

Yurok Tribal Code, Environmental Protection

YUROK TRIBE RIGHTS OF THE HEYHL-KEEK ‘WE-ROY (KLAMATH RIVER) 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 establishing the Rights of the Heyhl-keek ‘We-roy:

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GENERAL PROVISIONS

SECTION 4001. Short Title

This Ordinance shall be referred to as the “Rights of the Heyhl-keek ‘We-roy Ordinance.”

SECTION 4002. Legislative Findings

The Yurok Tribal Council hereby finds and declares that:

- (a) Since time immemorial, the Yurok Tribe and its members have had a strong relationship with Heyhl-keek ‘We-roy and Yurok culture, ceremonies, religion, fisheries, subsistence, economics, residence, and all other lifeways are intertwined with the health of the River, its ecosystems, and the multiple species reliant on a thriving Heyhl-keek ‘We-roy ecosystems;
- (b) The Heyhl-keek ‘We-roy ecosystems encompasses the surrounding areas in and around the headwaters in Oregon, the sacred high country, its contributing tributaries and underground aquifers, and through and past the estuary into the Pacific Ocean;
- (c) All species and ecosystems within, connected to, and or dependent on the Heyhl-keek ‘We-roy are environmentally and culturally significant and should be protected to maintain their natural diversity and functions;
- (d) All the native species within, connected to, and or dependent on the Heyhl-keek ‘We-roy ecosystems are vital and indispensable to the cultural, legal, subsistence, and economic interests of the Yurok Tribe;
- (e) All ecosystems functions within the Heyhl-keek ‘We-roy basin must be maintained in a working condition to satisfy the needs, conserve, and protect the species and landscapes essential to the Heyhl-keek ‘We-roy and important to the Yurok Tribe;
- (f) It is the inherent sovereign right of the Yurok Tribe to conserve and protect the Yurok Tribe’s current and traditional territory including the Heyhl-keek ‘We-roy, its ecosystems, and species as well as to sustainably harvest plants, salmon and other fish, animals, and other life-giving foods and medicines;
- (g) It is an international legal norm declared under United Nations Declaration of the Rights of Indigenous Peoples (“UN DRIP”), Article 26(1) and Article 29, that all indigenous nations have the right to sustainably harvest plants, animals, and other life-giving foods and medicines as well as to conserve and protect current and ancestral territories;
- (h) The Yurok Tribe has protected the health and wellbeing of the Heyhl-keek ‘We-roy, its ecosystems, and species since time immemorial through unbroken stewardship; the establishment of the Yurok Constitution; Yurok law; and many lawsuits,

administrative proceedings, petitions, and grassroots activism for the River itself and to ensure the continuance of Yurok lifeways for future generations;

- (i) The Heyhl-keek 'We-roy is a cultural landscape for many Native nations and its species and waters are significant cultural and natural resources for all Klamath Basin tribes with ancestral territory in and around the Heyhl-keek 'We-roy and its tributaries. The Yurok Tribe acknowledges and appreciates the other Klamath Basin tribes for their work and advocacy on behalf of the Heyhl-keek 'We-roy, ecosystems, and its species. The Yurok Tribe will continue to work in collaboration with other Klamath Basin tribes to strive to protect the Heyhl-keek 'We-roy and its tributaries for the current and future generations; and
- (j) The Yurok Tribe has a sacred responsibility to protect the Heyhl-keek 'We-roy as an essential element to the integrity and survival of the Yurok people; Yurok culture, religion, spiritual lifeways, the ecosystems and the species within, connected to, and or dependent on the Heyhl-keek 'We-roy from the many current threats such as, but not limited to; climate change, water diversion, excessive timber harvest, roads, dams, mining, agriculture, off-shore ocean and river overfishing, oil and gas extractive industries, genetic engineering, chemical pesticides, other toxic contaminants, and other industrial, corporate, and governmental practices.

