in excess of the maximum contaminant limits set forth in this Ordinance.

(E) Regulation or elimination of all discharges of pollutants into the waters of the Reservation is necessary at this time in order to maintain the quality of those waters for their beneficial use by members of the Tribe, visitors to and residents of the Reservation.

103 Purpose: The purpose of this Ordinance is to exercise comprehensive Tribal regulatory authority over all surface and groundwater matters, and to protect fundamental Tribal cultural, ceremonial, religious, fishery, residential, seasonal residential, public health and safety and water quality issues by ensuring adequate drinking water, protecting beneficial uses, prohibiting all point source discharges and restricting non-point source discharges of pollutants within the exterior boundaries of the Reservation.

104 Authority and Scope:

Authority: This Tribal Water Quality Ordinance is hereby adopted by the Tribal Council pursuant to Article V, Section 3 of the Tribe's Constitution authorizing the Tribal Council to undertake such actions. Pulikla Tribe of Yurok People was granted treatment in a manner similar to a state (TAS) under Section 518 of the Clean Water Act by U.S. EPA on August 31, 2021. This status makes the Tribe eligible to administer a water quality standards (WQS) program for Clean Water Act purposes.

Scope: The provisions of this Ordinance shall apply to all existing and proposed point and non-point pollution discharges into surface or ground waters, and to all activities which have the potential to affect cultural, ceremonial, religious, fishery, residential, seasonal residential, public health and safety, water quality and other fundamental interests of the Tribe, including such activities conducted by non-members of the Tribe or on privately owned lands contiguous to the Reservation. Activities to be regulated hereunder include but are not limited to:

- (A) Landfills and open dumps;
- (B) Storage of animal waste;
- (C) Automobile graveyards and junkyards;
- (D) Land filling of sludge or septic system waste;
- (E) Individual, residential, industrial, commercial or agricultural sewage treatment facilities;
- (F) Individual, residential, industrial, commercial, fire protection or agricultural water control devices including but not limited to treatment facilities or systems, dams, reservoirs, ponds, pools, tanks, wells, pipelines, flumes, canals and intake or diversion systems;
- (G) Underground and above-ground liquid storage containers;
- (H) Surface and subsurface removal of mineral resources, overburden, rock or soil, including quarry operations (borrow pitting) for road surfacing and other uses;
- (I) All prospecting activities involving removal of soil or rock materials, including operations involving the reopening of existing mine pits, tunnels or quarries;
- (J) Sand and gravel operations;

- (K) Activities such as suction dredging, that have the potential to affect the riparian area, water quality or channel morphology;
- (L) Potential non-point source pollution problem areas including agricultural, mining, construction, urban runoff, silviculture, salt water intrusion, hydrological modification and residential activities;
- (M) Application of herbicide, insecticide or other pesticide or toxic materials or fertilizer for non-domestic use.

The provision of this Ordinance shall apply to all surface waters and all groundwater of the Reservation, to all wellhead protection areas within the exterior boundaries of the Reservation, to all persons and businesses on the Reservation, to all land under the Tribe's jurisdiction, trust or fee, and to all activities in areas with the potential to affect water quality, public health and safety and other fundamental interests of the Tribe.

105 Consensual Relations Among Non-members, the Tribe and Tribal Members:

Any person who is not a member of the Tribe who uses land anywhere within the exterior boundaries of the Reservation or other lands under the Tribe's jurisdiction, whether trust or non-trust land, enters into consensual relationships with the Tribe or its members, through commercial dealings, contracts leases or other arrangements. Such person's discharge of pollutants into or other activities which affect the water quality of surface or ground waters within the exterior boundaries of the Reservation will have a demonstrably serious impact upon the environment, natural resources, public health and safety of the Tribe and its members, unless such use is in compliance with the provisions of this Ordinance and any regulations promulgated hereunder.

106 Location and Geographic Context of the Pulikla Tribe of Yurok People:

The Reservation of the Pulikla Tribe of Yurok People is located in Del Norte County, California, on relatively flat land near the mouth of the Klamath River (Figure 1). Flowing waterbodies on the reservation include the Klamath River, Waukell Creek, Junior Creek, and several unnamed tributaries to Junior Creek. During winter floods, the Klamath River expands and can flow across high flow channels in the northeast portion of the Reservation. During the 1964 flood, several perennial ponds formed in the high flow channels. Additional waterbodies on the Reservation include Waukell Marsh on Waukell Creek and Junior Pond on Junior Creek (Figure 1). Wetlands have not been comprehensively field mapped, but the National Wetlands Inventory (NWI) indicates that wetlands cover a substantial portion of the Reservation (Figure 2). Efforts to field map Reservation wetlands are currently underway as part of wetland restoration planning and site characterization. In a future WQS update, these new wetland maps will replace the NWI-based map.

In addition to the 238 acres of Trust lands, the Pulikla Tribe of Yurok People also owns 197 acres of fee land adjacent to the Reservation boundary, for a total of 435 acres (Figure 1). These fee land parcels have not yet been converted to Trust status, so are not yet within the Tribe's jurisdiction for Clean Water Act purposes.

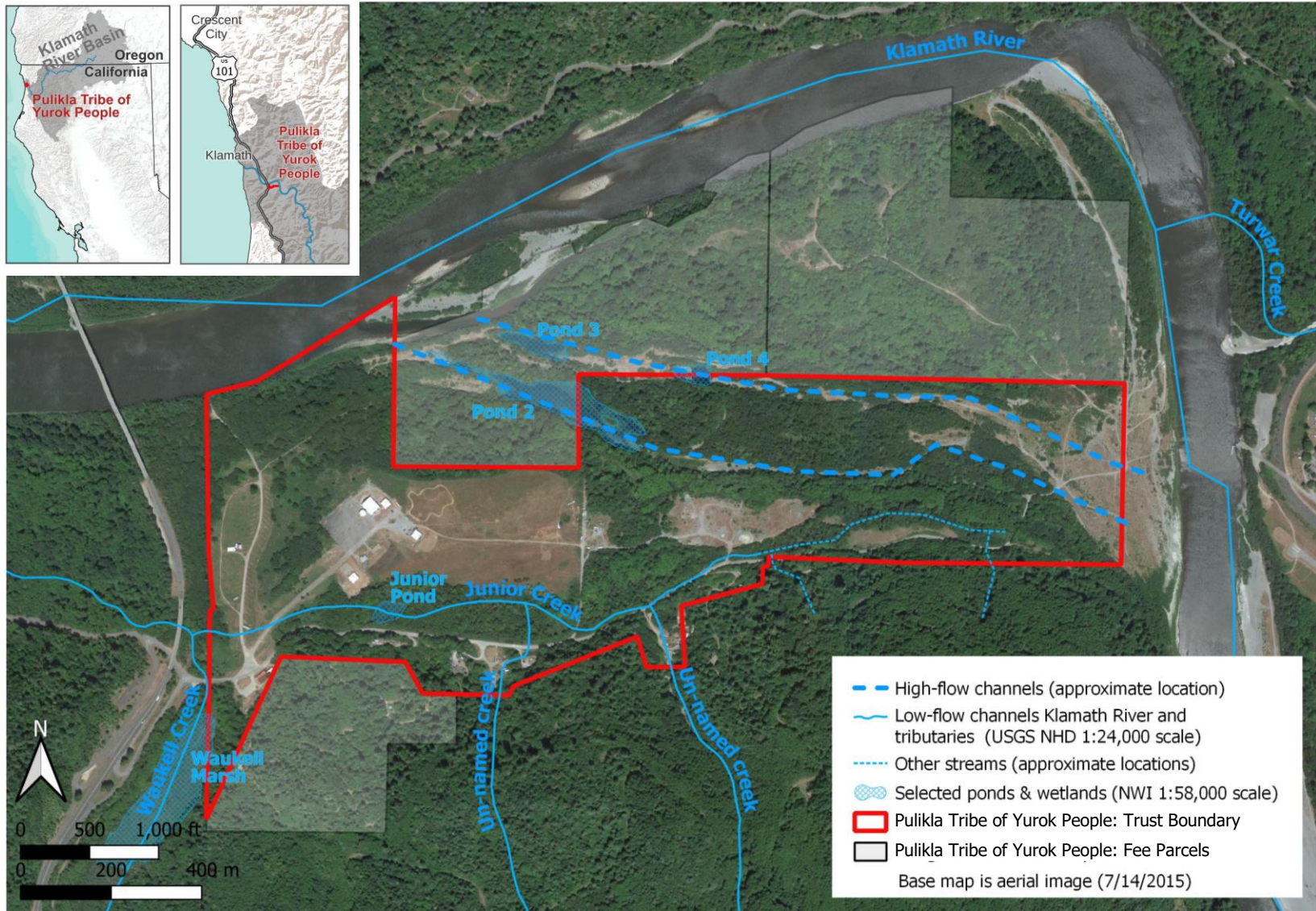


Figure 1. Map of the Pulikla Tribe of Yurok People’s lands and waterbodies, with inset showing the location relative to California and the Klamath River Basin.

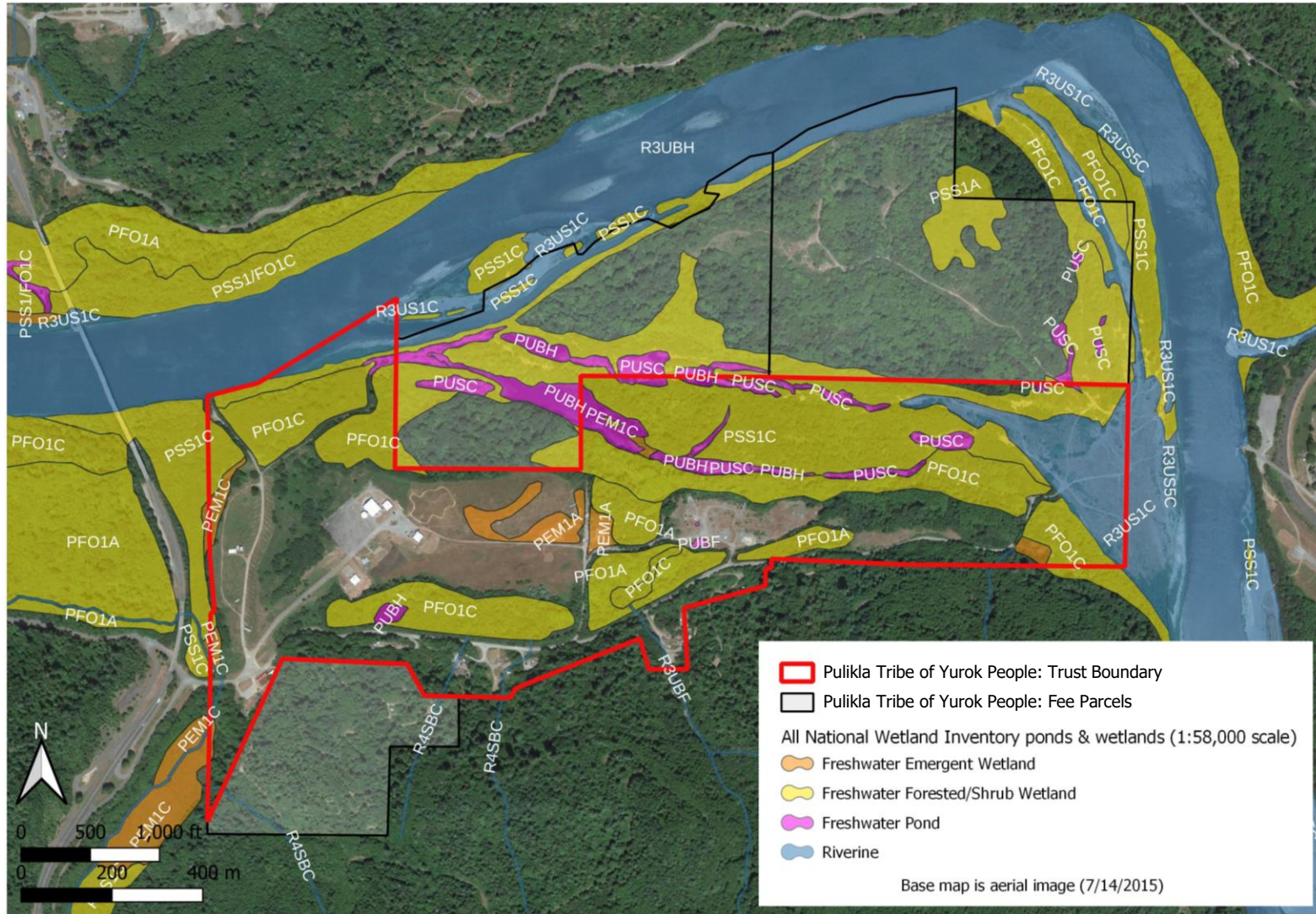


Figure 1. Wetlands mapped by the U.S. Fish and Wildlife Service National Wetland Inventory (NWI) using 1:58,000 scale 1983 color infrared aerial imagery. Map also shows Pulikla Tribe of Yurok People Trust boundary, fee parcels, and an aerial photograph.

Section 2 - Definitions

For the purposes of this Ordinance, the following words and phrases shall have the following meanings:

Acute: A stimulus severe enough to rapidly induce an effect; in aquatic toxicity tests, an effect observed in 96- hours or less is typically considered acute. When referring to aquatic toxicology or human health, an acute affect is not always measured in terms of lethality.

Aquifer: Any geologic formation capable of yielding a significant amount of potentially recoverable water.

Averaging period: The period of time over which the receiving water concentration is averaged for comparison with criteria concentrations. This specification limits the duration of concentrations above the criteria.

Best Management Practices (BMP): Physical, structural, and/or managerial practices that, when used singularly or in combination, prevent or reduce pollution.

Bioaccumulation: the process by which a compound is taken up by an aquatic organism, both from water and through food.

Tribal Council or Council: Governing body of the Pulikla Tribe of Yurok People.

Calendar month is a period of time from a day of one month to the corresponding day of the next month if such exists, or if not to the last day of the next month (e.g., from January 3 to February 3 or from January 31 to February 29).

Calendar year is a period of time defined as twelve consecutive calendar months.

Chronic: A stimulus that lingers or continues for a relatively long period of time, often one tenth of the life span or more. Chronic should be considered a relative term depending on the life span of an organism. The measurement of a chronic effect can be reduced growth, reduced reproduction, etc., in addition to lethality.

Clean Water Act (CWA): The federal Clean Water Act, 33 U.S.C. §§ 1251-1387, as amended.

Compliance Schedule: A schedule of remedial measures, including an enforceable sequence of actions or operations, leading to compliance with an effluent limitation or other limitation, prohibition or standard.

Criteria: Elements of the Tribe's water quality standards, expressed as constituent concentrations, levels, or narrative statements, representing a quality of water that supports a particular use. When criteria are met, water quality will generally protect the designated use.

Cyanotoxins: Toxins produced by cyanobacteria. Cyanobacteria, a type of phytoplankton also known as blue-green algae, are often the cause of algal blooms in fresh water and

occasionally in marine water. Their toxins can harm people, animals, aquatic ecosystems, the economy, drinking water supplies, property values, cultural activities, and recreational activities, including swimming and fishing.

Design Flow: The flow used for steady-state waste load allocation modeling.

