

**Yurok Tribal Code, Environmental Protection**

**YUROK TRIBE GENETICALLY ENGINEERED ORGANISM  
ORDINANCE**

*Pursuant to its authority under Article IV, Section 5 of the Yurok Constitution, as certified on November 24, 1993, the Yurok Tribal Council hereby enacts the following ordinance designating Yurok Tribal territory as zone free from genetically engineered seeds, plants, fish, and animals:*

GENERAL PROVISIONS .....	3
SECTION 8001. Title.....	3
SECTION 8002. Authority.....	3
SECTION 8003. Findings.....	3
SECTION 8004. Purpose .....	4
SECTION 8005. Scope .....	4
SECTION 8006. Sovereign Immunity Preserved .....	5
SECTION 8007. Severability.....	5
SECTION 8008. Effective Date .....	5
SECTION 8009. Repeal of Conflicting Ordinance Provisions.....	5
SECTION 8010. Definitions.....	5
CHAPTER 1. PROHIBITED ACTIVITIES .....	6
SECTION 8101. Prohibited Activities.....	6
SECTION 8102. Exemptions to Prohibited Activities .....	6
CHAPTER 2. IMPLEMENTATION AND ENFORCEMENT.....	7
SECTION 8201. Enforcement Entities.....	7
SECTION 8202. Powers and Authorities of Enforcement Entities .....	7
SECTION 8203. Notification .....	8
SECTION 8204. Required Disclosures .....	8
SECTION 8205. Transition Plan.....	8
CHAPTER 3. PROCESS AND REMEDIES .....	8
SECTION 8301. Notification .....	8
SECTION 8302. Response.....	8
SECTION 8303. Determination .....	9
SECTION 8304. Seizure and Forfeiture.....	9
SECTION 8305. Enforcement and Sanctions.....	9

CHAPTER 4. CHEMICAL PESTICIDE AND GMO EDUCATION COMMITTEE ..... 10  
SECTION 8401. Education Committee Established ..... 10  
SECTION 8402. GMO Guidelines ..... 10  
CHAPTER 5. TRIBAL COURT REVIEW AND ENFORCEMENT ..... 10  
SECTION 8501. Tribal Court Enforcement ..... 10

## GENERAL PROVISIONS

### SECTION 8001. Title

This ordinance shall be referred to as the “Yurok Tribe Genetically Engineered Organism Ordinance” or “Yurok GEO Ordinance.”

### SECTION 8002. Authority

This Ordinance prohibiting certain genetically engineered organisms within the territory and jurisdiction of the Yurok Tribe (“Tribe”) is established by the Yurok Tribal Council under the authority delegated to it in the Yurok Constitution, as ratified on November 19, 1993.

### SECTION 8003. Findings

The Yurok Tribal Council finds that:

- (a) The Creator set forth the laws by which the Yurok People are instructed to interact and care for our natural world, including the plants and animals we use for our foods and medicines;
- (b) Resisting and undoing the many negative impacts of invasion and colonization for the Yurok People means restoring what was taken from us in the process. These include our lands, waters, traditional learning and teaching systems, seeds, food and medicinal plants and animals, salmon, sacred places, and the health and well-being of our families and villages;
- (c) These sacred elements and our relationship with Mother Earth are of absolute necessity for restoring the practice of our food sovereignty and for our spiritual, cultural, physical, social and environmental health, identity, and survival;
- (d) The Yurok People, as World Renewal People, have managed and relied upon the abundance of Klamath River Wild Salmon since time immemorial and have and continue to be known as “Salmon People” of the northwest coast;
- (e) The Yurok Tribe adopted a Constitution in order to:
  - (1) Preserve forever the survival of our Tribe and protect it from forces which may threaten its existence;
  - (2) Uphold and protect our tribal sovereignty which has existed from time immemorial and which remains undiminished;
  - (3) Provide for the health, education, economy, and social wellbeing of our members and future members; and
  - (4) Restore, enhance, and manage the tribal fishery, tribal water rights, tribal forests, and all other natural resources;
- (f) The Tribe has a vital cultural, legal, subsistence, and economic interest in the viability of and survival of Klamath River Wild Salmon and all other life-giving food and water resources in their traditional forms, natural diversity, and original integrity;
- (g) Protecting our traditional seeds, plants, salmon, and other life-giving foods and methods from the many current threats such as climate change, mining and

extractive industries, genetic engineering, chemical pesticides, and other toxic contaminants is essential for our survival, and is at the core of our sacred responsibilities as Yurok People;