SECTION 4003. Purpose

The purpose of this Ordinance includes the following:

- (a) To exercise the inherent sovereignty of the Yurok Tribe to protect the health and wellbeing of the Yurok people and Heyhl-keek 'We-roy, including associated ecosystems and native species within, connected to, and or dependent on the Heyhl-keek 'We-roy;
- (b) To codify the Heyhl-keek 'We-roy rights under Yurok law;
- (c) To provide a legal basis to protect the Heyhl-keek 'We-roy, its ecosystems, and native species within, connected to, and or dependent on the Heyhl-keek 'We-roy for the continuation of the Yurok people and the Tribe for future generations; and
- (d) To grant the Heyhl-keek 'We-roy, its ecosystems, and native species within, connected to, and or dependent on the Heyhl-keek 'We-roy standing in cases and causes of action against individuals and entities inflicting harm in violation of the Heyhl-keek 'We-roy, its ecosystems, and native species rights.

SECTION 4004. Scope

This Ordinance shall apply to all persons, public and private entities, and governments on lands and whose actions are within Yurok jurisdiction, including all lands, waters, riverbeds, submerged lands, properties, air space, minerals, fish, forests, wildlife, ecosystems and ecosystem functions, and other resources, and any interest therein now or in the future.

SECTION 4005. Sovereign Immunity Preserved

Except in accordance with the Yurok 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 4006. 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 4007. Effective Date

This Ordinance shall take effect immediately upon adoption by the Yurok Tribal Council.

SECTION 4008. 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 4009. Definitions

- (a) "Animal Cruelty" is the act of inflicting physical pain, suffering, or death on an animal or animals of all walks of life, including domesticated pets and wild animals. Animal cruelty includes: neglect where the animal has suffered, died, or been put in imminent danger of death; and violent and excessive physical harm including, beatings, poisoning by deleterious materials, and excessive killings. Respectful hunting and fishing, following Yurok laws and policies, is not considered animal cruelty.
- (b) "Cultural Riverscape," refers to cultural and natural resources and the wildlife or domestic animals therein, associated with significant patterns of events in traditional histories and the group(s) of people who have built their cultural lives around a river and its fish, plants, wildlife, and water.
- (c) "*De minimus* impact" means harms that are too trivial or minor to merit consideration and are typically associated with ordinary and common sense activities that may have very minor impacts, but are not an actual threat to the rights of the Heyhl-keek 'We-roy.
- (d) "Ecosystem" means a biological community of interacting organisms and their physical environment.

- (e) “Frivolous Case” is a lawsuit that lacks factual merit, based upon facts that do not amount to a cause of action, based on false information, or brought in bad faith for the purpose of harassing the defendant.
- (f) “Heyhl-keek ‘We-roy” translated to “the River that runs through the Mountains” means the Heyhl-keek ‘We-roy; its ecosystems; and the native species within, connected to, and or dependent on its ecosystems.
- (g) “Identifiable Human Caused Damage and Harm” means violations of the Heyhl-keek ‘We-roy’s rights caused by identifiably liable people or entities.
- (h) “Invasive species” are non-native, introduced species, that have been brought Heyhl-keek ‘We-roy into a native ecosystem by humans and human activities, either accidentally or intentionally, and which are harmful to the native Heyhl-keek ‘We-roy ecosystem.
- (i) “Heyhl-keek ‘We-roy Ecosystems” means the ecosystems within the Heyhl-keek ‘We-roy basin and the interaction of its biotic and abiotic communities.
- (j) “Heyhl-keek ‘We-roy Trust” means the account for all of the Heyhl-keek ‘We-roy’s money and monetary property as held and managed by the Yurok Tribe.
- (k) “Minor Impact” means harms that last from the moment of impact up to seven (7) days and or if it takes seven (7) days or less for the Heyhl-keek ‘We-roy to regenerate, be repaired, and or restored back to the position it was before the impact.
- (l) “Moderate Impact” means harms that last eight (8) to thirty (30) days and or if it takes eight (8) to thirty (30) days for the Heyhl-keek ‘We-roy to regenerate, be repaired, and or be restored back to the position it was before the impact.
- (m) “Native species” means lifeforms that have existed within an ecosystems naturally and without artificial introduction since time immemorial.
- (n) “Right to Data” means the right to own all past, current, and future data collected as a property right including, but not limited to, cultural, ecological, and hydrological information.
- (o) “Right to Naturally Evolve” means the right to adapt over time to survive in a changing environment, whether those changes be from natural or unnatural processes. May also include adaptation to perform new, different, and additional functions.
- (p) “Right to Naturally Exist” means the right to literally exist in its actual present form and to be alive in the capacity to act and perform basic natural functions of an ecosystems.
- (q) “Right to Naturally Flourish” means the right to naturally prosper and thrive through vigorously growing, developing, and strengthening its ability to robustly perform basic natural functions.