Designated Use (Beneficial Use): A use that is specified in water quality standards as a goal for a water body segment, whether or not it is currently being attained. Designated uses are listed in Section 502. In this Ordinance, the terms Beneficial Use and Designated Use are used interchangeably.

Diversity: The number and abundance of biological taxa in a specified location.

***E. coli* or *Escherichia coli*:** The name of a specific bacterium used as an indicator of fecal (pathogen) pollution in fresh water environments and is expressed as colony forming units (cfu) per 100 milliliters or most probable number (mpn) per 100 milliliters. Analytic procedures include multiple-tube fermentation and membrane filter techniques. Elevated levels can be an indicator of the presence of pathogens that can cause human health problem.

Existing uses: All uses actually attained in the water body on or after the effective date of this Ordinance, whether or not they are explicitly stated as designated uses in the water quality standards or presently existing uses.

Frequency: How often criteria can be exceeded without unacceptably affecting the community.

Geometric mean (GM): The Nth root of the product of N numbers. Alternatively, the geometric mean can be calculated by adding the logarithms of N numbers, dividing the sum by N, and taking the antilog of the quotient. The geometric mean of two numbers is the square root of the product of the two numbers, and the geometric mean of one number is that number. Either natural (base e) or common (base 10) logarithms can be used to calculate geometric means as long as they are used consistently within each set of data, i.e., the antilog used must match the logarithm used.

Harmonic mean flow: The number of daily flow measurements divided by the sum of the reciprocals of the flows. That is, it is the reciprocal of the mean of reciprocal.

Hazardous Materials: 1) Any substance that poses a threat to human health or the environment. Typical hazardous substances are toxic, corrosive, ignitable, explosive or chemically reactive. 2) Any substance named by the EPA to be reported, if a designated quantity of the substance is spilled in the waters of the United States or if otherwise emitted into the environment.

Herbicide: Any chemical compound designed to control or destroy plants, weeds or grasses.

Historical Uses: All uses that have historical significance for the Tribe, its people or its members.

Insecticide: Any compound designed or used to kill or control the growth of insects

Impervious Barrier: Any material or structure on, above or below the ground that does not allow precipitation or surface water to penetrate directly into the underlying surface.

Legal size limit is the size limits of fish species for recreational or subsistence fishing.

Magnitude: How much of a pollutant (or pollutant parameter such as toxicity), expressed as a concentration or toxic unit is allowable

Mining: Any activities designed for the extraction of minerals including rock, sand and gravel.

Mitigation: A measure taken to reduce adverse impacts on the environment.

Mixing zone: is an area where an effluent discharge undergoes initial dilution and is extended to cover the secondary mixing in the ambient water body. A mixing zone is an allocated impact zone where water quality criteria can be exceeded as long as acutely toxic conditions are prevented.

Nonpoint Source: Any pollution sources which are diffuse and do not have a single point of origin or are not introduced into a receiving stream from a specific outlet.

NPDES: National Pollutant Discharge Elimination System, the national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under CWA § 307, 318, 402, and 405 of the CWA.

Outstanding National Resource Water: A high quality water that constitutes an outstanding Tribal resource due to its extraordinary water quality or ecological values, or where special protection is needed to maintain critical habitat areas.

Ordinance: This Water Quality Ordinance unless otherwise stated.

Permit: A document issued pursuant to Tribal code or federal laws (such as CWA §§ 401, 402 and 404) specifying waste treatment and control requirements or discharge conditions.

Person: Any individual, corporation, partnership, association, agency, municipality, commission or department, including the Pulikla Tribe of Yurok People or other federally-recognized Tribal government.

Pesticide: Any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any pest. Also, any substance or mixture of substances intended for use as a plant regulator, defoliant or desiccant.

Point source: Any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, culvert, well, discrete fissures, containers, rolling stock, concentration animal feeding operation, vessel or other floating craft.

Pollutant: Any substance that will alter the quality of the waters of the Reservation.

Potential Uses: All uses attainable in the water body, whether or not they are explicitly stated as designated uses in the water quality standards or presently potential uses.

Practicable: Technologically possible, able to be put into practice, and economically viable.

Quality of the Water or Waters: Any chemical, physical, biological, bacteriological, radiological and other properties and characteristics of water which affect its use.

Reservation or Rancheria: All land, air and water located within the exterior boundaries of the Reservation of the Pulikla Tribe of Yurok People, and all lands under the jurisdiction of the Pulikla Tribe of Yurok People.

Riparian: Refers to land on the banks of a body of water, such as a lake, pond, river or stream.

Site-specific criterion: A water quality criterion that has been derived to be specifically appropriate to the water quality characteristics and/or species composition at a particular location.

Statistical Threshold value (STV): refers to the approximation of the 90th percentile of the water quality distribution and is intended to be a value that should not be exceeded by more than 10 percent of the samples taken

Toxic Materials: Any chemical or mixture that presents an unreasonable risk or injury to human health or the environment.

Trophic Level 3 Fish (TL3): Fish that consume mainly zooplankton, benthic invertebrates, and small, phytoplankton-dependent fish. Species include rainbow and brook trout, blue gill, sunfishes, suckers, and bullhead. Examples are shown in Attachment C of the California Mercury Provisions (SWRCB 2017).

Trophic Level 4 Fish (TL4): Fish that consume Trophic Level 3 fish and other aquatic organisms. Species include largemouth, smallmouth, spotted, and striped bass; brown and lake trout; catfish, and Sacramento pikeminnow. Examples are shown in Attachment C of the California Mercury Provisions (SWRCB 2017).

Turbidity: The clarity of water expressed as nephelometric turbidity units (NTU) and measured with a calibrated turbidity meter.

Recharge Area: Any area that collects precipitation or surface water and carries it to aquifers. Recharge areas may include areas designated as wellhead protection areas and naturally occurring areas outside the exterior boundaries of the Reservation.

Use Attainability Analysis (UAA): is a structured scientific assessment of the factors affecting the attainment of the use which may include physical, chemical, biological, and economic factors as described in 40 CFR section 131.10(g).

Variance: Authorized written permission for a delay or exception in the application of a given law, ordinance or regulation.

Waste: Waste water and any and all other substances, liquid, solid, gaseous, radioactive, heat laden, associated with human habitation, or of human or animal origin, or from any of human activities including producing, manufacturing or processing operation of whatever nature, including such waste placed within containers of whatever nature prior to, and for purposes of, disposal.

Waters of the Reservation or Reservation Waters: Any water, surface or groundwater, contained within, flowing through or bordering upon the Reservation of the Pulikla Tribe of Yurok People, both trust and non-trust lands, or any portion thereof.

Water Quality Criteria: Specific levels of water quality which, if reached, are expected to render a body of water suitable for its beneficial use.

Wellhead Protection Area or Zone: The surface and subsurface area surrounding a water well or well field, supplying a domestic water system, through which contaminants are reasonably likely to move toward and reach such water well or well field.

Wet weight: Wet weight is part of the format for expressing the concentration of methylmercury in fish tissue. The mercury water quality objectives are expressed as a mass of methylmercury per mass of fresh or “wet” fish tissue. Concentrations expressed as methylmercury in dry weight of fish are not equivalent and must be converted to concentration on a wet weight basis if being compared with the criteria and targets.

WQS variance: A time-limited designated use and criterion for a specific pollutant(s) or water quality parameter(s) that reflect the highest attainable condition during the term of the WQS variance.

Section 3 – Pulikla Tribe of Yurok People Water Resources Department

- 301 Designation as Lead Tribal Agency:** The Pulikla Tribe of Yurok People Water Resources Department (WRD) shall be the lead agency for implementing and enforcing this Tribal Water Quality Ordinance.
- 302 Creation of Position of Tribal Water Quality Control Officer (TWQCO):** There is hereby created the position of Tribal Water Quality Control Officer. The Tribal Water Quality Control Officer shall be the Director of the WRD, and shall serve under the direction of the Council Chairperson.
- 303 Powers and Duties of Tribal Water Quality Control Officer:** The Tribal Water Quality Control Officer shall be responsible for:
- (A) Designating beneficial uses for the waters of the Reservation;
 - (B) Developing regulations and policies for Council approval, to implement and to enforce the water quality standards pertaining to beneficial uses, water quality criteria and anti-degradation policy set forth in this Ordinance;
 - (C) Identifying water bodies or sections of water bodies which do not support beneficial uses;
 - (D) Establishing and overseeing the Tribe’s point and non-point source permit review system;
 - (E) Conducting biannual assessments of the Tribe’s water quality standards for review by the Tribal Council; and
 - (F) Developing regulations and policies for Council approval to further the purpose of this Ordinance and the Tribe’s Water Quality Program.
 - (G) Reviewing the Tribe’s water quality standards, Biannual Water Quality Assessment, National Pollution Discharge Elimination System Permits, other permits and review procedures, as set forth in this Ordinance;
 - (H) Specifying document submission and record keeping requirements to be adhered to by all potential dischargers or applicants for permits;
 - (I) Establishing criteria for the assessment of application and processing fees;
 - (J) Issuing permits, as required by this Ordinance, after approval by the Tribal Council. The TWQCO shall provide a recommendation with proposed findings on each permit submitted for Tribal Council approval;
 - (K) Entering and inspecting any property, premises or facility involved in any activity which may affect water quality on any lands within the exterior boundaries of the Reservation and all other lands under the Tribal Council’s jurisdiction. Such inspections may include, but are not limited to:

- (1) Obtaining samples of soil, rock, vegetation, air, water or other substances deemed necessary; and
- (2) Setting up and maintaining monitoring equipment for the purpose of assessing compliance with beneficial uses, water quality criteria, anti-degradation policy, applicable regulations, best management practices or health or safety hazards;
- (L) Obtaining from the Tribal Court, or other court of competent jurisdiction, a warrant or other order which may be necessary to carry out its responsibilities under this Ordinance; and
- (M) Reviewing and recommending regulations for Tribal Council approval to further the purposes of this Ordinance and the Water Quality Program, following notice and hearings, or written opportunity for public comment.

304 Enforcement: [See Section 8 of this Ordinance for more details on enforcement.] The provisions of this Ordinance shall be enforced by the WRD. Any Tribal Law Enforcement Officer, or any person officially appointed by the Tribal Council in consultation with the WRD, may issue the following for violations:

- (A) Cease and Desist Orders or Notices of Violation: Upon a determination pursuant to an investigation as outlined in Section 803 of this Ordinance that any person is discharging or causing to be discharged or is about to discharge into any Reservation waters, directly or indirectly, any pollutant which constitutes a violation of this Ordinance, a Cease and Desist Order or Notice of Violation will be served upon the responsible parties and the landowner.
- (B) It shall be a civil offense, for which a fine of not less than \$500.00 shall be assessed, to obstruct or otherwise interfere with investigative or other activities of any agent or officer of the Tribe carrying out the objectives and provisions of this Ordinance.

Section 4 –Implementation Plan

401 Implementation Plan: Acting under authority delegated by the Tribal Council, the Tribal Water Quality Control Officer shall implement the Tribe’s water quality standards, including the anti-degradation policy, by establishing and maintaining controls on the introduction of pollutants into surface waters. More particularly, the Tribal Water Quality Control Officer shall do the following:

- (A) Establish and maintain controls on the introduction of pollutants in surface waters of the Reservation and on lands under the Tribe’s jurisdiction;
- (B) Monitor water quality to assess the effectiveness of pollution controls and to determine whether water quality standards are being attained;
- (C) Obtain information as to the impact of effluents on receiving waters;

- (D) Review the adequacy of the existing data base and obtain additional data when required;
- (E) Assess the probable impact of effluents on receiving waters in light of designated uses and numeric and narrative standards;
- (F) Require the highest and best degree of wastewater treatment practicable and commensurate with protecting and maintaining designated uses and existing water quality;
- (G) Develop water quality based effluent limitations and comments on technology-based effluent limitations, as appropriate, for inclusion in any federal permit issued to a discharger pursuant to Section 402 of the Clean Water Act (33 U.S.C. §1342);
- (H) Require that these effluent limitations be included in any such permit as a condition for Tribal certification pursuant to Section 401 of the Clean Water Act (33 U.S.C. §1341);
- (I) Coordinate water pollution control activities with other constituent agencies and other local, state and federal agencies, as appropriate;
- (J) Develop and pursue inspection and enforcement programs in order to ensure that dischargers comply with requirements of this Ordinance and any requirements promulgated by regulations or policies pursuant to this Ordinance, and in order to support the enforcement of federal permits by the U.S. EPA;
- (K) Provide continuing technical training for wastewater treatment facility operators through training and certification programs;
- (L) Provide funds to assist in the construction of publicly owned wastewater treatment facilities through the construction grants and revolving funds program authorized by the Clean Water Act (33 U.S.C. §1281), and other federal funds available for such purpose; and
- (M) Encourage, in conjunction with other agencies, voluntary implementation of best management practices to control non-point sources of pollutants to achieve compliance with the standards set out in this Ordinance or in any regulations and policies promulgated pursuant to this Ordinance.

Section 5 - Water Quality Standards

This section contains the Pulikla Tribe of Yurok People's water quality standards, including designated uses for waterbodies, water quality criteria, and antidegradation policies. The rationale supporting these standards is provided in a separate document titled *Justification for Water Quality Standards in the Pulikla Tribe of Yurok People 2025 Water Quality Ordinance*.

501 Applicability: The water quality standards described in this section apply to all waters of the Reservation. Water quality standards described in this section designate beneficial uses and water quality for waters of the Reservation. Any subsequent standards that may be described in regulations and policies developed pursuant to this Ordinance must be at least as stringent as the standards provided below.

The Tribe recognizes that groundwater is currently not considered Waters of the United States for Clean Water Act (CWA) regulatory purposes. The Tribe will regulate groundwater quality using its own legal authorities outside the CWA.

502 Designated Uses (Beneficial Uses): For the purposes of this Ordinance, there are hereby established the following designated uses for the waters of the Reservation. A water body that is not listed in Section 503 but that is a tributary to a listed water body shall be protected by the water quality standards that have been established for the nearest downstream water body listed in Section 503. Water bodies within the Reservation which do not have beneficial uses designated for them are assigned wildlife habitat designations. These wildlife habitat designations in no way affect the presence or absence of other beneficial use designations in these water bodies. Further classification will be based on the size of the water body and its historic and environmental significance. Further, if a water body has more than one designated use listed in Section 503, the applicable water quality criterion for a pollutant is the most stringent of those prescribed to protect the designated uses of the water body. Future studies and surveys may result in the reclassification of any or all waters of the Reservation.

The codes used in Section 503 are as follows:

- (A) Municipal and Domestic Supply (MUN) includes usual uses in community water systems and domestic uses from individual water supply systems.
- (B) Agricultural Supply (AGR) includes crop, orchard and pasture irrigation, stock watering, support of vegetation for range grazing and all uses in support of farming and ranching operations.
- (C) Industrial Service Supply (IND) includes uses that do not depend primarily on water quality such as mining, cooling water supply, hydraulic conveyance, gravel washing and fire protection.
- (D) Industrial Process Supply (PROC) includes process water supply and all uses related to the manufacturing of products.