- (h) It is the inherent sovereign right of the Yurok People to grow plants from natural traditional seeds and to sustainably harvest plants, salmon and other fish, animals, and other life-giving foods and medicines, in order to sustain our families and communities as we have successfully done since time immemorial; and
- (i) The threat to the Yurok Tribal territory of contamination of our traditional seeds, plants, animals, and fish from genetically engineered organisms is not yet severe. However, given the rapid federal governmental approval and pending approval of a wide variety of genetically engineered seeds, animals, and fish (including GMO salmon), the Tribe enacts this Ordinance primarily as a preventative measure against future harm.

#### **SECTION 8004. Purpose**

The purpose of this Ordinance is to:

- (a) Maintain and protect food sovereignty and Tribal control, free from outside corporate interests and unnecessary and overreaching preemption by any outside governments, of the agriculture, environment, Tribal health, welfare, and economy as they pertain to genetic contamination from genetically engineered organisms;
- (b) Prohibit any person, corporation, or entity from propagating, raising, growing, spawning, incubating, or releasing genetically engineered organisms within the territory of the Tribe;
- (c) Educate and protect the Yurok community as to the health and environmental hazards of genetically engineered foods, and to work towards labeling and/or phasing out the sale and provision of such foods on Tribal lands.
- (d) Declare the Yurok Tribal Territory to be a zone kept free from genetically engineered or modified seeds, plants, fish, and animals. This will preserve a healthy and safe place for our traditional seeds, plants, animals, and fish, as well as for our children and future generations to thrive within the boundaries of our territory in health, strength, and harmony; and
- (e) Enable the Tribe to enforce the genetically engineered organism prohibitions and recover the costs of such enforcement.

#### **SECTION 8005. Scope**

This Ordinance shall apply to all persons and entities throughout and within the Yurok Reservation and territory over which it has jurisdiction, including over all lands, waters, riverbeds, submerged lands, properties, air space, minerals, fish forests, wildlife, and other resources, and any interest therein now or in the future. This Ordinance shall also apply to any off-reservation conduct that causes material on-reservation genetic trespass or contamination by genetically engineered organisms.



## **SECTION 8006. Sovereign Immunity Preserved**

Except as judicial review is authorized in this ordinance, and in accordance with the Tribe's Supreme Ordinance, nothing in this ordinance shall be interpreted as a waiver of the Tribe's sovereign immunity from unconsented lawsuit, or as authorization for a claim for monetary damages against the Tribe.

## **SECTION 8007. Severability**

If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of the ordinance or application of its provisions to other persons or circumstances shall not be affected, and to this end, the provisions of this ordinance are severable.

## **SECTION 8008. Effective Date**

This ordinance shall take effect immediately after its adoption by the Yurok Tribal Council.

## **SECTION 8009. Repeal of Conflicting Ordinance Provisions**

All prior ordinance provisions previously enacted by the Tribal Council and inconsistent with the provisions of this ordinance are hereby repealed. If the provisions of this ordinance conflict with the provisions of any other previously enacted ordinance, the provisions of this ordinance shall control.

## **SECTION 8010. Definitions**

- (a) *DNA* means "deoxyribonucleic acid," which is the genetic material that is present in every cell of an organism and is the "blueprint" for the organism's development.
- (b) *Genetic contamination* means the dispersal or spread of altered genetic information from genetically engineered organisms into the genomes of organisms in which such genes are not present in nature, such as by cross-pollination.
- (c) *Genetically engineered, genetically modified or transgenic* means modification of living plants, animals, and other organisms by genetic engineering. Examples of genetic engineering and modification include, but are not limited to: altering or amending DNA using recombinant DNA technology such as gene deletion, gene doubling, introducing a foreign gene, or changing the position of genes, and includes cell fusion (including protoplast fusion), microencapsulation, macroencapsulation, gene splicing, or hybridization techniques that overcome natural physiological, reproductive, or recombination barriers, where the donor cells/protoplasts do not fall within the same taxonomic species and in a way that does not occur by natural multiplication or natural recombination. "In vitro nucleic acid techniques" include but are not limited to recombinant DNA or RNA techniques that use vector systems and techniques involving the direct introduction into the organisms of hereditary materials prepared outside the organism such as microinjection, macro-injection, chemoporation, electroporation, microencapsulation and liposome fusion, and any other technology or technique that results in an organism that contains genes from more than one species, or genes that are not naturally occurring.
- (d) *Genetically modified organism or GMO* means any living organism that possesses a novel