- (r) “Right to Naturally Regenerate” means the right to naturally recover inherent functions after experiencing impacts.
- (s) “Right to Restore from Identifiable Human Caused Damage and Harm” means the right to be actively repaired to the state before the damage and harm.
- (t) “Right to Restore from Unidentifiable Human Caused Damage and Harm” means the right to be actively repaired to a naturally flourishing state.
- (u) “Severe Impact” means harms that last thirty-one (31) days or longer and or if it takes thirty one (31) days or longer for the Heyhl-keek ‘We-roy to regenerate and be repaired and be restored back to the position it was before the impact.
- (v) “Trustee” means a person or entity with control and powers of administration of property in trust with a legal obligation to administer it solely for the purposes to ensure the rights of the Heyhl-keek ‘We-roy are exercised and protected to the fullest extent possible.
- (w) “Unidentifiable Human Caused Damage and Harm” means violations of the Heyhl-keek ‘We-roy rights for which there are not identifiably liable people or entities.
- (x) “Yurok Members” means any person who is a member of the Yurok Tribe.

CHAPTER 1. LEGAL RIGHTS OF THE HEYHL-KEEK ‘WE-ROY

SECTION 4101. Natural Rights

- (a) *Right to Naturally Exist:* The Heyhl-keek ‘We-roy has the right to exist in its actual present and its natural form and to perform the functions of a natural, healthy river, within healthy ecosystems. These rights include, but are not limited to, the right to:
 - (1) Have a clean and healthy environment free from pollutants;
 - (2) Have adequate supply throughout the year water flows to support ecosystems attributes and functions similar to unimpaired flow conditions;
 - (3) Have a climate free from human-caused climate change impacts; and
 - (4) Be free from contamination by invasive species and genetically engineered organisms.
- (b) *Right to Naturally Flourish:* The Heyhl-keek ‘We-roy has the right to naturally flourish through vigorously growing, developing, and strengthening its ability to robustly perform basic natural functions. These rights include, but are not limited to, the right to have:
 - (1) Ceremonies performed to balance the world and to benefit the health of the Heyhl-keek ‘We-roy;
 - (2) Endangered species populations reestablished to thriving numbers;
 - (3) Diversity of animal and plant species;

- (4) Native species populations reestablished to thriving numbers and can support the needs of the Yurok people;
 - (5) Instream flows at naturally occurring levels;
 - (6) Properly functioning sediment and nutrient processes;
 - (7) Clean water;
 - (8) Clean air, while also understanding cultural burning practices have a restorative function and critical to the Heyhl-keek 'We-roy's functions;
 - (9) Naturally occurring air and water temperatures; and
 - (10) Fog and rainfall.
- (c) *Right to Naturally Evolve:* The Heyhl-keek 'We-roy has the right to naturally evolve and have the capacity to naturally and gradually change, adapt, and perform new, different, and additional functions over time.
- (d) *Right to Naturally Regenerate:* The Heyhl-keek 'We-roy has the right to naturally regenerate inherent functions after human caused and natural impacts including, but not limited to, climate change, dams, pollutants, floods, earthquakes, tsunamis, and drought. This right includes the right to naturally maintain or restore the interrelationship, interdependence, complementarity, and functionality of the Heyhl-keek 'We-roy in a balanced way for the continuation of the natural functions of its ecosystems.