- (E) Groundwater Recharge (GWR) includes natural or artificial recharge for future extraction for beneficial uses.
- (F) Hydropower Generation (POW) means used for hydropower generation.
- (G) Cold Freshwater Habitat (COLD) includes uses of water that support cold water ecosystems including but not limited to preservation or enhancement of aquatic habitats, vegetation, fish or wildlife, including invertebrates.
- (H) Water Contact Recreation (REC-1) includes all recreational uses involving actual body contact with water, such as swimming, wading, water-skiing, skin-diving, surfing, sport fishing, uses in therapeutic spas and other uses where ingestion of water is reasonably possible.
- (I) Non-Contact Water Recreation (REC-2) includes recreational uses which involve the presence of water but do not require contact with water, such as picnicking, sunbathing, hiking, beach combing, camping, pleasure boating, hunting and aesthetic enjoyment.
- (J) Preservation of Areas of Special Biological Significance (BIOL) includes aquatic and wildlife refuges, ecological reserves and designated areas of special biological significance.
- (K) Wildlife Habitat (WILD) includes water bodies that provide a water supply and vegetation habitat for the maintenance of wildlife.
- (L) Preservation of Threatened and Endangered Species (T&E) provides an aquatic habitat necessary, at least in part, for the survival of certain species established as being threatened and endangered species.
- (M) Fish Migration (MGR) provides a migration route and temporary aquatic environment for anadromous or other fish species.
- (N) Fish Spawning (SPAWN) provides a high quality aquatic habitat especially suitable for fish spawning.
- (O) Cultural (CUL-1) includes uses of water that have religious or ceremonial or significance or provide a role in Yurok Tribal culture, where the human body will come into direct contact with the water. Complete submergence into, and ingestion of the water is likely to occur. Sensitive body organs, such as eyes, ears, and nose, may be exposed to prolonged contact with the water. It includes sufficient water quantity as well as quality to carry out these acts. This use may include consumption of organisms including plants and animals.
- (P) Cultural Contact Water (CUL-2) includes use of water that has religious or ceremonial significance or provide a role in Yurok Tribal culture, including but not limited to subsistence fishing and collecting wetland and riparian plants, that may

cause the human body to come into direct contact with the water, but normally not to the point of complete submergence. The use is such that ingestion of the water is not likely to occur, nor will sensitive body organs, such as eyes, ears, or nose, normally be exposed to prolonged contact with the water. It includes sufficient water quantity as well as quality to carry out these acts.

- (Q) Tribal Subsistence Fishing (T-SUB): Uses of water involving the non-commercial catching or gathering of natural aquatic resources, including fish and shellfish, for consumption by individuals, households, or communities of the Tribe to meet needs for sustenance.
- (R) Commercial and Sport Fishing (COMM): Uses of water for commercial or recreational collection of fish, shellfish, or other organisms including, but not limited to, uses involving organisms intended for human consumption or bait purposes.
- (S) Shellfish Harvesting (SHELL): Uses of water that support habitats suitable for the collection of filter feeding shellfish (e.g., clams, oysters, and mussels) for human consumption, commercial, or sports purposes

503 Use Classification Key

Designated uses for waterbodies within the boundaries of the Reservation are specified in Table 1. See Figure 1 for Map. Full protection will be afforded to existing, potential and historical uses of the Reservation waters.

Table 1. Designated uses for waterbodies within the boundaries of the Reservation. P = Potential Use, E = Existing Use, H = Historical Use, N/A = Not Applicable.

Water Body	Inter-state?	MUN	AGR	IND	PROC	GWR	POW	COLD	REC-1	REC-2	BIOL	WILD	T&E	MIGR	SPWN	CUL-1	CUL-2	T-SUB	COMM	SHELL
Klamath River	Yes	H,P	E,H	H,P	E,H	E,H	P	E,H	E,H	E,H	E,H	E,H	E,H	E,H	E,H	E,H	E,H	E,H	E,H	H,P
Waukell Creek	No	N/A	N/A	N/A	N/A	E,H	N/A	E,H	H,P	E,H	E,H	E,H	E,H	E,H	E,H	H,P	E,H	E,H	N/A	N/A
Junior Creek	No	N/A	N/A	N/A	N/A	E,H	N/A	E,H	H,P	E,H	E,H	E,H	E,H	E,H	E,H	H,P	E,H	E,H	N/A	N/A
Un-named creeks and springs	No	N/A	N/A	N/A	N/A	E,H	N/A	E,H	N/A	E,H	E,H	E,H	E,H	E,H	E,H	N/A	E,H	E,H	N/A	N/A
Pond 3	No	N/A	H,P	H,P*	H,P*	E,H	N/A	E,H	E,H	E,H	E,H	E,H	P	P	P	E,H	E,H	E,H	H,P	N/A
Pond 2**	No	N/A	P	N/A	N/A	E,H	N/A	E,H	P	P	E,H	E,H	P	P	P	P	P	E,H	H,P	N/A
Pond 4	No	N/A	P	N/A	N/A	E,H	N/A	E,H	N/A	N/A	E,H	E,H	P	P	P	N/A	P	E,H	H,P	N/A
Other wetlands	No	N/A	N/A	N/A	N/A	E,H	N/A	E,H	N/A	E,H	E,H	E,H	P	P	P	N/A	E,H	E,H	N/A	N/A
Groundwater	No	E,H	E,H	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A

*Since the 1964 Flood and the institution of sand and gravel mining and manufacturing, water has been pumped from Pond 2 for IND and for PROC with no significant environmental impact.

**Pond 3 is on fee land, not Trust, so is not currently within the Tribe's jurisdiction for Clean Water Act purposes.

504 Narrative water quality criteria

(A) *General requirements.* All waters included in Section 501 shall be free from toxic, radioactive, conventional, non-conventional, deleterious or other polluting substances in amounts that will prevent attainment of the designated uses specified in Section 502.

(B) *Aesthetic qualities.* All waters included in Section 501 shall be free from substances, attributable to wastewater discharges or any other pollutant sources, that:

- (1) Settle to form objectionable deposits;
- (2) Float as debris, scum, oil, or other matter forming nuisances;
- (3) Produce objectionable color, odor, taste, or turbidity;
- (4) Cause injury to, are toxic to, or produce adverse physiological responses in humans, animals, or plants; and/or
- (5) Produce undesirable or nuisance aquatic life.

(C) *Protection of cultural and traditional uses.* All waters designated for cultural and traditional uses (CUL-1, CUL-2, T-SUB) shall be free from contaminants at levels that cause or contribute to an impairment in water-based activities essential to maintaining the Tribe's cultural and traditional practices.

(D) *Downstream protection.* All waters designated in Section 501 shall maintain a level of water quality that provides for the attainment and maintenance of the water quality standards of downstream waters, including the State of California which is immediately downstream, as well as the waters of federally recognized tribes further downstream.

(E) *Biological Criteria.* The following biological criteria shall apply to the waters of the Reservation.

- (1) All surface waters shall be of sufficient quality to support aquatic biota without detrimental changes in the resident aquatic communities;
- (2) Waters of the Reservation shall be free from substances, whether attributable to point source discharges, nonpoint sources or instream activities, in concentrations or combinations which would impair the structure or limit the function of the resident aquatic community as it naturally occurs;
- (3) The structure and function of the resident aquatic community shall be measured by biological assessment methods approved by the TWQCO.
- (4) Determination of impairment or limitation of the resident aquatic community may be based on comparison with the aquatic community found at an appropriate reference site or region.

(F) *Wildlife Criteria.* All surface waters shall be of sufficient quality to protect and support all life stages of resident or migratory wildlife species which lie in, on or near the waters of the Reservation.

505 Numeric water quality criteria

(A) *Aquatic life criteria.* The aquatic life criteria for these water quality standards are contained in Table 2, Table 7, Table 8, Table 9, and Table 10. The aquatic life criteria apply as follows:

(1) The aquatic life criteria in Table 2, Table 7, Table 8, Table 9, and Table 10 apply to all waters designated for the protection and propagation of fish (COLD, MIGR, SPWN), shellfish (SHELL), and wildlife (WILD, T&E), with the exception of mercury criteria. Application of mercury criteria is described in section 505(I).

(B) *Human health criteria.* The human health criteria for these water quality standards are contained in Table 11.

(1) The human health criteria for carcinogens in Table 11 were calculated based on an excess lifetime cancer risk level of 1 in 10 million, or 10^{-7} .

(2) The human health criteria in these standards were calculated using a fish consumption rate of 175 grams per day (gpd).

(3) For all waters with the designated use of Municipal and Domestic Supply (MUN), the criteria in the “Water + Organism” column of Table 11 shall apply.

(4) For all waters with the designated use of the protection and propagation of fish (COLD, MIGR, SPWN, T-SUB, COMM, CUL-1), shellfish (SHELL), and wildlife (WILD, T&E), but without the designated use of Municipal and Domestic Supply (MUN), the criteria in the “Organism Only” column of Table 11 shall apply.

(5) All criteria in Table 11 were derived using the USEPA Tribal/State Human Health Criteria Calculator, except Methylmercury which is based on the California Mercury Provisions (SWRCB 2017).

(C) *Drinking water criteria*

(1) In no case shall waters designated for use as Municipal and Domestic Supply (MUN) contain concentrations of chemical constituents in excess of the maximum contaminant levels (MCL) and secondary maximum contaminant levels (SMCL) in Table 12, Table 13, Table 14, Table 15, Table 16, and Table 17.

(2) In no case shall groundwaters designated for use as Municipal and Domestic Supply (MUN) contain detectable levels of *E. coli* (i.e., 0 cfu/100 mL or 0 mpn/100 mL).

(D) Fecal indicator bacteria criteria to protect contact recreational, cultural, and shellfish uses

(1) For all waters with the designated use of Cultural Contact Water (CUL-1) and Water Contact Recreation (REC-1),

(i) Culturable *E. coli* should not exceed a geometric mean (GM) of 40 colony forming units (cfu) per 100 milliliters (mL) or a statistical threshold value (STV) of 130 cfu/100 mL.

(a) Duration and Frequency: The waterbody GM should not be greater than the selected GM magnitude in any 30-day interval. There should not be greater than a ten percent excursion frequency of the selected STV magnitude in the same 30-day interval.

(b) *E. coli* should be measured using U.S. EPA Method 1603, or any other equivalent method that measures culturable *E. coli*.

(2) At all areas where shellfish may be harvested for human consumption (SHELL, T-SUB, COMM), the fecal coliform concentration throughout the water column shall not exceed 43/100 mL for a 5-tube decimal dilution test or 49/100 mL when a three-tube decimal dilution test is used (National Shellfish Sanitation Program, Manual of Operation).

(3) Beach Action Values are not legally part of water quality standards and are not to be used to determine whether a water body is impaired under the Clean Water Act, but rather are triggers which can be used for public health advisory postings. WRD will use a Beach Action Value of 74 cfu *E. coli*/100 mL. When an *E. coli* sample exceeds the BAV, the TWQCO will post a public health advisory, if deemed appropriate.

(E) Cyanobacterial criteria to protect human health. Concentrations of cyanobacteria (blue-green algae) cells and cyanobacterial toxins shall conform to the limits listed in Table 18. The table provides criteria that differ according to groups of designated uses:

(1) Contact Cultural (CUL-1) and Contact Recreational (REC-1)

(2) Shellfish Harvesting (SHELL), Tribal Subsistence (T-SUB), and Commercial and Sport Fishing (COMM)

(3) Drinking water (MUN)

(F) Temperature criteria.

(1) The natural receiving water temperatures shall not be altered unless it can be demonstrated to the satisfaction of the WRD that such alteration in temperature does not adversely affect beneficial uses.

(2) At no time or place shall the temperature of any cold freshwater habitat (COLD) water be increased by more than 2.8°C (5.0°F) above natural receiving water temperature.

(3) In all flowing waterbodies during the September-June period of salmonid spawning and incubation, the seven-day average of daily maximum temperatures (7DADM) shall not exceed 13°C (55°F)

(4) Site-specific temperature criteria are listed in Section 512(B).

(G) *Dissolved oxygen criteria.* Dissolved oxygen (DO) concentrations shall conform to the following aquatic life requirements in Table 2. Site-specific DO criteria are listed in Section 512(C).

Table 2. Dissolved Oxygen Aquatic Life Criteria for Fresh Waters

Beneficial Use	Daily Minimum Objective (mg/L)	7-Day Moving Average Objective (mg/L)¹
Cold Freshwater Habitat (COLD)	6.0	8.0
Spawning, Reproduction, and/or Early Development (SPWN) ²	9.0	11.0

(H) *Sediment and turbidity criteria.*

(1) Sediment: The suspended sediment load and suspended sediment discharge rate of surface waters shall not be altered in such a manner as to cause nuisance or adversely affect beneficial uses.

(2) Turbidity: Turbidity shall not be increased more than 20 percent above naturally occurring background levels. Allowable zones of dilution within which higher percentages can be tolerated may be defined for specific discharges upon the issuance of discharge permits or waiver thereof.

(I) *Mercury criteria to protect wildlife and aquatic life.*

(1) Sport Fish Water Quality Criterion

(i) Application of the Sport Fish Water Quality Criterion

The Sport Fish Water Quality Criterion for mercury applies to waters with the beneficial uses related to fish and wildlife (COMM, COLD, MIGR, SPWN, BIOL₂

1 A 7-day moving average is calculated by taking the average of each set of seven consecutive daily averages.

2 Water quality objectives designed to protect SPWN-designated waters apply to all fresh waters designated in Table 1 as SPWN in those reaches and during those periods of time when spawning, egg incubation, and larval development are occurring or have historically occurred. The period of spawning, egg incubation, and emergence generally occur between the dates of September 15 and June 4.

SHELL, T-SUB, CUL-1, WILD, T&E). With respect to those beneficial uses, the Sport Fish Water Quality Criterion may be used to evaluate whether all species are supported only when applied to TROPHIC LEVEL 4 fish. If the criterion is measured using TROPHIC LEVEL 3 fish, protection of all wildlife species within the WILD beneficial uses is not ensured. Therefore, if TROPHIC LEVEL 3 fish are used, then the Prey Fish Water Quality Criterion (as described in paragraph (d)(9)(ii)) shall be used. However, if the Sport Fish Water Quality Criterion is exceeded when applied to TROPHIC LEVEL 3 fish, that is sufficient evidence to indicate that the Prey Fish Water Quality Criteria is also exceeded without having to measure the latter criterion.

(ii) Sport Fish Water Quality Criterion

The average methylmercury concentrations shall not exceed 0.2 milligrams per kilogram (mg/kg) fish tissue within a CALENDAR YEAR . The water quality criterion applies to the WET WEIGHT concentration in skinless fillet in TROPHIC LEVEL 3 or TROPHIC LEVEL 4 fish, whichever is the HIGHEST TROPHIC LEVEL FISH in the water body. Freshwater TROPHIC LEVEL 3 fish are between 150 to 500 millimeters (mm) in total length and TROPHIC LEVEL 4 fish are between 200 to 500 mm in total length, except for sizes specified in Attachment C of the California Mercury Provisions (SWRCB 2017), or as additionally limited in size in accordance with the LEGAL SIZE LIMIT for the species caught.