combination of genetic material produced through the use of modern biotechnology genetic engineering techniques, separate from naturally occurring processes. For purposes of this Ordinance, genetically engineered or modified organisms do not include organisms created by traditional selective breeding, burning practices, fermenting, conjugation, normal in vitro fertilization or hybridization, or microorganisms created by moving genes or gene segments between unrelated bacteria.

- (e) *Natural seeds* or *natural organisms* means seeds or organisms that do not possess a novel combination of genetic material obtained through the use of modern biotechnology and have not been genetically modified or engineered. Natural seeds or organisms include those seeds or organisms created by selective breeding or hybridization methods.
- (f) *Organism* means any living thing.

## **CHAPTER 1. PROHIBITED ACTIVITIES**

### **SECTION 8101. Prohibited Activities**

It shall be unlawful for any person, corporation or other entity to:

- (a) Propagate, cultivate, raise, grow, spawn, incubate, or release genetically engineered or genetically modified organisms within the territory and jurisdiction of the Tribe, or to knowingly or negligently allow such activities to occur within such territory and jurisdiction, except as provided in Section 8102 herein.
- (b) Intentionally or negligently cause or allow any genetically engineered or genetically modified organisms or materials from within or outside the jurisdiction of the Tribe to substantially enter, drift, or be dispersed into and within the territory and jurisdiction of the Tribe, in such a way as to risk genetic contamination of natural organisms within the jurisdiction of the Tribe. The Tribe may enforce such violations to the extent possible pursuant to applicable laws.

### **SECTION 8102. Exceptions to Prohibited Activities**

- (a) State or federally licensed medical research institutions, medical laboratories, or medical manufacturing facilities engaged in licensed medical production, or medical research involving genetically engineered or genetically modified organisms are exempt from this Ordinance provided that prior written permission is obtained by the Tribe and that such activities are conducted under secure, enclosed, indoor laboratory conditions with the utmost precautions to prevent release to the outside environment, any part of the genetically engineered organisms, especially but not limited to pollen.
- (b) Educational or scientific institutes working with genetically engineered organisms are exempt from this Ordinance, provided that prior written permission is obtained by the Tribe and that such activities are conducted under secure, enclosed, indoor laboratory conditions with the utmost precautions to prevent release to the outside environment,



any part of the genetically engineered organisms, especially but not limited to pollen,

- (c) Any institution listed in (a) or (b) above that intentionally or negligently allows release of any part of the genetically engineered or genetically modified organisms into the outside environment is in violation of this Ordinance and subject to enforcement as set forth herein.

## **CHAPTER 2. IMPLEMENTATION AND ENFORCEMENT**

### **SECTION 8201. Enforcement Entities**

The Tribal Council hereby designates the Yurok Tribe Environmental Program (“YTEP”), working with the Yurok Department of Public Safety (“YDPS”) and the Office of Tribal Attorney (“OTA”), to administer and enforce the provisions of this Ordinance.

