



# ORDINANCE NO. 28

## TRIBAL ENVIRONMENTAL POLICY ACT

### INTRODUCTION

- A. Title: This Ordinance shall be entitled "Tribal Environmental Policy Act."

An Ordinance setting forth the environmental policy of the Agua Caliente Band of Cahuilla Indians and establishing a basic process for conducting environmental review of major Tribal actions which significantly effect the quality of the environment.

- B. Purpose: The purpose and intent of this Ordinance is to ensure the protection of natural resources and the environment within the Agua Caliente Indian Reservation, while promoting the highest and best use and development of Tribal Property, by establishing minimum standards for the review and consideration of environmental impacts associated with proposed major Tribal actions, including development on Tribal Property.

- C. Authority: This Ordinance is enacted under the inherent sovereign authority of the Agua Caliente Band of Cahuilla Indians and pursuant to sections a, b, f, and i, of Article V, and Amendment No. 9, approved on August 9, 1991 by the authorized representative of the Secretary of the Interior, of the Constitution, as well as pursuant to any applicable delegations of federal authority to the Band for treatment as a state, or otherwise, under federal law.

- D. Definitions: For the purpose of this Ordinance, the following words or phrases shall have the following definitions:

1. The "Agua Caliente Band" or "Band" shall mean the Agua Caliente Band of Cahuilla Indians, a federally recognized Indian Tribe, acting through its duly constituted Tribal Council.
2. The "Agua Caliente Indian Reservation" or "Reservation" shall mean all land within the exterior boundaries of the Agua Caliente Indian Reservation, as established by Presidential Executive Order, federal patent, and/or deed, including:

SIX HUNDRED

EAST TAHQUITZ CANYON WAY

PALM SPRINGS

CALIFORNIA

92262

TELEPHONE  
(760) 325-3400

FAX  
(760) 325-0593



T.4.S., R.4.E., SBBM: Sections 2, 4, 6, 8, west half of 10, 12, 14, 18, 20, 22, 24, 26, 28, 30, 32, 34, and 35 T.4.S., R.5.E, SBBM: Sections 2, 4, 6, 8, 10, 12, 14, 18, 20, 22, 24, 26, 28, 30, 32, and 34.

T.5.S., R.4.E., SBBM: Sections 2, southeast quarter of 3, 4, 6, 8,10, north half and south half of south half of 11, 12, 14, 18, 20, 22, 24, 26, 28, 30, 32, and 34.

Plus any other lands held in trust by the United States for the Band.

3. "Environmental Assessment" as used herein refers to an environmental assessment as that term is defined in 40 C.F.R. §1508.9.
4. "Environmental Impact Statement" as used herein refers to the detailed statement referenced in section 102 of the National Environmental Policy Act, 40 U.S.C. § 4332, and further defined in 40 C.F.R. §§ 1502.10 -218.
5. "Environmental Department" as used herein refers to employees of the Tribal Environmental Department, and any professional consultants or contractors retained by the Tribe to work with either department.
6. "Major Tribal Action" as used herein means final action by the Tribal Council to approve plans, programs, construction, expansion by or modification of more than 25% of the area of an existing facility, or similar actual physical actions, but not preparatory or preliminary steps, which have a direct and demonstrable effect on the human physical environment if such final action by the Tribal Council occurs on or directly affects Tribal Property. "Major Tribal Action" does not include such actions which are otherwise subject to environmental review under either federal or state law, or which are determined by the Tribal Council, by resolution, to be categorically exempt from environmental review under this Ordinance.
7. "Planning Commission" shall mean the Indian Land Planning Commission established by Tribal Ordinance No. 1, as amended.



8. "Record of Decision" shall mean the record of the Tribal Council's final decision with respect to a proposed action after review and consideration of an environmental impact statement, which includes the items set forth in 40 C.F.R. § 1505.2.
9. "Tribal Council" shall mean the Tribal Council of the Agua Caliente Band of Cahuilla Indians.
10. "Tribal Property" as used herein means all real property, including water rights, within the exterior boundaries of the Reservation, title to which is either (1) held in trust by the United States for the Tribe, or (2) in the name of the Tribe.

## II. **Statement of Environmental Policy**

*The Tribal Council finds, determines and declares:*

- A. It is the policy of the Agua Caliente Band of Cahuilla Indians to protect the natural environment, including the land, air, water, minerals, and all living things, on or directly affected by the use and development of Tribal Property.
- B. While it is also an important policy of the Agua Caliente Band of Cahuilla Indians to promote the highest and best use and development of real or personal property, including water rights, leased from or held or used under agreement with or belonging to the Tribe as Tribal Property, the Tribal Council recognizes that development activities on Tribal Property have a direct effect on and may threaten the health, welfare and safety of the Tribe and its members, including environmental and cultural resources.
- C. The Agua Caliente Band of Cahuilla Indians therefore intends, and the purpose of this Ordinance is, to encourage the use and development of Tribal Property in ways that are compatible with environmental protection and preservation, and to ensure that no major Tribal action, including proposed development on Tribal Property, that might cause significant environmental degradation will be permitted prior to the completion of a thorough environmental review in which alternatives and mitigation measures are fully considered.



## Environmental Review Process for Major Tribal Actions

A. The Agua Caliente Band of Cahuilla Indians shall be the Lead Agency for purposes of preparing environmental documents, consultation and scoping, making determinations regarding the environmental impacts of proposed major Tribal actions, issuing findings of no significant impacts, certifying environmental impact statements, and selecting alternatives and mitigation measures deemed most effective to implement the policies set forth in this Ordinance.