(2) Prey Fish Water Quality Criterion

(i) Application of the Prey Fish Water Quality Criterion

The Prey Fish Water Quality Criterion applies to waters with the beneficial uses related to fish and wildlife (COLD, MIGR, SPWN, BIOL, WILD, T&E) that do not include consumption of organisms by humans. As discussed in paragraph (d)(9)(i), it is not necessary to measure the Prey Fish Water Quality Criterion if the Sport Fish Water Quality Criterion applies to the same water body and is evaluated using TROPHIC LEVEL 4 fish. However, if the Sport Fish Water Quality Criterion is exceeded when applied to TROPHIC LEVEL 3 fish, that is sufficient evidence to indicate that the Prey Fish Water Quality Criterion is also exceeded without having to measure the latter criterion.

(ii) Prey Fish Water Quality Criterion

The average methylmercury concentrations shall not exceed 0.05 mg/kg in WET WEIGHT whole fish tissue of any species between 50 to 150 mm in total length during the breeding season. The breeding season is February 1 through July 31, unless site-specific information indicates another appropriate breeding period.

(J) *Design flows.* The design flows in Table 19 shall be used to implement the aquatic life and human health criteria in Section 505. For example, the design flows will be used to establish allowable pollution discharges for Total Maximum Daily Loads (TMDLs) and National Pollution Discharge Elimination System (NPDES) permit limits. The effects of a point source discharge such as an industrial facility depends on the quantity of water in the receiving waterbody as well as the concentration and quantity of the discharge. During low flows, there is less water available to dilute effluent loadings, resulting in higher in-stream

concentration of pollutants. The design flows are designed to be protective of the designated uses.

(K) If multiple numeric water quality criteria are presented for the same parameter, then the more stringent criteria shall apply.

506 Antidegradation policy

(A) Existing instream water uses and the level of water quality necessary to protect the existing uses shall be maintained and protected.

(B) Where the quality of the waters exceeds levels necessary to support the protection and propagation of fish, shellfish, and wildlife and recreation in and on the water, that quality shall be maintained and protected unless the Tribe finds, after full satisfaction of the intergovernmental coordination and public participation provisions, that allowing lower water quality is necessary to accommodate important economic or social development in the area in which the waters are located. In allowing such degradation or lower water quality, the Tribe shall assure water quality adequate to protect existing uses fully. Further, the Tribe shall assure that there shall be achieved the highest statutory and regulatory requirements for all new and existing point sources and all cost-effective and reasonable best management practices for nonpoint source control.

(1) Identification of reservation waters for the protections described in Section 506(B) will be made on a parameter-by-parameter basis.

(2) Before allowing any lowering of high water quality, pursuant to Section 506(B), the Tribe shall find, after an analysis of alternatives, that such a lowering is necessary to accommodate important economic or social development in the area in which the waters are located. The analysis of alternatives shall evaluate a range of practicable alternatives that would prevent or lessen the degradation associated with the proposed activity. When the analysis of alternatives identifies one or more practicable alternatives, the Tribe shall only find that a lowering is necessary if one such alternative is selected for implementation.

(C) Where high quality waters constitute an outstanding National resource, such as waters of National, State, and Tribal parks and wildlife refuges and waters of exceptional recreational or ecological significance, that water quality shall be maintained and protected.

(D) In those cases where potential water quality impairment associated with a thermal discharge is involved, the decision to allow such degradation shall be consistent with section 316 of the Clean Water Act.

507 Antidegradation implementation methods

(A) *Scope and Applicability.* The antidegradation policy in Section 506 and these antidegradation implementation methods shall be applied to all reservation waters of the United States included in Section 501.

(1) All waters receive protection for existing instream uses consistent with Section 506(A).

(2) High quality water protection consistent with Section 506(B) will be identified on a parameter-by-parameter basis. Each parameter for which water quality would be lowered by the regulated activity shall be considered and evaluated independently consistent with Section 507(C). The Tribe is not expected to maintain a list of waters receiving protection consistent with Section 506(B).

(3) Waters provided protection as an Outstanding National Resource Water consistent with Section 506(C) will be identified following the process outlined in Section 507(D) and a comprehensive list shall be maintained by the Tribe.

(4) The requirements of Section 506(B) will be triggered by all new or expanded regulated activities. Regulated activities include, but are not limited to, any activity that requires a permit, license or water quality certification pursuant to section 402 of the Act, section 404 of the Act, and section 401 of the Act.

(i) No lowering of a high quality water shall be allowed unless the Tribe makes the finding consistent with Section 507(C)(2) and the lowering is authorized in a permit.

(5) Antidegradation protections will be addressed in new or reissued general permits authorized, implemented, or administered by the permitting authority either at the time the permitting authority develops and issues the general permit or upon review of an applicant's request to be covered by a general permit. The permitting authority will describe in writing in the permit fact sheet how the general permit is consistent with the antidegradation requirements of this paragraph and the antidegradation policy in Section 506.

(B) *Existing Instream Use Protection consistent with Section 506(A)*. For all waters, the Tribe shall ensure that the level of water quality necessary to protect existing uses is maintained. In order to achieve this requirement, the Tribe shall consider whether a discharge would lower the water quality to the extent that it would no longer be sufficient to protect and maintain the existing uses of that water body. Such consideration shall be based on all existing and readily available water quality-related data and information, as well as any additional water-quality related data and information submitted during the public comment period for the permit or license.

(C) *High Quality Water Protection consistent with Section 506(B)*. High quality waters are water bodies in which, on a parameter-by-parameter basis, the quality of the waters exceeds levels necessary to support protection and propagation of fish, shellfish, and wildlife and recreation in and on the water. The Tribe shall ensure that no action resulting in a lowering of water quality occurs unless the components outlined in Section 507(C)(1) are available to the Tribe and found to adequately support the lowering of water quality as necessary to accommodate important economic and social development in the area in which the water is located consistent with Section 507(C)(2).

(1) When seeking to lower water quality for one or more parameters that exceeds levels necessary to support the protection and propagation of fish, shellfish, and wildlife and recreation in and on the water, the entity seeking to lower water quality shall prepare and submit the following components and information, which the Tribe will consider:

(i) *Identifying Information*. Name of the applicant, a description of the nature of the applicant's business and the pollutants to be discharged, location of the discharge, the name of and any water quality data for the receiving water body, daily maximum and average flow to be discharged, and effluent characterization.

(ii) Analysis of alternatives. Identification and evaluation of a range of practicable alternatives that would prevent or lessen the degradation associated with the proposed activity to determine whether the degradation of water quality is necessary. When the analysis of alternatives identifies one or more practicable alternatives, the Tribe shall only find that a lowering is necessary, consistent with Section 507(C)(2), if one such alternative is selected for implementation.

(iii) Socio-economic analysis. Identification and evaluation of the social and economic development benefits to the area in which the waters are located that will be foregone if the lowering of water quality is not allowed. Along with the analysis of alternatives, the socio-economic analysis is used to determine whether the lowering of water quality will accommodate important economic and social development in the area in which the water is located. The “area in which the waters are located” shall be determined on a case-by-case basis, and shall include all areas directly impacted by the proposed regulated activity. Factors that must be considered in the socio-economic analysis include, but are not limited to, the ecological and economic importance of the affected waters, identification of the least-cost method needed to prevent degradation, the importance of the development to the affected community, the identity and socio-economic health of the affected community as determined by appropriate analytical methods, and identification of a range of practicable alternatives that could prevent or lessen degradation while allowing the important development to occur.

(iv) Any additional documentation requested by the Tribe which, in the judgment of the Tribe, is needed to decide whether to find that a lowering of water quality is necessary to accommodate important economic and social development in the area in which the water is located.

(2) Once the Tribe has the components and information required in Section 507(C)(1), the Tribe shall use that information to make a finding as to whether the lowering of water quality is necessary to accommodate important social and economic development in the area in which the water is located.

(i) If the proposed lowering of water quality is either not necessary, or not important to accommodate social and economic development, the Tribe shall deny the request to lower water quality.

(ii) If the lowering of water quality is necessary, and will accommodate important social and economic development goals, the Tribe may allow a lowering to the high quality water as long as one of the alternatives identified section 507(C)(1)(i) is selected for implementation. If a non-degrading practicable alternative is selected, no lowering in the high quality water will occur, and the Tribe does not need to authorize the lowering.

(iii) In no event may the decision reached under this section allow water quality to be lowered below the level required to support existing and designated uses.

(iv) The Tribe’s decision to allow a lowering of water quality shall be subject to applicable public participation requirements. Any reports, documents and data relevant to the discussion at the public hearing shall be available at least thirty days before the hearing. To the extent possible, public notice regarding the finding to allow a lowering of water quality will be coordinated with other required notices for public review.

(v) In allowing any degradation of water quality, the Tribe must assure that there shall be achieved in the watershed the highest statutory and regulatory requirements for all new and existing point sources and cost-effective and reasonable best management practices for nonpoint source controls.

(D) *Outstanding National Resource Water Protection consistent with Section 506(C)*. Any interested party may nominate a specific reservation water to be assigned as an Outstanding National Resource Water and the Tribe will make the final decision to assign the water as an Outstanding National Resource Water. Such nomination shall include written documentation of the qualifications of the reservation water that warrant Outstanding National Resource Water protection.

(1) The Tribe's decision to assign a water body as an Outstanding National Resource Water shall be subject to applicable public participation requirements. Any data and information relevant to the decision shall be available at least thirty days before the hearing. To the extent possible, public notice regarding the decision to assign a reservation water as an Outstanding National Resource Water will be coordinated with other required notices for public review.

(2) The Tribe will maintain a comprehensive list of the reservation waters in their Regions that have been assigned as an Outstanding National Resource Water consistent with Section 507(D)(1).

(3) For reservation waters assigned as Outstanding National Resource Waters consistent with Section 507(D)(1), the Tribe shall ensure, through the application of appropriate controls on point and nonpoint pollutant sources, that water quality is maintained and protected. No new or expanded point source discharges will be allowed to Outstanding National Resource Waters, and no new or expanded point source discharges to tributaries to Outstanding National Resource Waters that would result in lower water quality in the Outstanding National Resource Waters will be allowed. The Tribe intends to allow short-term, temporary degradation in an Outstanding National Resource Water as long as the short-term, temporary degradation is limited to the shortest possible time in the context of weeks to months, does not impact existing uses, and does not alter the essential or special characteristics that make the reservation water an Outstanding National Resource Water.

508 Wetlands designated uses, narrative and numeric water quality criteria, and antidegradation requirements

(A) *Definition*: For the purposes of this section, wetlands are defined by the Cowardin classification scheme.

(B) *Designated Uses*. For waters designated in Section 501 that constitute wetlands, as defined by the Cowardin classification scheme, the designated uses are: base flow discharge, cultural and traditional uses, flood flow attenuation, groundwater recharge, indigenous floral faunal diversity abundance, nutrient cycling, organic carbon export/cycling, protection of downstream water quality, recreation, resilience against climatic effects, sediment/shoreline stabilization, surface water storage, and water-dependent wildlife.³

(C) *Narrative criteria*. All waters included in Section 501 that constitute wetlands, as defined by the Cowardin classification scheme, shall maintain the biological, physical, and chemical conditions of

³ These wetlands-specific designated uses represent the uses specified in 101(a)(2) of the Clean Water Act.

reference wetlands⁴, specifically: base flow, flow regime, wetland hydroperiod; chemical, nutrient, dissolved oxygen regime of the wetland; conditions favorable to protection and propagation of threatened, endangered, and at-risk species; conductivity; floristic quality; integrity of species diversity, abundance, zonation; normal movement of fauna; pH of wetland waters; salinity; size shape; soil type horizon structure; water currents, erosion, or sedimentation patterns; water levels or elevations; and water temperature variations.

(D) *Numeric criteria*. For all waters included in Section 501 that constitute wetlands, numeric criteria identified in Table 7 (excluding alkalinity, dissolved oxygen, pH, sulfide, and temperature which are addressed by narrative criteria), Table 8, Table 9, and Table 10 shall apply. For all waters included in Section 501 that constitute wetlands, “organism only” numeric criteria identified in Table 11 shall apply.

(E) *Fecal Indicator Bacteria Criteria to Protect Contact Recreational and Cultural Uses*. For all waters included in Section 501 that constitute wetlands, the numeric criteria in Section 505(D)(1) shall apply. Shellfish are not expected to be harvested within wetland areas so the criteria in Section 505(D)(2) shall not apply.

(F) *Antidegradation requirements*. For waters designated in Section 501 that constitute wetlands, as defined by the Cowardin classification scheme, the following antidegradation requirements shall apply:

(1) Maintenance and protection of existing instream water uses and the level of water quality necessary to protect the existing uses consistent with Section 506 and Section 507;

(2) No net loss to the water quality, functions, values, area, or ecological integrity of high quality wetlands, unless, after satisfying applicable antidegradation provisions including avoidance, minimization, and mitigation/replacement requirements, the Tribe determines that allowing degradation is necessary to accommodate important social or economic development in the area in which the wetlands are located consistent with Section 506 and Section 507; and

(3) (iii) No loss to the water quality, functions, values, area, or ecological integrity of wetlands assigned as Outstanding National Resource Waters consistent with Section 506 and Section 507.

509 Mixing Zone Policy

(A) In conjunction with the issuance of CWA section 402 and 404 permits, the Tribe authorizes the use of mixing zones in the reservation waters designated in Section 501 on a case-by-case basis, in accordance with the following provisions.

(B) Mixing zones, including their size, configuration, and location, shall be authorized by the Tribe’s Environmental Department on a case-by-case basis in accordance with the provisions of this section at the time a permit is issued, renewed, or materially modified and is in effect as long as the permit remains in effect. Such an authorization is required before the permitting authority can use the mixing zone to determine the need for, or level of, effluent limits for a particular pollutant.

(C) Mixing zones shall not be authorized for a pollutant when the receiving water does not meet water quality criteria for that pollutant, except where (a) the effluent limits established using a mixing

⁴ Note: A “reference wetland” is a specific locality on a water body which is unimpaired or minimally impaired and is representative of the expected biological integrity of other localities on the same water body or nearby water bodies.

zone are consistent with an EPA-approved or EPA-established TMDL, and (b) the mixing zone is in accordance with this section.

(D) Mixing zones shall not be authorized where they may cause unreasonable interference with, or danger to designated uses, including, but not limited to, any of the following:

- (1) Impairment to the integrity of the aquatic community, including interference with successful spawning, egg incubation, rearing, or passage of aquatic life.
- (2) Discharges into shellfish beds.
- (3) Lethality to aquatic life passing through the mixing zone.
- (4) Heat in the discharge that may cause thermal shock, lethality, or loss of cold water habitat or may attract aquatic life to a toxic discharge.
- (5) Bioaccumulative pollutants in the discharge.
- (6) Pollutant concentrations that exceed maximum contaminant levels at drinking water intakes.
- (7) Conditions that impede or prohibit recreation in or on the waterbody. Mixing zones shall not be authorized for the bacterial indicators in Section 505(D).

(E) Mixing zones shall not overlap.

(F) Water quality within an authorized mixing zone is allowed to exceed chronic water quality criteria for those parameters approved by the Tribe's Environmental Department. Acute water quality criteria may be exceeded for such parameters within the zone of initial dilution inside the mixing zone. Acute criteria shall be met as near to the point of discharge as practicably attainable. Narrative criteria in Section 504 apply within the mixing zone. Water quality criteria shall not be exceeded outside of the boundary of a mixing zone as a result of the discharge for which the mixing zone was authorized.