SECTION 4102. Cultural Rights

- (a) *Rights as a Cultural Riverscape:* The Heyhl-keek 'We-roy has the rights as a cultural riverscape to be protected as a cultural resource, cultural property, historic property, and a beneficial resource under the Yurok Cultural Resource Protection Ordinance, United States National Historic Preservation Act, United States National Environmental Policy Act, United States Native American Graves Protection and Repatriation Act, California Environmental Quality Act, and all tribal, state, federal, and international laws.
- (1) The rights as a cultural riverscape include, but are not limited to, the following essential elements:
 - (A) The Heyhl-keek 'We-roy fully exercising its rights under this Ordinance;
 - (B) The Heyhl-keek 'We-roy thriving in its natural condition, including natural: instream water flows, clean water free of toxins, ground water seepage, air and water temperatures, rainfall, fog, and connection or disconnection to Peesh-kaahl (Pacific Ocean);
 - (C) Sufficient instream water flows to support the Boat Dance ceremony

- and all other ceremonies relying on the Hehl-keek ‘We-roy;
- (D) The presence of thriving populations of significant cultural species, as identified by Yurok law and cultural practices;
 - (E) Yurok and other Klamath Basin Tribal ceremonies and prayers;
 - (F) Yurok members living, practicing cultural lifeways, and exercising their rights in and near the Heyhl-keek ‘We-roy;
 - (G) Fishing holes, village sites, ceremonial grounds, cemeteries, gathering locations, and cultural resource sites on the Yurok Tribal Inventory; and
 - (H) The Yurok Tribe exercising jurisdiction over the Yurok ancestral territory, Yurok Reservation, and the Heyhl-keek ‘We-roy.
- (2) The intent of this provision is to provide a list of some examples of the essential elements of the cultural riverscape and not to limit what is included in the definition or rights associated with the Heyhl-keek ‘We-roy as a cultural riverscape. It would be contrary to the intent of this Ordinance to argue that because something was not included in the above list that it is assumed to not be an essential element of the cultural riverscape.
- (b) *Rights to the Yurok Tribe.* The Heyhl-keek ‘We-roy has rights to:
- (1) Continue to reside in the jurisdiction of the Yurok Tribe;
 - (2) Be registered on the Yurok Tribal Inventory as a riverscape protected under the Yurok Tribe Cultural Ordinance and other Yurok, tribal, state, federal, and international laws;
 - (3) Have the Yurok government enforce the provisions of this Ordinance and other Yurok laws through legal action brought in any appropriate court, administrative hearing, arbitration, or similarly situated legal forum;
 - (4) Have the Yurok government regulate private and public persons, governments, and entities through Yurok Tribal Council actions, permits, and Yurok laws and ordinances; and
 - (5) Have the Yurok government intervene in any legal, administrative, or other actions concerning the Heyhl-keek ‘We-roy and the rights of the Heyhl-keek ‘We-roy.
- (c) *Rights to the Yurok Members.* The Heyhl-keek ‘We-roy has rights to have:
- (1) Yurok members practice cultural way of life and to live in relationship with the Heyhl-keek ‘We-roy according to the laws, regulations, and customs of the Yurok Tribe;
 - (A) *De minimus* impacts to the Heyhl-keek ‘We-roy associated with Yurok

members practicing their cultural way of life and living in relationship with Heyhl-keek ‘We-roy shall be exempt from citation and enforcement under this Ordinance. It would be contrary to the intent of this Ordinance to find a Yurok member in violation of the Heyhl-keek ‘We-roy’s rights for practicing their cultural way of life and living in relationship with Heyhl-keek ‘We-roy.