### B. Determinations of Environmental Impact of Major Tribal Actions:

1. For every proposed major Tribal action, an environmental assessment shall be performed and prepared by Environmental and Planning Department staff.
2. Before finalizing the environmental assessment, Environmental and Planning Department staff shall consult with and solicit comments from any federal, state and/or local agency which has jurisdiction by law or special expertise with respect to any potentially involved environmental impact ("preliminary consultation").
3. The environmental assessment shall include a recommended determination that the proposed action will or will not significantly impact the quality of the natural environment.
4. Environmental Department shall submit to the Planning Commission the completed environmental assessment along with any written comments received after preliminary consultation.

### C. Findings of No Significant Impact

1. If the environmental assessment indicates the proposed action will not significantly impact the quality of the natural environment, the Planning Commission shall give notice to potentially impacted or interested parties of the proposed action and intent to issue a Finding of No Significant Impact. Such parties shall have a thirty-day period within which to submit written comments and request a public hearing. Any public hearing on a FONSI shall be conducted no more than sixty days after public notice is given.



2. After receipt of written comments and a public hearing, if any is requested, Planning Commission, shall present the environmental assessment, preliminary recommended determination, a summary of comments received, and any response to those comments, to the Tribal Council, along with a final recommended determination.
3. Any party who submitted comments shall be given notice of the Planning Commission's recommended determination and the opportunity to be heard again before the Tribal Council.
4. Upon review of the environmental assessment, any comments and responses, and the Planning Commission's recommendation, the Tribal Council shall either:
  - a. Issue a Finding of No Significant Impact; or
  - b. Require that an environmental impact statement be prepared.
5. If the Tribal Council issues a Finding of No Significant Impact, no further action shall be required under this ordinance with respect to the proposed action, and the action may proceed.

**D. Requirements for Actions Determined to Have Significant Impact:**

1. If the environmental assessment indicates the proposed action will significantly impact the quality of the natural environment, or if the Tribal Council otherwise directs, Environmental Department shall prepare a draft environmental impact statement concerning the proposed action.
2. While preparing the draft environmental impact statement, Environmental and Planning Department staff shall consult with and solicit comments from any federal, state and/or local agency which has jurisdiction by law or special expertise with respect to any potentially involved environmental impact.
3. The draft environmental impact statement and any written agency comments, shall be forwarded to the Planning Commission, who shall give notice of the availability of the draft statement to any potentially impacted or interested party. Upon request, such parties shall be provided with a full copy of the draft statement. Such parties shall have a sixty-day period, from the date of notice, within which to submit written comments and



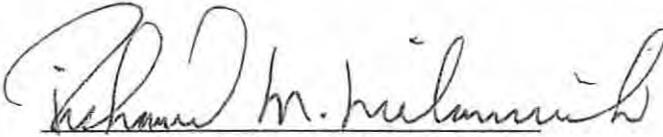
request a public hearing. Any public hearing on a draft environmental impact statement shall be conducted no more than ninety days after public notice is given.

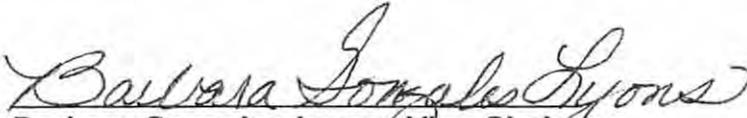
4. After receipt of written comments and a public hearing, if any is requested, the Planning Commission shall provide its comments on the draft statement, and Environmental Department shall prepare a final environmental impact statement which takes into account, assesses, and responds to all comments received from the Planning Commission, any federal agency, and the public.
5. Upon completion of the final environmental impact statement, notice shall be given to all potentially impacted or interested parties of its availability. Any party who submitted comments shall be provided a copy of the final statement and the opportunity to be heard again before the Tribal Council.
6. The final statement shall be presented to the Tribal Council along with all written comments from the Planning Commission, any federal agency, and the public, and a summary of comments given at any public hearing. The Tribal Council shall thoroughly consider the environmental effects, range of alternatives and mitigation measures discussed in the final statement and supporting documentation and any additional public comments received before issuing a Record of Decision and implementing its decision with respect to the proposed action.

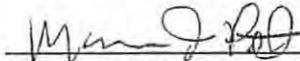
- E. **EFFECTIVE DATE.** This Ordinance shall take effect immediately upon its adoption by the Tribal Council in order to promote and assist the expeditious, timely, and orderly use and development of Indian trust lands located on the Agua Caliente Indian Reservation and shall remain in full force and effect except as may be amended or repealed by the Tribal Council. This ordinance shall be published once in a newspaper of general circulation in the City of Palm Springs within five (5) days of the adoption of this ordinance by the Tribal Council.



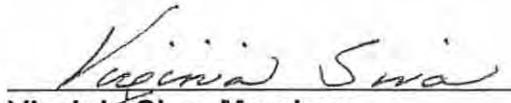
BE IT ENACTED by the Tribal Council of the Agua Caliente Band of Cahuilla Indians, this 7<sup>th</sup> day of March, 2000.

  
Richard M. Milanovich, Chairman

  
Barbara Gonzales-Lyons, Vice-Chairman

  
Marcus J. Pete, Secretary/Treasurer

  
Candace Pate, Member

  
Virginia Siva, Member