(G) Mixing zones shall be no larger than necessary, and the concentrations of pollutants present shall be minimized. Mixing zones shall meet the following restrictions:

- (1) Mixing zones in flowing waters shall not:
 - (i) Extend in a downstream direction for a distance from the discharge port(s) greater than 300 feet plus the depth of water over the discharge port(s);
 - (ii) Extend upstream for a distance of over 100 feet;
 - (iii) Utilize greater than 25% of the critical low flow; nor
 - (iv) Occupy greater than 25% of the width of the waterbody.
- (2) Mixing zones in nonflowing waters shall not:
 - (i) Exceed 10% of the volume of the waterbody;
 - (ii) Exceed 10% of the surface area of the waterbody (maximum radial extent of the plume regardless of whether it reaches the surface); nor
 - (iii) Extend beyond 15% of the width of the waterbody.

(H) The following elements shall be considered when designing an outfall:

- (1) Promote rapid mixing to the extent practicable through careful location and outfall design;

- (2) Diffusers shall be used; and
- (3) Mixing zones that result in shore-hugging plumes shall not be authorized.

510 Compliance Schedule Authorization Provision: The Tribe authorizes the use of compliance schedules, on a case-by-case basis, for water quality-based effluent limits in National Pollutant Discharge Elimination System (NPDES) permits, when appropriate, and consistent with 40 CFR 122.47, for new, recommencing, or existing dischargers to require compliance as soon as possible with water quality-based effluent limitations calculated to meet water quality standards issued or revised after July 1, 1977.

511 WQS Variance Authorizing Provision: The Tribe may consider issuing WQS variances per this section. Any WQS variances adopted subsequent to the adoption of this section must be consistent with the regulation at 40 CFR 131.14 and included in Section 513. A WQS variance is not effective for CWA purposes and thus cannot be implemented for purposes of NPDES permitting or CWA section 401 certification until EPA has approved it under CWA section 303(c).

512 Water Body-Specific Criteria

(A) *Specific conductance, pH, hardness, and boron.* The water quality objectives for surface water streams and groundwater for specific conductance, pH, hardness, and boron in Table 3 shall apply.

Table 3. Specific Water Quality Objectives for Reservation Waterbodies

Waterbody	Specific Conductance (micromhos) @ 25 °C		Hydrogen Ion (pH units)		Hardness (mg/L as CaCO ₃)	Boron (mg/L as B)	
	90% Upper Limit ¹	50% Upper Limit ²	Max	Min	50% Upper Limit ²	90% Upper Limit ¹	50% Upper Limit ²
Klamath River	300	200	8.5	7.0	75	0.5	0.2
Other streams	200	125	8.5	6.5	25	0.1	0.0
Groundwaters ³	300	225	8.5	6.5	100	0.1	0.0

¹90% upper and lower limits represent the 90 percentile values for a calendar year. 90% or more of the values must be less than or equal to an upper limit and greater than or equal to a lower limit.

²50% upper and lower limits represent the 50 percentile values of the monthly means for a calendar year. 50% or more of the monthly means must be less than or equal to an upper limit and greater than or equal to a lower limit.

³Value may vary depending on the aquifer being sampled. This value is the result of sampling over time, and as pumped, from more than one aquifer.

(B) *Water temperature.* The seven-day average of daily maximum (7DADM) ambient water temperatures shall not exceed the site-specific criteria listed in Table 4, year-round. These objectives are for ambient water temperatures that represent the main portion of flow and therefore cannot be solely met by the presence of localized cold water refugia.

Table 4. Year-round water temperature objectives for Reservation waterbodies.

Waterbody	Salmonid Uses During Summer Maximum Temperature Conditions	Ambient Temperature Objective (7DADM ¹)
Klamath River	Salmon and trout rearing and migration	18°C (64°F)
All other streams	Core cold water rearing ²	16°C (61°F)

¹7DADM = Seven-day average of daily maximum temperatures

²The use of the phrase “Core cold water rearing” for “All other streams” is not intended to suggest that the Klamath River lacks the potential to provide critically important salmonid rearing habitats during the summer months. The difference in designation here only reflects the understanding that large rivers are naturally expected to be warmer than smaller streams in the summer, due to the longer distance along which the water has been exposed to warming.

(C) *Dissolved oxygen (DO)* shall conform to the following limits:

Table 5. Site-specific dissolved oxygen (DO) objectives for the mainstem Klamath River.

Location	Percent DO Saturation Based on Natural Receiving Water Temperatures ¹	Time Period
Klamath River upstream of Turwar Creek	85%	June 1 through August 31
	90%	Sept. 1 through May 31
Klamath River from Turwar Creek downstream to the western edge of the Pulikla Tribe of Yurok People’s Reservation	80%	Aug. 1 through Aug. 31
	85%	Sept. 1 through Oct. 31 and June 1 through July 31
	90%	November 1 through May 31

¹Corresponding DO concentrations are calculated as daily minima, based on site-specific barometric pressure, site-specific salinity, and natural receiving water temperatures as estimated by the T1BSR run of the Klamath TMDL model and described in Tetra Tech (2009). The estimates of natural receiving water temperatures used in these calculations may be updated as new data or method(s) become available.

(D) *Nutrients and Organic Matter.* Nutrients and organic matter shall conform to the following limits:

Table 6. Nutrient and Organic Matter Objectives in units of mg/L.

Location	Total Nitrogen (TN)	Total Phosphorus (TP)	5-day carbonaceous biochemical oxygen demand (CBOD ₅)	
	Dry season: May – Oct	Dry season: May – Oct	Dry season: May – Oct	Wet season: Nov – Apr
Klamath River	0.188	0.023	2	2
Other creeks	0.077	0.014	1	1

Table 7. Aquatic life criteria

Compound	CAS Number	Freshwater	
		Criterion Maximum Concentration ⁿ (CMC) (µg/L)	Criterion Continuous Concentration ^o (CCC) (µg/L)
Acrolein	107028	3	3
Aldrin ^a	309002	3	-
Alkalinity ^b		-	20000
alpha-Endosulfan ^{a,c}	959988	0.22	0.056
Aluminum	7429905	Acute (CMC) and chronic (CCC) freshwater aluminum criteria values for a site shall be calculated using the 2018 Aluminum Criteria Calculator (<i>Aluminum Criteria Calculator V.2.0.xlsx</i> , or a calculator in R or other software package using the same 1985 Guidelines calculation approach and underlying model equations as in the <i>Aluminum Criteria Calculator V.2.0.xlsx</i>) as established in EPA's Final Aquatic Life Ambient Water Quality Criteria for Aluminum 2018 (EPA 822-R-18-001). <i>To apply the aluminum criteria for Clean Water Act purposes, criteria values based on ambient water chemistry conditions must protect the water body over the full range of variability, including during conditions when aluminum is most toxic.</i>	
Ammonia	7664417	See Table 10	
Arsenic ^{e,f}	7440382	340	150
beta-Endosulfan ^{a,c}	33213659	0.22	0.056
Cadmium ^f	7440439	See Table 7b	
Carbaryl	63252	2.1	2.1
Chlordane ^a	57749	2.4	0.0043
Chloride	16887006	860000	230000
Chlorine	7782505	19	11
Chlorpyrifos	2921882	0.083	0.041
Chromium (III) ^f	16065831	See Table 7b	
Chromium (VI) ^f	18540299	16	11
Copper ^f	7440508	See Table 8	
Cyanide ^h	57125	22	5.2
Demeton	8065483	-	0.1
Diazinon	333415	0.17	0.17
Dieldrin	60571	0.24	0.056 ^a
Endrin	72208	0.086	0.036 ⁱ
gamma-BHC (Lindane)	58899	0.95	-
Guthion	86500	-	0.01
Heptachlor ^a	76448	0.52	0.0038
Heptachlor Epoxide ^{a,j}	1024573	0.52	0.0038
Iron	7439896	-	1000
Lead ^f	7439921	See Table 7b	
Malathion	121755	-	0.1
Mercury	7439976	See Section 505(l)	
Methoxychlor	72435	-	0.03
Mirex	2385855	-	0.001
Nickel ^f	7440020	See Table 7b	
Nonylphenol	84852153	28	6.6
Oxygen, Dissolved	7782447	See Table 2	
Parathion	56382	0.065	0.013
Pentachlorophenol	87865	19 ^m	15 ^m

Compound	CAS Number	Freshwater	
		Criterion Maximum Concentration ⁿ (CMC) (µg/L)	Criterion Continuous Concentration ^o (CCC) (µg/L)
Perfluorooctane Sulfonate (PFOS)	45298906; 1763231; 2795393; 56773423; 4021470; 29457725	71	0.25
Perfluorooctanoic Acid (PFOA)	45285516; 335671; 3825261	3100	100
Perfluorobutanoic acid (PFBA)	375224; 45048622; 2218544	5300 ^P	
Perfluorohexanoic acid (PFHxA)	307244; 92612527	4800 ^P	
Perfluorononanoic acid (PFNA)	375951	650 ^P	
Perfluorodecanoic acid (PFDA)	335762	500 ^P	
Perfluorobutanesulfonic acid (PFBS)	375735; 108427527; 29420493	5000 ^P	
Perfluorohexanesulfonic acid (PFHxS)	355464; 108427538; 3871996; 82382125	210 ^P	
Hexadecafluoro-2-decenoic acid (8:2 FTUCA)	70887842	37 ^P	
Pentadecafluorodecanoic acid (7:3 FTCA)	812704	12 ^P	
pH		See Table 3	
Selenium	7782492	See Table 9	
Silver ^{a,f}	7440224	See Table 7b	
Sulfide-Hydrogen Sulfide	7783064	-	2
Temperature		See Section 505(F)	
Toxaphene	8001352	0.73	0.0002
Tributyltin (TBT)		0.46	0.072
Zinc ^f	7440666	See Table 7b	
4,4'-DDT ^a	50293	1.1	0.001

Footnotes to Table 7:

- These criteria are based on the [1980 criteria](#), which used different Minimum Data Requirements and derivation procedures from the [1985 Guidelines](#). For example, the CMC derived using the 1980 Guidelines was derived to be used as an instantaneous maximum. If assessment is to be done using an averaging period, the values given should be divided by 2 to obtain a value that is more comparable to a CMC derived using the 1985 Guidelines.
- The CCC of 20mg/L is a minimum value except where alkalinity is naturally lower, in which case alkalinity cannot be lower than 25% of the natural level.
- This value was derived from data for endosulfan and is most appropriately applied to the sum of alpha-endosulfan and beta-endosulfan.
- Reserved.

- e. This recommended water quality criterion was derived from data for arsenic (III), but is applied here to total arsenic.
- f. Freshwater and saltwater criteria for metals are expressed in terms of the dissolved metal in the water column. See [Office of Water Policy and Technical Guidance on Interpretation and Implementation of Aquatic Life Metals Criteria](#). See Table 7a for conversion factors.
- g. Reserved.
- h. These recommended water quality criteria are expressed as µg free cyanide per liter.
- i. The derivation of the CCC for this pollutant did not consider exposure through the diet, which is probably important for aquatic life occupying upper trophic levels.
- j. This value was derived from data for heptachlor and there was insufficient data to determine relative toxicities of heptachlor and heptachlor epoxide.
- k. Reserved.
- l. Reserved.
- m. Freshwater aquatic life values for pentachlorophenol are expressed as a function of pH and values displayed in table correspond to a pH of 7.8. $CCC = e^{1.005(pH) - 5.134}$, $CMC = e^{1.005(pH) - 4.869}$
- n. CMC (Criteria Maximum Concentration) is the water quality criterion to protect against acute effects in aquatic life and is the highest instream concentration of a priority toxic pollutant consisting of a short term average not to be exceeded more than once every three years on the average.
- o. CCC (Continuous Criteria Concentration) is the water quality criterion to protect against chronic effects in aquatic life and is the highest in stream concentration of a priority toxic pollutant consisting of a 4 day average not to be exceeded more than once every three years on the average.
- p. These aquatic life benchmarks, developed under 304(a)(2) of the CWA, are informational values that the EPA generates when there are limited high quality toxicity data available and data gaps exist for several families of aquatic organisms. Aquatic life benchmarks provide information that Tribes may consider in their water quality protection programs. EPA recommends Tribes coordinate with the relevant EPA Regional Office to determine the appropriateness of adopting these values for Tribal waters.

Notes to Table 7

1. Freshwater aquatic life criteria apply as specified in Section 505(A).
2. Because of variations in chemical nomenclature systems, this listing of toxic pollutants does not duplicate the listing in Appendix A to 40 CFR Part 423 - 126 Priority Pollutants. The Chemical Abstracts Services (CAS) registry numbers provide a unique identification for each chemical.

Table 7a: Conversion Factors for Dissolved Metals Criteria

Metal	Freshwater CMC	Freshwater CCC
Arsenic	1.000	1.000
Cadmium	$1.136672 - [(\ln \text{hardness})(0.041838)]$	$1.101672 - [(\ln \text{hardness})(0.041838)]$
Chromium III	0.316	0.860
Chromium VI	0.982	0.962
Copper	0.960	0.960
Lead	$1.46203 - [(\ln \text{hardness})(0.145712)]$	$1.46203 - [(\ln \text{hardness})(0.145712)]$
Nickel	0.998	0.997
Selenium	—	—
Silver	0.85	—
Zinc	0.978	0.986

Table 7b: Parameters for Calculating Freshwater Dissolved Metals Criteria That Are Hardness-Dependent

Chemical	mA	bA	mC	bC	Freshwater Conversion Factors (CF)	
					CMC	CCC
Cadmium	0.9789	-3.866	0.7409	-4.719	$1.136672 - [(\ln \text{hardness})(0.041838)]$	$1.101672 - [(\ln \text{hardness})(0.041838)]$
Chromium III	0.8190	3.7256	0.8190	0.6848	0.316	0.860
Lead	1.273	-1.460	1.273	-4.705	$1.46203 - [(\ln \text{hardness})(0.145712)]$	$1.46203 - [(\ln \text{hardness})(0.145712)]$
Nickel	0.8460	2.255	0.8460	0.0584	0.998	0.997
Silver	1.72	-6.59	—	—	0.85	—
Zinc	0.8473	0.884	0.8473	0.884	0.978	0.986

Hardness-dependent metals criteria are calculated using the following equations:

$$\text{CMC (dissolved)} = \exp\{mA [\ln(\text{hardness})] + bA\} \text{ (CF)}$$

$$\text{CCC (dissolved)} = \exp\{mC [\ln(\text{hardness})] + bC\} \text{ (CF)}$$

Table 8. Copper Aquatic Life Criteria for Fresh Waters (Season-Specific)

Metal	CAS No.	Criterion Maximum Concentration (CMC) ^a (µg/L)	Criterion Continuous Concentration (CCC) ^b (µg/L)
Copper	7440508	Acute (CMC) and chronic (CCC) freshwater copper criteria shall be developed using EPA's 2007 <i>Aquatic Life Ambient Freshwater Quality Criteria—Copper</i> (EPA-822-R-07-001), which incorporates use of the copper biotic ligand model (BLM). Where sufficiently representative ambient data for DOC, calcium, magnesium, sodium, potassium, sulfate, chloride, or alkalinity are not available, the Tribe shall use the 10 th percentile values from publicly available peer-reviewed datasets such as the US Geological Survey National Waters Information System (NWIS) and EPA's Storage and Retrieval Data Warehouse.	