- (B) It is not the intent of this Ordinance to prohibit the use of Heyhl-keek ‘We-roy’s waters or plant and animal species. It is the intent of this Ordinance to prevent excessive use that has a direct or indirect harm to Heyhl-keek ‘We-roy and its rights.
- (2) Yurok members stewardship of the Heyhl-keek ‘We-roy, including, but not limited to:
 - (A) Requesting the Yurok Tribe to enforce this Ordinance through a legal action brought in any appropriate court, administrative hearing, arbitration, or similarly situated legal forum;
 - (B) Direct or indirect action, like nonviolent protesting; and
 - (C) Restoration of Heyhl-keek ‘We-roy’s ecosystems.

SECTION 4103. Restoration Rights

- (a) *Right to be Restored from Identifiable Human Caused Damage:* The Heyhl-keek ‘We-roy has the right to restore itself or be actively restored through human action from identifiable human caused damage and harm and be actively repaired to the state before the damage and harm.
 - (1) Identifiable human caused damage and harms include, but not limited to:
 - (A) Pollution;
 - (B) Dumping;
 - (C) Excessive water diversion;
 - (D) Dams blocking and limiting natural flows;
 - (E) Overfishing, including ocean and river fishing;
 - (F) Animal cruelty;
 - (G) Introduction of genetically modified organisms;
 - (H) Excessive destruction of vegetation;
 - (I) Mining, mining related activities and practices, and extraction of resources;
 - (J) Sedimentation from land management practices; and

- (K) Toxic algae blooms exacerbated by reservoirs associated with dams.
- (2) The active repairs to return the Heyhl-keek ‘We-roy to the state before the identifiable human caused damage and harm includes, but not limited to:
 - (A) Cleaning up and eliminating pollution;
 - (B) Changing practices that caused the damage and harm;
 - (C) Returning water quality to a healthy level; and
 - (D) Conducting restoration of parts of the ecosystems that were harmed.
- (b) *Right to be Restored from Unidentifiable Human Caused Damage:* The Heyhl-keek ‘We-roy has the right to restore from unidentifiable human caused damage and harm and to be actively repaired to a naturally flourishing state.
- (1) Unidentifiable human caused damage and harm includes, but is not limited to:
 - (A) Climate change;
 - (B) Cumulative air pollution;
 - (C) Cumulative water pollution;
 - (D) Massive species die offs;
 - (E) Introduction of invasive species;
 - (F) Changes in migration patterns and numbers of migrating individuals of various species;
 - (G) Changes in growth patterns and resiliency in various species; and
 - (H) Changes in ocean conditions.
 - (2) The active repairs to restore the Heyhl-keek ‘We-roy from unidentifiable human caused damage and harm includes, but is not limited to, regulations addressing:
 - (A) Point and non-point source water pollution;
 - (B) Greenhouse gas emissions;
 - (C) Habitat destruction;
 - (D) Climate change;
 - (E) Restoration of ecosystems;
 - (F) Carbon sequestration and sinks; and
 - (G) Local and environmentally just renewable energy infrastructure development.