### **SECTION 8202. Powers and Authorities of Enforcement Entities**

- (a) YTEP may impose fines for non-compliance in increasing amounts for repeated violations, as follows:
  - (1) First Offense: The Code Enforcement Officer may, in its sole discretion, impose a fine up to \$500.00.
  - (2) Second Offense: The Code Enforcement Officer may, in its sole discretion, impose a fine up to \$1,000.00.
  - (3) Third Offense: The Code Enforcement Officer may, in its sole discretion, impose a fine up to \$3,000.00.
  - (4) The above schedule may be adjusted depending on the scope of the violation and resulting damage, the violator’s willfulness or recklessness, and other exacerbating (or mitigating) circumstances.
- (b) Claims of violations may also be investigated by YDPS in collaboration with Tribal Fisheries, Cultural Officers, and Environmental Officers.
- (c) YTEP or YDPS may issue citations to any person or entity believed to have committed a violation of this Ordinance. The citation will explain in plain terms what conduct has violated the code, and shall include the following information:
  - (1) The specific conduct that violated the Ordinance, referring to the specific relevant section(s) in the Ordinance.
  - (2) The date(s) the conduct occurred or was discovered.
  - (3) What steps must be taken by the violator to address the violation.
  - (4) The date by which the violator must come into compliance with the Ordinance, including the development of a transition/phase-out plan with YTEP to avoid the imposition of further penalties and fines.
  - (5) The penalties that may be imposed if the offender continues to violate the Ordinance, including the filing of a civil action.
  - (6) The contact information for YTEP, and whether a meeting needs to be

scheduled to discuss, in more detail, the reasons the conduct violated the Ordinance and how to avoid violating the Ordinance again.

- (7) That the offender may appeal, in writing, YTEP's finding that a violation occurred, and the date by which this appeal must be received by the Tribal Court.

#### **SECTION 8203. Initial Notification**

- (a) Upon enactment, YTEP shall make reasonable efforts to provide initial notification of this Ordinance to farming, forestry, and fishery operations within the territory and jurisdiction of the Tribe.
- (b) YTEP shall make reasonable efforts to notify farming, forestry, and fishing operations of technical assistance and resources that may be available to assist with the transition from genetically engineered organisms to natural organisms.
- (c) Actions required of YTEP in this section are intended to assist farming, forestry, and fishing operations with compliance and assistance. Failure to receive notification does not waive or otherwise affect requirements for compliance with the provisions of this Ordinance.

#### **SECTION 8204. Required Disclosures**

Every person, corporation, or entity cultivating, raising, growing, spawning, incubating, or releasing genetically engineered or genetically modified organisms must disclose to YTEP, within thirty (30) days of enactment of this Ordinance, the location and description of existing or planned genetically engineered organisms involved, in order to develop a transition plan, approved by YTEP, to phase out such organisms.

#### **SECTION 8205. Transition Plan**

Persons, corporations, or entities cultivating, raising, growing, spawning, incubating, or releasing genetically engineered or genetically modified organisms within the Tribe's territory and jurisdiction shall have up to twelve (12) months from the date of enactment to implement a transition plan as set forth in Section 8204 above to phase out planting, cultivating and harvesting of genetically engineered or genetically modified organisms.

### **CHAPTER 3. PROCESS AND REMEDIES**

#### **SECTION 8301. Notification**

YTEP shall notify any person, corporation, or entity that may be in violation of this Ordinance that any organisms in violation of this Ordinance are subject to confiscation and destruction.

#### **SECTION 8302. Response**

- (a) Any person, corporation or entity that receives notification shall have fifteen (15) days to respond to such notification with evidence that such organisms are not in violation of this Ordinance. Time for response may be shortened upon a showing of current, ongoing, and/or imminent harm or risk of genetic contamination.
- (b) If the notified party does not provide such evidence or if there is probable cause to believe genetically engineered organisms are present, YTEP may take necessary



actions required by law (such as obtaining a search warrant) to obtain access to the property and obtain material samples, in accordance with due process.

**SECTION 8303. Determination**

Upon receipt of any evidence under Section 8302, YTEP shall consider such evidence and any other evidence that is presented or which is relevant to a determination of such violation. YTEP shall act in good faith to make such determination as soon as possible, and before any genetic contamination may occur. If genetic contamination has already occurred or cannot be prevented before the determination is completed, YTEP shall make efforts to abate and prevent further contamination.

**SECTION 8304. Enforcement and Sanctions**

YTEP shall work with OTA to develop appropriate enforcement forms and methods.