^a The CMC is the highest allowable one-hour average instream concentration of copper. The CMC is not to be exceeded more than once every three years.

^b The CCC is the highest allowable four-day average instream concentration of copper. The CCC is not to be exceeded more than once every three years.

Table 9. Selenium Aquatic Life Criteria for Fresh Waters

Criterion Element	Magnitude	Duration	Frequency
Fish Tissue ^a (Egg-Ovary) ^b	15.1 mg/kg dw	Instantaneous measurement ^c	Not to be exceeded
Fish Tissue ^a (Whole Body or Muscle) ^d	8.5 mg/kg dw or 11.3 mg/kg dw muscle (skinless, boneless filet)	Instantaneous measurement ^c	Not to be exceeded
Water Column ^e (Monthly Average Exposure)	1.5 µg/L in lentic aquatic systems 3.1 µg/L in lotic aquatic systems	30 days	Not more than once in three years on average
Water Column ^e (Intermittent Exposure) ^f	$WQC_{int} = \frac{WQC_{30\text{-day}} - C_{bkgnd}(1 - f_{int})}{f_{int}}$	Number of days/month with an elevated concentration	Not more than once in three years on average

^a Fish tissue elements are expressed as steady-state.
^b Egg/ovary supersedes any whole-body, muscle, or water column element when fish egg/ovary concentrations are measured, except as noted in footnote d below.
^c Fish whole-body or muscle tissue supersedes water column element when both fish tissue and water concentrations are measured, except as noted in footnote d below.
^d Water column values are based on dissolved total selenium in water and are derived from fish tissue values via bioaccumulation modeling. When selenium inputs are increasing, water column values are the applicable criterion element in the absence of steady-state condition fish tissue data.
^e Where $WQC_{30\text{-day}}$ is the water column monthly element, for either a lentic or lotic waters; C_{bkgnd} is the average background selenium concentration, and f_{int} is the fraction of any 30-day period during which elevated selenium concentrations occur, with f_{int} assigned a value ≥ 0.033 (corresponding to 1 day).
^f Fish tissue data provide point measurements that reflect integrative accumulation of selenium over time and space in fish population(s) at a given site.

Table 10. Ammonia Aquatic Life Criteria for Fresh Waters

mg Total Ammonia Nitrogen (TAN)/L	
Acute (CMC) equation (1 hour average)	$CMC = MIN \left(\left(\frac{0.275}{1 + 10^{7.204 - pH}} + \frac{39.0}{1 + 10^{pH - 7.204}} \right), \left(0.7249 \times \left(\frac{0.0114}{1 + 10^{7.204 - pH}} + \frac{1.6181}{1 + 10^{pH - 7.204}} \right) \times (23.12 \times 10^{0.036 \times (20 - T)}) \right) \right)$
Chronic (CCC) equation (30-day rolling average)*	$CCC = 0.8876 \times \left(\frac{0.0278}{1 + 10^{7.688 - pH}} + \frac{1.1994}{1 + 10^{pH - 7.688}} \right) \times (2.126 \times 10^{0.028 \times (20 - MAX(7,7))})$

Note: Ammonia criteria are a function of pH and temperature. At the standard normalized pH of 7.0 and temperature of 20 °C, the acute criterion would be 17 mg TAN/L and the chronic criterion would be 1.9 mg TAN/L. Criteria duration: the acute criterion is a one-hour average and the chronic criterion is a thirty-day rolling average. Criteria frequency: Not to be exceeded more than once in 3 years.

* Not to exceed 2.5 times the CCC as a 4-day average within the 30-days, *i.e.* 4.8 mg TAN/L at pH 7 and 20 °C more than once in 3 years on average.

Note to Table 10: Acute (CMC) and chronic (CCC) freshwater ammonia criteria were developed using EPA’s 2013 *Aquatic Life Ambient Water Quality Criteria for Ammonia - Freshwater* (EPA-822-R-13-001), which is hereby incorporated by reference. Illustrations, tables, and formulae used in the development of these equations can be found on pages 40-52 of the criteria document. Alternative equations for the presence or absence of *Oncorhynchus sp.* (rainbow trout) can be found on pages 41-42 of the document.

Table 11. Human Health Criteria based on a Fish Consumption Rate of 175 grams/day and Cancer Risk Level of 1 in 10,000,000 people (10⁻⁷).

Pollutant	CAS Number	Water + Organism ^k (µg/L)	Organism Only ^k (µg/L)
1,1,1-Trichloroethane ^a	71556	8000	20000
1,1,2,2-Tetrachloroethane	79345	0.01	0.03
1,1,2-Trichloroethane ^a	79005	0.038	0.11
1,1-Dichloroethylene ^a	75354	300	2000
1,2,4,5-Tetrachlorobenzene	95943	0.004	0.004
1,2,4-Trichlorobenzene ^a	120821	0.00092	0.00092
1,2-Dichlorobenzene ^a	95501	300	400
1,2-Dichloroethane ^a	107062	0.9	7.9
1,2-Dichloropropane	78875	0.074	0.38
1,2-Diphenylhydrazine	122667	0.002	0.003
1,2-Trans-Dichloroethylene ^a	156605	100	500
1,3-Dichlorobenzene	541731	2	2
1,3-Dichloropropene	542756	0.023	0.14
1,4-Dichlorobenzene ^a	106467	90	100
2,4,5-Trichlorophenol ^b	95954	60	70
2,4,6-Trichlorophenol ^b	88062	0.031	0.034
2,4-Dichlorophenol ^b	120832	5	7
2,4-Dimethylphenol ^b	105679	90	300
2,4-Dinitrophenol	51285	10	40
2,4-Dinitrotoluene	121142	0.004	0.02
2-Chloronaphthalene	91587	100	100
2-Chlorophenol ^b	95578	20	100
2-Methyl-4,6-Dinitrophenol	534521	1	3
3,3'-Dichlorobenzidine	91941	0.0014	0.0018
3-Methyl-4-Chlorophenol ^b	59507	200	300
4,4'-DDD	72548	0.0000015	0.0000015
4,4'-DDE	72559	2.1e-7	2.1e-7
4,4'-DDT	50293	4e-7	4e-7
Acenaphthene ^b	83329	10	10
Acrolein	107028	3	50
Acrylonitrile	107131	0.0058	0.085
Aldrin	309002	9.4e-9	9.4e-9
alpha-BHC	319846	0.0000047	0.0000047
alpha-Endosulfan	959988	3	3
Anthracene	120127	40	40
Antimony ^{a,c,d}	7440360	5	73
Arsenic ^{c,j}	7440382	0.00045	0.00059
Asbestos ^{a,c,e}	1332214	7 million fibers/L	--
Barium ^{a,c,e,f}	7440393	1000	--
Benzene ^a	71432	0.046	0.19
Benidine	92875	0.000013	0.00013
Benzo(a) Anthracene	56553	0.000016	0.000016
Benzo(a) Pyrene ^a	50328	0.0000016	0.0000016
Benzo(b) Fluoranthene	205992	0.000016	0.000016

Pollutant	CAS Number	Water + Organism ^k (µg/L)	Organism Only ^k (µg/L)
Benzo(k) Fluoranthene	207089	0.00016	0.00016
beta-BHC (beta-HCH)	319857	0.00016	0.00017
beta-Endosulfan	33213659	5	5
Bis(2-Chloro-1-Methylethyl) Ether	108601	200	400
Bis(2-Chloroethyl) Ether	111444	0.0027	0.027
Bis(2-Ethylhexyl) Phthalate ^a	117817	0.0045	0.0046
Bis(Chlormethyl) Ether	542881	0.000014	0.00021
Bromoform ^a	75252	0.49	1.4
Butylbenzyl Phthalate	85687	0.001	0.001
Carbon Tetrachloride ^a	56235	0.03	0.06
Chlordane ^a	57749	0.0000038	0.0000038
Chlorobenzene ^{a,b}	108907	60	100
Chlorodibromomethane ^a	124481	0.063	0.25
Chloroform ^a	67663	50	300
Chlorophenoxy Herbicide (2,4,5-TP) [Silvex] ^a	93721	40	50
Chlorophenoxy Herbicide (2,4-D) ^a	94757	720	1500
Chrysene ^a	218019	0.0016	0.0016
Copper ^{a,b,c,e}	7440508	1300	--
Cyanide ^a	57125	4	50
Di-n-Butyl Phthalate	84742	3	3
Dibenzo(a,h) Anthracene	53703	0.0000016	0.0000016
Dichlorobromomethane ^a	75274	0.075	0.33
Dieldrin	60571	1.5e-8	1.5e-8
Diethyl Phthalate	84662	80	80
Dimethyl Phthalate	131113	200	200
Dinitrophenols	25550587	10	100
Dioxin ^c	1746016	5.8e-11	5.9e-11
Endosulfan Sulfate	1031078	4	5
Endrin	72208	0.004	0.004
Endrin Aldehyde ^a	7421934	0.1	0.1
Ethylbenzene ^a	100414	14	15
Fluoranthene	206440	2	2
Fluorene	86737	8	8
Gamma-BHC (HCH); Lindane ^a	58899	0.53	0.54
Heptachlor ^a	76448	7.1e-8	7.1e-8
Heptachlor Epoxide ^a	1024573	3.9e-7	3.9e-7
Hexachlorobenzene ^a	118741	9.6e-7	9.6e-7
Hexachlorobutadiene ^a	87683	0.0001	0.0001
Hexachlorocyclohexane (HCH) - Technical	608731	0.00012	0.00012
Hexachlorocyclopentadiene ^{a,b}	77474	0.5	0.5
Hexachloroethane	67721	0.002	0.002
Indeno(1,2,3-cd) Pyrene	193395	0.000016	0.000016
Isophorone	78591	3	22
Manganese ^{b,c,e,g}	7439965	50	100
Methoxychlor ^a	72435	0.002	0.002
Methyl Bromide	74839	100	1000
Methylene Chloride ^a	75092	2	20

Pollutant	CAS Number	Water + Organism ^k (µg/L)	Organism Only ^k (µg/L)
Methylmercury ^h	22967926	N/A	0.04 mg/kg
N-Nitrosodi-n-Propylamine ^c	621647	0.00044	0.0058
N-Nitrosodimethylamine ^c	62759	0.000065	0.034
N-Nitrosodiphenylamine ^c	86306	0.062	0.069
Nickel ^{c,d}	7440020	30	39
Nitrates ^{a,c,e}	14797558	10000	--
Nitrobenzene ^b	98953	10	70
Nitrosamines ^c	--	0.0000756	0.00526
Nitrosodibutylamine ^c	924163	0.00049	0.0025
Nitrosodiethylamine ^c	55185	0.0000756	0.00526
Nitrosopyrrolidine ^c	930552	0.0016	0.39
Pentachlorobenzene	608935	0.01	0.01
Pentachlorophenol (PCP) ^{a,b}	87865	0.0004	0.0004
pH ^{c,e}	--	5-9	--
Phenol ^b	108952	4000	30000
Polychlorinated Biphenyls (PCBs) ^{a,c,i}	1336363	7.3e-7	7.3e-7
Pyrene	129000	3	3
Selenium ^{a,c}	7782492	25	95
Solids Dissolved and Salinity ^{c,e}	--	250000	--
Tetrachloroethylene ^a	127184	0.29	0.35
Thallium ^c	7440280	0.048	0.054
Toluene ^a	108883	32	63
Toxaphene ^a	8001352	0.0000087	0.0000087
Trichloroethylene ^a	79016	0.04	0.08
Vinyl Chloride ^a	75014	0.002	0.02
Zinc ^{b,c}	7440666	450	580

Footnotes to Table 11

- EPA has issued a Maximum Contaminant Level (MCL) for this chemical which may be more stringent. Refer to [EPA's National Primary Drinking Water Regulations](#).
- The criterion for organoleptic (taste and odor) effects may be more stringent. Refer to [National Recommended Water Quality Criteria - Organoleptic Effects](#).
- EPA did not update its National Recommended Human Health Water Quality Criteria for this pollutant in 2015. This table's criteria values are calculated using the 2015 revised inputs for body weight, drinking water intake rate, and a fish consumption rate of 175 g/day (refer to [2015 EPA Updated Ambient Water Quality Criteria for the Protection of Human Health](#)). The criteria values in this table therefore may not match the values in (cite to EPA's 304a) which are based on pre-2015 inputs.
- This criterion was revised to reflect EPA's q1* or RfD as contained in the [Integrated Risk Information System \(IRIS\)](#) as of May 17, 2002. The fish tissue bioconcentration factor (BCF) is from the 1980 Ambient Water Quality Criteria document.
- Criteria for these pollutants are from the [National Recommended Water Quality Criteria - Human Health Criteria Table](#). They are not calculated based on this table's inputs for fish consumption rate and cancer risk level.
- This human health criterion is the same as originally published in the [Quality Criteria for Water, 1976 \("Red Book"\)](#) which predates the 1980 methodology and did not utilize the fish ingestion BCF approach. This same criterion value is published in the [Quality Criteria for Water, 1986 \("Gold Book"\)](#).
- The Human Health for the consumption of Water + Organism criterion for manganese is not based on toxic effects, but rather is intended to minimize objectionable qualities such as laundry stains and objectionable tastes in beverages.

- h. Methylmercury “Organism Only” criteria are in units of mg/kg ($\mu\text{g/g}$) fish tissue and are based on the Tribal Subsistence (T-SUB) beneficial use from California Mercury Provisions (SWRCB 2017), not the USEPA Tribal/State Human Health Criteria Calculator. The average methylmercury concentrations shall not exceed 0.04 mg/kg fish tissue within a CALENDAR YEAR. The objective applies to the WET WEIGHT concentration in skinless fillet from a mixture of 70 percent TROPIC LEVEL 3 fish and 30 percent TROPIC LEVEL 4 fish as detailed in Attachment C of the California Mercury Provisions. The California Mercury Provisions also provide a table (Table 1 on page A-9 of SWRCB [2017]) with translated fish tissue-to-water column numbers meant to be used for reasonable potential analysis and development of effluent limitations for waterbodies with designated use of Tribal Subsistence Fishing (T-SUB), which WRD adopts: 0.004 $\mu\text{g/L}$ total mercury for flowing waterbodies and 0.001 $\mu\text{g/L}$ total mercury for slow moving water bodies (i.e., wetlands).
- i. This criterion applies to total PCBs (e.g., the sum of all congener or all isomer or homolog or Aroclor analyses).
- j. This criterion for arsenic refers to the inorganic form only.
- k. The “Water + Organism” and “Organism Only” criteria are concentrations in water (units = $\mu\text{g/L}$), except for methylmercury which is concentration in fish/shellfish tissues (units = mg/kg). “Water + Organism” applies to waters designated for public drinking water supply, whereas “Organism Only” is for other waters designated as protection and propagation of fish, shellfish, and wildlife but not public drinking water supply.