SECTION 4104. Property Rights

- (a) *Right to Own Data:* The Heyhl-keek ‘We-roy has the right to own its data as a property right.
- (1) The Heyhl-keek ‘We-roy’s data includes, but is not limited to, all past, current, and future cultural, ecological, and hydrological data collected.
 - (2) The Heyhl-keek ‘We-roy’s property right of its data includes, but not limited to, the right to:
 - (A) Have Heyhl-keek ‘We-roy data collected in a culturally and scientifically respectful and professional way for the benefit of Heyhl-keek ‘We-roy;
 - (B) Have data collected on behalf of Heyhl-keek ‘We-roy shared with the Yurok Tribe and shared in a good way between collaborative partners for the benefit of Heyhl-keek ‘We-roy;
 - (C) Require all government and private entities to treat Heyhl-keek ‘We-roy’s data as confidential tribal cultural data; and
 - (D) Prevent the disclosure, publication, or sharing of Heyhl-keek ‘We-roy’s data through the Yurok Tribe Freedom of Information Act, United States Freedom of Information Act, California Public Records Act, and any and all other tribal, state, federal, and international laws.
 - (3) The Yurok Tribe is to serve as a trustee of the Heyhl-keek ‘We-roy data property rights and has the legal obligation to collect, protect, defend, and administer the data property as tribal data for the purposes to ensure the rights of the Heyhl-keek ‘We-roy are exercised and protected to the fullest extent possible.
 - (A) The Yurok Tribe, as trustee, has the authority to partner with and enter into contractual and other agreements with other entities to authorize for the collection, sharing, and publishing of the Heyhl-keek ‘We-roy’s data. The Yurok Tribe will ensure this data is collected and used to benefit the Heyhl-keek ‘We-roy and its rights and to ensure the Heyhl-keek ‘We-roy maintains ownership of its data as a property right.
 - (4) It is not the intent of this Ordinance to limit data collection of the Heyhl-keek ‘We-roy. The intent of this Ordinance is to ensure the data collected is shared with the Yurok Tribe and used to benefit the Heyhl-keek ‘We-roy and its rights.
- (b) *Right to the Heyhl-keek ‘We-roy Trust Funds:* The Heyhl-keek ‘We-roy has the right to

the Heyhl-keek ‘We-roy Trust funds and to ensure all funds are used solely for the direct benefit of the Heyhl-keek ‘We-roy.

SECTION 4105. Standing Rights and Right to Not be Sued

- (a) *Right to be Represented by the Yurok Tribe:* The Heyhl-keek ‘We-roy has the right to be represented by the Yurok Tribe in legal and other advocacy proceedings.
 - (1) It is not the intent of this Ordinance to limit other Native nations or other entities in their representation of the Heyhl-keek ‘We-roy in tribal, state, federal, and international forums. It would be contrary to the intent of this Ordinance to argue only the Yurok Tribe can represent the Heyhl-keek ‘We-roy.
 - (2) It is the intent of this Ordinance to strengthen the protections of the Heyhl-keek ‘We-roy’s rights and it is the intent of the Yurok Tribe to continue to partner with other Native nations with established rights on Heyhl-keek ‘We-roy to protect tribal rights and the rights of Heyhl-keek ‘We-roy.
 - (3) It is the intent of this Ordinance and the Yurok Tribe to continue to encourage and collaborate with other governments and private entities in a joint effort to protect Heyhl-keek ‘We-roy.
- (b) *Right of Legal Standing:* Heyhl-keek ‘We-roy has the rights of legal standing to adjudicate its rights in legal proceedings when Heyhl-keek ‘We-roy has suffered an injury, including minimal and cumulative harms.
- (c) *Right to Not be Sued:* Heyhl-keek ‘We-roy has the right to not be sued in any legal forum, found liable under any laws, or be required to compensate any person, government, or entity. No court or other legal proceeding may order Heyhl-keek ‘We-roy to pay any monetary damages.

CHAPTER 2. HEYHL-KEEK ‘WE-ROY TRUST

SECTION 4201. Declaration of the Heyhl-keek ‘We-roy Trust

- (a) This Ordinance is a declaration of a trust for the benefit of the Heyhl-keek ‘We-roy.
- (b) The Yurok Tribe is to serve as a trustee of the Heyhl-keek ‘We-roy’s monetary property rights and has the legal and fiduciary obligation to collect, protect, defend, and administer the monetary property solely for the purposes to ensure the rights of the Heyhl-keek ‘We-roy are exercised and protected to the fullest extent possible.
- (c) The Yurok Tribe shall have the trust responsibility to defend the Heyhl-keek ‘We-roy and its rights. The Yurok Tribal Council shall use its discretion on performing its fiduciary responsibilities to the Heyhl-keek ‘We-roy.