In addition to any remedies and penalties provided that may be available by law, the following sanctions may be imposed:

- (a) Any organisms that are the subject of violation of this Ordinance may be confiscated, quarantined, and destroyed before any genetic contamination may occur. If genetic contamination has already occurred, the contaminated organisms may be confiscated, quarantined, and destroyed in accordance with due process.
- (b) Testing, administrative, and abatement costs associated with the confiscation and destruction of organisms may be imposed on responsible parties (namely the person(s), corporation(s), or other entities responsible for the violation). If contamination has already occurred, costs for remediation of contamination may be imposed on responsible parties.
- (c) In imposing administrative and abatement costs and other fees, fines, and accrued interest on the responsible parties, YTEP shall take into account the amount of actual and reasonably foreseeable damage and the degree of willfulness, reckless disregard, or negligence of the person, corporation, or entity involved. Fines shall be payable to the enforcing department.
- (d) The Tribe or any individual within the Tribe's jurisdiction shall have standing to assert any rights secured by this Ordinance (for violations occurring within the Tribe's territory) that have been violated or are threatened with violation, and may seek injunctive and/or compensatory relief from the Tribal Court. While an individual may recover actual damages, any assessed fines are payable to the enforcing agency.

**SECTION 8305. Seizure and Forfeiture**

Equipment used to violate this Ordinance, along with any illegal substances in plain view, is subject to seizure and forfeiture.

## **CHAPTER 4. CHEMICAL PESTICIDE AND GEO EDUCATION COMMITTEE**

### **SECTION 8401. Education Committee Established**

A Chemical Pesticide and GEO Education Committee is hereby established, with representatives from, but not limited to: YTEP, TDPS, Tribal Court, OTA, Tribal Fisheries, and Cultural Programs. This Education Committee shall meet regularly and make recommendations to the Tribal Council regarding:

- (a) Educating the Yurok Tribal Community about the harmful effects of chemical pesticides;
- (b) Tribal policies and legislation to regulate and reduce chemical pesticides use on the Reservation;
- (c) Educating the Yurok Tribal Community about the harmful environmental and health effects of genetically engineered organisms; and
- (d) The viability of labeling and/or restricting the sale, promotion, or provision of genetically engineered food products within the Yurok Tribal territory (in consultation with the Yurok Economic Development Corporation).

### **SECTION 8402. GEO Guidelines**

In the event the Chemical Pesticide and GEO Education Committee proposes recommendations and guidelines regarding the safety of chemical pesticides and/or genetically engineered food products sold or distributed on the Yurok Reservation that the Tribe subsequently adopts by regular council action, the tribal resolution adopting such guidelines shall be attached to this Ordinance and a cause of action in Tribal Court or any court of competent jurisdiction shall be created to thereafter regulate or prohibit such sale or distribution of products the Tribe deems unsafe for human consumption pursuant to those adopted guidelines.

## **CHAPTER 5. TRIBAL COURT REVIEW AND ENFORCEMENT**

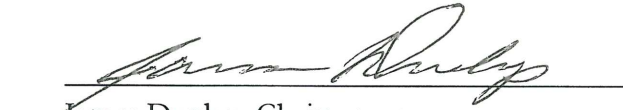
### **SECTION 8501. Tribal Court Enforcement**

Any person who violates this Ordinance may be subject to prosecution before the Yurok Tribal Court and subject to civil damages, fines, penalties (including interest), and/or injunctive actions.

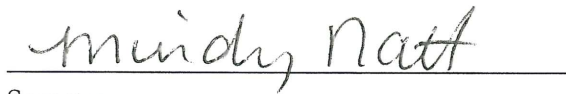
**C\*E\*R\*T\*I\*F\*I\*C\*A\*T\*I\*O\*N**

THE FOREGOING ORDINANCE, ENTITLED THE YUOK GENETICALLY ENGINEERED ORGANISM (GEO) ORDINANCE, WAS PASSED AT A REGULARLY SCHEDULED MEETING OF THE YUOK TRIBAL COUNCIL ON DECEMBER 10, 2015, AT WHICH A QUORUM WAS PRESENT, AND THIS ORDINANCE WAS ADOPTED BY A VOTE OF 7 FOR, 0 OPPOSED AND 1 ABSTENTIONS IN ACCORDANCE WITH ARTICLE IV, SECTION 5(j) OF THE CONSTITUTION OF THE YUOK TRIBE.

**DATED THIS 10 DAY OF DECEMBER 2015**

  
James Dunlap, Chairperson  
Yurok Tribal Council

**ATTEST:**

  
Secretary  
Yurok Tribal Council