Table 12. Maximum Contaminant Levels for Inorganic Chemicals¹

Chemical	Maximum Contaminant Level (mg/L)
Aluminum	1.0
Antimony	0.006
Arsenic	0.010
Asbestos	7 MFL*
Barium	1.0
Beryllium	0.004
Cadmium	0.005
Chromium	0.05
Cyanide	0.15
Fluoride	2.0
Mercury	0.002
Nickel	0.1
Nitrate (as nitrogen)	10.0
Nitrate+Nitrite (sum as nitrogen)	10.0
Nitrite (as nitrogen)	1.0
Perchlorate	0.006
Selenium	0.05
Thallium	0.002

* MFL=million fibers per liter; MCL for fibers exceeding 10 μm in length

¹Table is derived from title 22 of the California Code of Regulations, Section 64431, accessed July 1, 2022 from: [https://web.archive.org/web/*/https://govt.westlaw.com/calregs/Document/I2810C4E12DCC4B40A165E23D1B6C6F0D?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=\(sc.Default\)](https://web.archive.org/web/*/https://govt.westlaw.com/calregs/Document/I2810C4E12DCC4B40A165E23D1B6C6F0D?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=(sc.Default))

Table 13. Maximum Contaminant Levels for Volatile Organic Chemicals (VOCs)¹

Chemical	Maximum Contaminant Level (mg/L)
Benzene	0.001
Carbon Tetrachloride	0.0005
1,2-Dichlorobenzene	0.6
1,4-Dichlorobenzene	0.005
1,1-Dichloroethane	0.005
1,2-Dichloroethane	0.0005
1,1-Dichloroethylene	0.006
cis-1,2-Dichloroethylene	0.006
trans-1,2-Dichloroethylene	0.01
Dichloromethane	0.005
1,2-Dichloropropane	0.005
1,3-Dichloropropene	0.0005
Ethylbenzene	0.3
Methyl- <i>tert</i> -butyl ether	0.013
Monochlorobenzene	0.07
Styrene	0.1
1,1,2,2-Tetrachloroethane	0.001
Tetrachloroethylene	0.005
Toluene	0.15
1,2,4-Trichlorobenzene	0.005
1,1,1-Trichloroethane	0.200
1,1,2-Trichloroethane	0.005
Trichloroethylene	0.005
Trichlorofluoromethane	0.15
1,1,2-Trichloro-1,2,2-Trifluoroethane	1.2
Vinyl Chloride	0.0005
Xylenes	1.750*

*MCL is for either a single isomer or the sum of the isomers.

¹Table is derived from Title 22 of the California Code of Regulations, Section 64444, accessed July 1, 2022 from: [https://web.archive.org/web/*/https://govt.westlaw.com/calregs/Document/IA7B3800D18654ABD9E2D24A445A66CB9?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=\(sc.Default\)](https://web.archive.org/web/*/https://govt.westlaw.com/calregs/Document/IA7B3800D18654ABD9E2D24A445A66CB9?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=(sc.Default))

Table 14. Maximum Contaminant Levels for Non-Volatile Synthetic Organic Chemicals (SOCs)¹

Chemical	Maximum Contaminant Level (mg/L)
Alachlor	0.002
Atrazine	0.001
Bentazon	0.018
Benzo(a)pyrene	0.0002
Carbofuran	0.018
Chlordane	0.0001
2,4-D	0.07
Dalapon	0.2
Dibromochloropropane	0.0002
Di(2-ethylhexyl)adipate	0.4
Di(2-ethylhexyl)phthalate	0.004
Dinoseb	0.007
Diquat	0.02
Endothall	0.1
Endrin	0.002
Ethylene Dibromide	0.00005
Glyphosate	0.7
Heptachlor	0.00001
Heptachlor Epoxide	0.00001
Hexachlorobenzene	0.001
Hexachlorocyclopentadiene	0.05
Lindane	0.0002
Methoxychlor	0.03
Molinate	0.02
Oxamyl	0.05
Pentachlorophenol	0.001
Picloram	0.5
Polychlorinated Biphenyls	0.0005
Simazine	0.004
Thiobencarb	0.07
Toxaphene	0.003
1,2,3-Trichloropropane	0.000005
2,3,7,8-TCDD (Dioxin)	3x10 ⁻⁸
2,4,5-TP (Silvex)	0.05

¹Table is derived from Title 22 of the California Code of Regulations, Section 64444, accessed July 1, 2022 from: [https://web.archive.org/web/*/https://govt.westlaw.com/calregs/Document/IA7B3800D18654ABD9E2D24A445A66CB9?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=\(sc.Default\)](https://web.archive.org/web/*/https://govt.westlaw.com/calregs/Document/IA7B3800D18654ABD9E2D24A445A66CB9?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=(sc.Default))

Table 15. Secondary Maximum Contaminant Levels “Consumer Acceptance Contaminant Levels”¹

Constituents	Maximum Contaminant Levels/Units
Aluminum	0.2 mg/L
Color	15 Units
Copper	1.0 mg/L
Foaming Agents (MBAS)	0.5 mg/L
Iron	0.3 mg/L
Manganese	0.05 mg/L
Methyl- <i>tert</i> -butyl ether (MTBE)	0.005 mg/L
Odor—Threshold	3 Units
Silver	0.1 mg/L
Thiobencarb	0.001 mg/L
Turbidity	5 Units
Zinc	5.0 mg/L

¹Table is derived from Title 22 of the California Code of Regulations, Section 64449, accessed July 1, 2022 from: [https://web.archive.org/web/*/https://govt.westlaw.com/calregs/Document/I2260318DFFF045529B9496276F3A8573?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=\(sc.Default\)](https://web.archive.org/web/*/https://govt.westlaw.com/calregs/Document/I2260318DFFF045529B9496276F3A8573?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=(sc.Default))

Table 16. Secondary Maximum Contaminant Levels “Consumer Acceptance Contaminant Levels”¹

Constituent, Units	Maximum Contaminant Level Ranges		
	Recommended	Upper	Short Term
Total Dissolved Solids, mg/L	500	1,000	1,500
or			
Specific Conductance, μ S/cm	900	1,600	2,200
Chloride, mg/L	250	500	600
Sulfate, mg/L	250	500	600

¹Table is derived from Title 22 of the California Code of Regulations, Section 64449, accessed July 1, 2022 from: [https://web.archive.org/web/*/https://govt.westlaw.com/calregs/Document/I2260318DFFF045529B9496276F3A8573?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=\(sc.Default\)](https://web.archive.org/web/*/https://govt.westlaw.com/calregs/Document/I2260318DFFF045529B9496276F3A8573?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=(sc.Default))

Table 17. Radionuclide Maximum Contaminant Levels (MCLs)¹

Radionuclide	MCL
Radium-226	5 pCi/L (combined radium-226 & -228)
Radium-228	
Gross Alpha particle activity (excluding radon and uranium)	15 pCi/L
Uranium	20 pCi/L
Beta/photon emitters	4 millirem/year annual dose equivalent to the total body or any internal organ
Strontium-90	8 pCi/L (= 4 millirem/yr dose to bone marrow)
Tritium	20,000 pCi/L (= 4 millirem/yr dose to total body)

¹Table is derived from Title 22 of the California Code of Regulations, Sections 64442 and 64443, accessed July 1, 2022 from:
[https://web.archive.org/web/*/https://govt.westlaw.com/calregs/Document/IB93A33F77D104879A1E78D4A415DBBF6?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=\(sc.Default\)](https://web.archive.org/web/*/https://govt.westlaw.com/calregs/Document/IB93A33F77D104879A1E78D4A415DBBF6?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=(sc.Default)) and
[https://web.archive.org/web/*/https://govt.westlaw.com/calregs/Document/I29898BC27579472F89C1ABEB9C3E842A?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=\(sc.Default\)](https://web.archive.org/web/*/https://govt.westlaw.com/calregs/Document/I29898BC27579472F89C1ABEB9C3E842A?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=(sc.Default))

Table 18. Cyanobacterial toxin and cell density criteria, associated public health posting levels, and drinking water health advisories. Frequency and duration CUL-1 and REC-1 water quality criteria: concentrations shall not be exceeded in more than two 10-day periods per recreational season, for more than one recreational season, over a rolling 10-year period.

Parameter	Designated Uses	Proposed Water Quality Criterion, Public Health Posting Level, or Health Advisory		Rationale
<i>Microcystis aeruginosa</i> cell density	Drinking water (MUN)	Health advisory ¹	Below detection	The Minnesota (2015a, 2015b) Heinze-based short-term non-cancer "Health Based Value" of 0.1 µg/L essentially does not allow for the detection of any cells
	Contact Cultural (CUL-1) Contact Recreational (REC-1)	Level 1 Public Health Posting ²	1,000 cells/mL	Cell density corresponding to toxin levels associated with OEHHA (2012) "Action Level"
		Water Quality Criterion and Level 2 Public Health Posting ³	5,000 cells/mL	Cell density corresponding to toxin levels associated with 5x OEHHA (2012) "Action Level"
Total microcystin toxin concentration⁴	Drinking water (MUN)	Health advisory ¹	0.1 µg/L total microcystins ⁴	Minnesota (2015a, 2015b) Heinze-based short-term non-cancer "Health Based Value" of 0.1 µg/L.
	Contact Cultural (CUL-1) Contact Recreational (REC-1)	Level 1 Public Health Posting ²	0.8 µg/L total microcystin.	OEHHA (2012) "Action Level"
		Water Quality Criterion and Level 2 Public Health Posting ³	4.0 µg/L total microcystin	5x OEHHA (2012) "Action Level"
Total potentially toxigenic blue-green algal species⁵	Contact Cultural (CUL-1) Contact Recreational (REC-1)	Water Quality Criterion	100,000 cells/mL or Cyanobacterial scums	WHO/SWRCB guidelines
Cylindrospermopsin	Drinking water (MUN)	Health advisory ¹	0.7 µg/L	U.S. EPA (2015a)
	Contact Cultural (CUL-1) Contact Recreational (REC-1)	Level 1 Public Health Posting ⁷	1 ug/L	CCHAB (2016) Caution Action Trigger
		Water Quality Criterion and Level 2 Public Health Posting ⁸	15 µg/L	U.S EPA (2019, 2021). CCHAB (2016) Danger Tier II is similar but higher (17 µg/L).
Anatoxin-a	Contact Cultural (CUL-1) Contact Recreational (REC-1)	Level 1 Public Health Posting ⁷	Detection ⁹	CCHAB (2016)
		Water Quality Criterion and Level 2 Public Health Posting ⁸	90 µg/L	OEHHA (2012) "Action Level"
Cyanotoxins in Fish & Shellfish	Shellfish Harvesting, Fish Consumption (SHELL, T-SUB, COMM)	Water Quality Criterion	10 ng/g microcystins, <5000 ng/g anatoxin, <4 ng/g cylindrospermopsin (wet weight)	OEHHA (2012) "Action Level"

Footnotes to Table 18

- ¹ For treated water, testing for drinking water health advisories should be conducted at entry point into water distribution system. For water that is directly used for drinking water without treatment, including groundwater wells used for water supply, then testing for drinking water health advisories should be conducted on raw water.
- ² The water quality criteria are set at the Level 2 Health Advisory Danger, but the Level 1 Health Advisory Warning are also included in this table for informational and management purposes. The Level 1 Health Advisory Warning posting will include: Avoid contact with or use of river water because public health advisory thresholds for blue-green algae (*Microcystis aeruginosa*) cell counts or associated toxins were exceeded during recent public health monitoring.
- ³ The Level 2 Health Advisory Danger posting will include: Water is unsafe for contact or use and poses a high risk of potential health impacts due to levels of *Microcystis aeruginosa* cell counts or associated toxins recently detected at 5x the Public Health advisory thresholds.
- ⁴ Value based on the older WHO studies, and although OEHHA (2012) did not evaluate drinking water “action levels”, the Minnesota Department of Health (2015a, 2015b) utilized the Heinze-based lowest-observed-adverse-effect level (LOAEL) of 0.05 mg/kg/day, converted that to a human equivalent dose of 0.012 mg/kg/day, and utilized an uncertainty factor of 300 to arrive at a short-term non-cancer “Health Based Value” of 0.1 µg/L.
- ⁵ While there are numerous congeners of microcystin (e.g., microcystin-LA, RR, and YR) the most extensive toxicological information is available for the microcystin-LR congener. However, the literature indicates that most of these congeners appear to have similar toxicological effects (OEHHA 2012). Therefore, the toxicity criteria apply to the total of all microcystin congeners (if measured separately the concentration of the various congeners is summed), or if ELISA methodology is used then the reported value is already assumed to represent the total.
- ⁶ Includes: *Dolichospermum* (formerly known as *Anabaena*), *Microcystis*, *Planktothrix*, *Gloeotrichia* and *Oscillatoria*
- ⁷ The water quality criteria are set at the Level 2 Health Advisory Danger, but the Level 1 Health Advisory Warning are also included in this table for informational and management purposes. The Level 1 Health Advisory Warning posting will include: Avoid contact with or use of river water because public health advisory thresholds for toxins associated with blue-green algae were exceeded during recent public health monitoring.
- ⁸ The Level 2 Health Advisory Danger posting will include: Water is unsafe for contact or use and poses a high risk of potential health impacts due to high levels of toxins associated with blue-green algae being exceeded during recent public health monitoring.
- ⁹ Must use an analytical method that detects $\leq 1\mu\text{g/L}$ Anatoxin-a.

Table 19. Design Flows

Criteria	Design Flow
Aquatic Life Acute Criteria (CMC)	1 Q 10 or 1 B 3
Aquatic Life Chronic Criteria (CCC)	7 Q 10 or 4 B 3
Human Health Criteria	Harmonic Mean Flow

Notes to Table 19:

1. CMC (Criteria Maximum Concentration) is the water quality criterion to protect against acute effects in aquatic life and is the highest instream concentration of a priority toxic pollutant consisting of a short term- average not to be exceeded more than once every three years on the average;
2. CCC (Continuous Criteria Concentration) is the water quality criterion to protect against chronic effects in aquatic life and is the highest in stream concentration of a priority toxic pollutant consisting of a 4-day average not to be exceeded more than once every three years on the average;
3. 1 Q 10 is the lowest one day flow with an average recurrence frequency of once in 10 years determined hydrologically;
4. 1 B 3 is biologically based and indicates an allowable exceedance of once every 3 years. It is determined by EPA's computerized method (DFLOW model);
5. 7 Q 10 is the lowest average 7 consecutive day low flow with an average recurrence frequency of once in 10 years determined hydrologically;
6. 4 B 3 is biologically based and indicates an allowable exceedance for 4 consecutive days once every 3 years. It is determined by EPA's computerized method (DFLOW model).
7. The harmonic mean flow is typically smaller than the arithmetic mean discharge because it is adjusted for days with zero flow and gives greater weight to low daily mean discharges than high daily mean discharges.

513 WQS Variances: At this time, there are no WQS Variances. In the future, variances may be developed in accordance with Section 511 and placed here.

514 Managing Discharges Attributable to Point and Non-point Sources: Water quality standards shall be the basis for managing discharges attributable to point and nonpoint sources of pollution. Water quality standards are not used to control, and are not invalidated by, natural background phenomena or acts of God.

515 Modification of Standards to Reflect Attainability: Any use attainability analyses (UAA) will be conducted in accordance with 40 CFR 131.10. Any revisions to the WQS resulting from UAA would be subject to U.S. EPA approval.

516 Revision of Standards and Errors

- (A) Triennial Review and Public Participation: Pursuant to CWA 303(c)(1); 40 CFR 131.20, the Tribe will hold public hearings at least once every three years to review and, as appropriate, amend the water quality standards. Revisions to the water quality standards will incorporate cultural concerns, updated U.S. EPA quality criteria for water, and relevant scientific and engineering advances.

The WRD is responsible for this triennial review, and is required to: 1) identify those portions of the trust lands which are in need of modification or new additions; 2) adopt standards as appropriate; and 3) recognize the portions of the water quality

standards which are appropriate as written. The review includes a public hearing process, thus providing a forum for the public to raise issues for the WRD to consider for incorporation into the water quality standards for the trust lands. Any revisions would be subject to U.S. EPA approval.

Public participation is a key element in both tribal and federal planning requirements. Federal public participation requirements of 40 CFR Part 25 apply. The public participation requirements are intended to foster public awareness and the open processes of tribal governmental decision-making. The WRD seeks to implement public participation requirements by requesting the public's input, assimilating its viewpoints and preferences, and demonstrating that those viewpoints have been considered. A notice of proposed actions relating to water quality standards for the trust lands will be published in area newspapers and distributed to a list of interested persons or organizations.

- (B) Errors: Errors resulting from inadequate and erroneous data or human or clerical oversight will be subject to correction by the TWQCO. The discovery of such errors does not render the remaining and unaffected provisions of the Tribe's water quality standards invalid. If any provision of this Ordinance, or the application of any provision of this Ordinance, including any standards set out in regulations and policies promulgated hereunder, to any person or circumstance, should be held to be invalid, the application of such provision to other persons and circumstances and the remainder of this Ordinance and such regulations and policies shall not be affected thereby. Corrections shall be reported to the Tribal Council.

Section 6 - Notice of Discharges

601 Notice of Discharge: Except as permitted pursuant to this Ordinance, any person that discharges any pollutant into the waters of the Reservation shall immediately notify the Director of the Water Resources Department of such discharge and shall fully disclose the information regarding the discharge including the type of pollutant, the amount, the location and other information required by the Director. The Director shall notify the Tribal Council of the discharge within 12 hours, and the Director shall take appropriate action as soon as practicable, but in no event less than 24 hours after notice of discharge to the Director.

Section 7 - Permit and Inspection Program

701 Permits Required: No person shall discharge any pollutant into any Reservation water from a point source or conduct dredge and fill activities in any designated wetland area of the Reservation without first having applied for and obtained a permit from the TWQCO after approval by the Tribal Council. Any person who intends to alter or enlarge an existing activity authorized by this Ordinance, or who intends to cause or direct such alteration or

enlargement of such activities, shall, prior to alteration or enlargement of such activities, apply for and obtain a valid permit from the TWQCO after approval by the Tribal Council.

(A) Contents of Application. Permit applications will include the following information:

- (1) Identification and address of the owner and operator of the activity, facility or process from which the discharge is to be permitted;
- (2) Location and quantity and quality characteristics of the permitted discharge;
- (3) Effluent limitations and requirements for treatment prior to discharge;
- (4) Equipment and procedures required for mandatory monitoring as well as record-keeping and reporting requirements;
- (5) Schedules of compliance;
- (6) Procedures to be followed by tribal personnel for entering and inspecting the premises;
- (7) Submission of pertinent plans and specifications for the facility, process or activity which is the source of the discharge;
- (8) Restrictions on transfer of the permit;
- (9) Procedures to be followed in the event of expansion or modification of the facility, process or activity from which the discharge occurs or the quantity, quality or frequency of the discharge; and
- (10) Duration of the permit and renewal procedures.

(B) Application Under Oath. Each applicant shall sign the permit application under oath, certifying the truth and accuracy of the information contained in the permit application, in a form approved by the TWQCO.

(C) Fees. A processing and monitoring fee, as established by the Tribal Council, shall be paid to the Tribe at the time of filing. These fees shall be used for costs associated with administering this Ordinance.

(D) Review of Application by Tribal Departments. A sufficient number of copies, as determined by the TWQCO, of the application and any proposed mitigation plan shall be furnished by the applicant. Upon receipt of a permit application, the TWQCO shall transmit one copy to the Tribal Council and any other Tribal agencies that should be involved in the review/decision-making process for their written recommendations. Failure of the departments to respond in writing to the TWQCO within thirty (30) days of receipt shall indicate approval or no desire to comment by the department.

- (E) Except as otherwise provided in this Ordinance, permit applicants shall demonstrate that the proposed alteration, enlargement or new regulated activity will not adversely affect water quality and is designed to avoid substantial disturbance of the soils, topography, drainage, vegetation and other water related natural characteristics of the site.
- (F) Public Notice and Hearing on Permit Application. Public notice of every complete application for a discharge permit shall be circulated in a manner designed to inform interested and potentially interested persons of the proposed discharge and of the proposed determination to issue or deny a permit. Procedures for the circulation of public notice shall be established by the Tribe and shall include at least the following
- (1) Notice shall be circulated within the geographical areas of the proposed discharge.
 - (2) Notice shall be mailed to any person or group upon request.
 - (3) Upon request, the Tribe shall add the name of any person or group to a mailing list to receive copies of notices for all discharge applications within the Reservation or within a certain geographic area.
 - (4) The Tribe shall promulgate such regulations as are necessary and appropriate to provide an opportunity for public hearing, when appropriate, prior to granting or denying a discharge permit.
- (G) Permit applications, any required environmental documents and mitigation plan proposals must demonstrate compliance with applicable Tribal regulations including but not limited to those pertaining to water quality, hazardous substances, environmental impact evaluations and riparian protection.
- (H) Nothing in any permit shall ever be construed to prevent or limit the application of any emergency power of the Tribe.

702 Issuance of Permit; Final Environmental Determination

- (A) Upon compliance with this Ordinance, the TWQCO may make findings and issue the permit as provided herein. The permit shall specify the person authorized to operate the facility and the boundaries of the facility. The permit shall contain such conditions as are necessary to protect the public health and safety and the environment.
- (B) Copies of the permit (including conditions specified therein), findings and any documents setting forth TWQCO's final environmental determination shall be made available for inspection and copying to any person so requesting.

(C) Denial of Permit. The TWQCO shall deny the permit when any of the following occur:

- (1) The TWQCO determines that the proposed discharge is not consistent with this Ordinance or other applicable tribal or federal laws.
- (2) The TWQCO determines that it will be impossible to propose a permit that will be mutually satisfactory to the Tribal Council and the discharger.
- (3) Any other circumstances provided by law.

(D) Upon denial of a permit, the TWQCO shall give written notice of the denial to the discharger and any other person who has requested in writing that such notice be given. Notice to the operator shall be accompanied by a form request for re-hearing.

(E) An operator who desires an appeal of the denial of a permit shall file with the TWQCO a written request for a re-hearing before the Tribal Council within fifteen (15) days after receiving notice of the denial of the permit. The hearing procedures will be the same as set out in Section 8, Administrative Procedures.

703 Monitoring and Records; Inspections

(A) Monitoring and Records: The permittee shall monitor the discharge pursuant to the conditions of the permit. Sampling and measurements taken for the purpose of monitoring shall be representative of the monitored activity. The permittee shall retain records of all monitoring information, including calibration and maintenance records and copies of all reports required by the permit. Records for monitoring shall include:

- (1) The date, exact place and time of sampling or measurement;
- (2) The individual(s) who performed the sampling or monitoring;
- (3) The date analysis was performed;
- (4) The analytical techniques or methods used; and
- (5) The results of such analysis.

(B) Inspections and Entry. The permittee shall allow an authorized agent of the WRD or the designated enforcement officer, upon presentation of credential to:

- (1) Enter upon the permittee's premises where a regulated facility, activity or process is located, or where records must be kept under the conditions of the permit;

- (2) Have access to and copy, at reasonable times, any records that must be kept under the conditions of the permit;
- (3) Inspect at reasonable times any facilities, equipment (including monitoring and control equipment) practices or operations regulated or required under the permit; and,
- (4) Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the appropriate Tribal Ordinance, any substances or parameters at any location.

Section 8 - Enforcement Program/Administrative Procedures

801 Enforcement Policy: It is the policy of the Tribal Council to encourage informal, practical, result-oriented resolution of alleged violations and actions needed to prevent damage to Reservation resources or harm to the health, safety or welfare of the Reservation population. It is also the policy of the Tribal Council, consistent with the principles of due process, to provide effective procedures for enforcement.

802 Enforcement Agency: The Resighini Water Resources Department shall be responsible for enforcing the provisions of this Ordinance. Specifically, the WRD shall conduct investigations when a complaint is received by the TWQCO or where the TWQCO or other Tribal agency believes that a violation of this Ordinance has occurred.

803 Enforcement Activities: Where a written and verified complaint shall be filed with the TWQCO and reviewed by the Tribal Council alleging that, or where the TWQCO shall have cause to believe that, any person is violating any discharge regulation or permit condition, the Tribal Council shall cause a prompt investigation to be made.

804 Notice of Violation; Cease and Desist Order:

Notice of Violation: If the TWQCO finds after an investigation pursuant to Section 803 of this Ordinance that a violation of any regulation or permit condition exists, the TWQCO shall notify both the alleged violator and the Tribal Council in writing. In the case of an apparent violation, the TWQCO 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 land owner.

Cease and Desist Order: In the case of a continuing violation or a threatened violation, the TWQCO is authorized to issue a Cease and Desist Order to prevent the violation from continuing or occurring.

Failure to comply with a Cease and Desist Order shall constitute a violation of this Ordinance. Both a Notice of Violation and a Cease and Desist Order may be issued for a single incident. A Notice of Violation will include a Summons to appear before the Tribal

Council 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 civil penalties.

If a Cease and Desist Order is issued without an accompanying Notice of Violation, the Order will inform the recipient that failure to comply with the Order will constitute a violation of this Ordinance which will result in the issuance of a Notice of Violation and may result in the imposition of civil penalties.

- 805 Informal Conferences:** The Tribal Council shall afford the landowner, lessor or lessee, or his or her representative reasonable opportunities to discuss proposed enforcement actions at an informal conference prior to taking further enforcement action, unless the Tribal Council determines that there may be either imminent environmental damage to a Reservation resource or adverse impact upon the health, safety and welfare of the Reservation population. Informal conferences may be used at any stage in the enforcement proceedings, except that the Tribal Council may refuse to conduct informal conferences with respect to any matter then pending before the Tribal Council or the Tribal Court.
- 806 Record Required:** The Tribal Council shall make a written record of the date and place of the conference, the persons in attendance, the subject matter discussed and any decisions reached with respect to further enforcement action.
- 807 Enforcement Hearings:** If the landowner and the Tribal Council are unable to resolve the matter via an informal conference, the Council is authorized to conduct adjudicatory hearings to determine if a violation of this Ordinance has occurred. In such a hearing the designated official or agency, in cooperation with the TWQCO, shall present the case to the Council to establish that the person(s) charged has (have) committed a violation of this Ordinance. Any person so charged shall be entitled, at his or her own expense, to be represented by an attorney or other representative.
- (A) Burden of Proof. The designated official or agency shall have the burden of proving that a violation of this Ordinance has occurred and that a person charged was responsible for the violation. The Tribal Council shall rule that a violation of this Ordinance has occurred if it finds that the charges are supported by substantial evidence and that a preponderance of the credible evidence supports a finding that a violation has occurred.
- (B) Enforcement Orders. Within thirty (30) days after the date of any enforcement hearing, the Tribal Council shall issue a written decision. If the Council determines that a violation has occurred and that the person(s) charged was (were) responsible for the violation, the Council's decision shall include an Enforcement Order.
- 808 Civil Penalties and Corrective Action:** An Enforcement Order shall direct any person(s) found to have committed a violation of this Ordinance to take whatever corrective action the Tribal Council deems appropriate under the circumstances. An Enforcement Order

may impose civil penalties in accordance with a schedule of civil penalties prescribed in the Council's rules. Alternatively, an Enforcement Order may impose civil penalties in the event that a person found to have committed a violation of this Ordinance does not take corrective action in accordance with the Order within a 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 Council may take the necessary corrective action, in which case, the amount of any civil penalty shall be increased by twice the amount of the cost incurred by the Tribal department or agency in taking the corrective action.

(A) Emergency Orders. Notwithstanding any other provision of this Ordinance, if the TWQCO determines that noncompliance with this Ordinance is presenting an imminent and substantial threat to the public health, welfare or environment and determines, in consultation with the Council, 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 TWQCO 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 sixty (60) days.

(B) Revocation of Permit. Failure of any person to comply with any Enforcement Orders will result in an immediate revocation of his or her permit. In order to obtain a reinstatement of such permit, the person(s) against whom the Enforcement Order was issued must first demonstrate compliance with the Order and pay all outstanding penalties and then petition for reinstatement of the permit with the TWQCO.

809 Judicial Enforcement: Only the Tribal Court shall have jurisdiction of all cases and controversies arising under this Ordinance.

(A) The TWQCO may request the Tribal Council to authorize the WRD to file an action in Tribal Court pursuant to this Ordinance 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 and clean up and administrative costs associated with the enforcement of this Ordinance (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 Ordinance, including but not limited to a regulation, permit or order issued pursuant to this Ordinance;

(2) **whenever** a person submits false information under this Ordinance or regulations promulgated under this Ordinance; or

(3) **whenever** a person is creating an imminent and substantial endangerment to the public health, welfare, environment or cultural resources of the Tribe, in which case the Council shall request the WRD 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) above.

(B) Any person who in violation of this Ordinance discharges any pollutant into the waters of the Reservation shall be liable for all costs associated with or necessary to clean 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.

810 Special Provisions for Tribal Departments and Agencies: In any case in which the Tribal Council or any Tribal agency or department is alleged to have violated the terms and conditions of a discharge permit, or to have conducted discharge activities without a permit, the TWQCO shall bring the matter to the attention of Tribal Chairperson who shall consider taking action to ensure compliance with this Ordinance. If the matter cannot be resolved informally, the Council shall conduct an enforcement hearing for the purpose of making factual determinations and issuing a decision recommending a course of corrective action if necessary.

Section 9 - Appeals

901 Judicial Review: Any person who is aggrieved by the issuance or denial of a discharge 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 with the Tribal Court. The Tribal Court is authorized to hear such appeal, using the substantial evidence standard of review.

Section 10 – Other Provisions

1001 Severability: If any provision of this Ordinance, or the application thereof, is held invalid, the remainder of this Ordinance, or applications of such provisions, shall not be affected.

1002 Sovereign Immunity Preserved: Nothing in this Ordinance is intended to, nor should be interpreted as a waiver of the Tribe's sovereign immunity from unconsented lawsuit, or as authorization for a claim for monetary damages from the Tribe.

Section 11 – References Cited

State Water Resources Control Board (SWRCB). 2017. Final Part 2 of the Water Quality Control Plan for Inland Surface Waters, Enclosed Bays, and Estuaries of California—Tribal and Subsistence Fishing Beneficial Uses and Mercury Provisions. State Water Resources Control Board, Sacramento, CA.
https://www.waterboards.ca.gov/water_issues/programs/mercury/docs/hg_prov_final.pdf