SECTION 4202. Heyhl-keek ‘We-roy Trust Account

- (a) The Yurok Tribe shall open and maintain an account dedicated for the Heyhl-keek ‘We-roy Trust.
 - (1) It is not the intent of this Ordinance to declare funds received by the Yurok Tribe through grants, income, or other funding opportunities for work, projects, or programs related to Heyhl-keek ‘We-roy to automatically become trust funds.
 - (2) Unless mandated through this Ordinance, the Yurok Tribal Council may elect to dedicate funds to the Heyhl-keek ‘We-roy trust account through the Yurok Tribal Council regular decision making process.
- (b) All monetary penalties awarded and or fines collected in successful enforcement, including settlement, of the Heyhl-keek ‘We-roy’s rights shall be paid to the Yurok Tribe and held in the Heyhl-keek ‘We-roy Trust account following the requirements in Section 4402.
- (c) Yurok Tribal Council shall have the authority to use the funds in the Heyhl-keek ‘We-roy Trust only for the benefit of the Heyhl-keek ‘We-roy and its associated ecosystems, including, but not limited to; cleanup, restoration, enforcement, legal representation of the Heyhl-keek ‘We-roy, and environmental studies for the benefit of the Heyhl-keek ‘We-roy or it’s associated ecosystems.
- (d) The Yurok Tribal Council shall report quarterly and make publicly available an accounting of the Heyhl-keek ‘We-roy Trust funds and expenditures. The Yurok Tribal Council shall redact confidential information from its quarterly reports.

CHAPTER 3. ENFORCEMENT

SECTION 4301. Offenses

- (a) A person, public or private entity, or government will be in violation of this Ordinance if in engaging in actions that violate any rights in this Ordinance.

SECTION 4302. Yurok Tribal Court Jurisdiction

- (a) The Yurok Tribal Court shall have all authority necessary to hear cases, take evidence, or take any other action necessary and relevant to determining the rights, liabilities, damages and or remedies under this Ordinance. The Yurok Tribal Court shall have the broadest possible authority and jurisdiction throughout the Yurok ancestral territory and Heyhl-keek ‘We-roy Basin to execute its duties and responsibilities under this Ordinance.
 - (1) It is not the intent of this Ordinance to limit the Yurok Tribe’s regulatory authority or the Yurok Tribal Court’s adjudicatory authority to the boundaries of the Yurok Reservation. It would be contrary to argue this Ordinance places any limits on the Yurok Tribe’s regulatory authority or the Yurok Tribal Court’s adjudicatory authority.

- (b) Violations of the rights under this Ordinance threaten and have a direct effect on the political integrity, the economic security, subsistence, and the health and welfare of the Yurok Tribe, its members, and residents of the Reservation. The Yurok Tribal Court has jurisdiction over nonmembers in violation of the rights under this Ordinance because of threats and direct effects on the Yurok Tribe, its members, and residents of the Reservation.
- (c) Any person(s), private or public entities, and governments who enter onto the Yurok Reservation shall be deemed to have consented to the Yurok Tribe's jurisdiction, shall be subject to the provisions of this Ordinance, and all other ordinances of the Tribe.
- (d) Any person(s), private or public entities, and governments who cause harmful impacts by causing, authorizing, or allowing living organisms or non-living pollutants, discharges, and objects to enter the Yurok Ancestral territory and Yurok Reservation have consented and are within the Yurok Tribe's jurisdiction, shall be subject to the provisions of this Ordinance and all other ordinances of the Tribe.
 - (1) It is the intent of this provision that any person(s), private or public entities, and governments who allow any off reservation pollutant, invasive species, algae, disease, warm waters, and genetically modified organism to enter the Yurok Ancestral territory and Yurok Reservation are within the Yurok Tribe's jurisdiction.

SECTION 4303. Enforcement Authority of the Yurok Tribe

- (a) The Yurok Tribe as trustee of the Heyhl-keek 'We-roy, shall serve as the spokesperson representative for the Heyhl-keek 'We-roy and is authorized to enforce this Ordinance in all applicable forums.
- (b) The Yurok Tribe has full discretion regarding its authority to enforce this Ordinance.
- (c) The enforcement of this Ordinance by the Yurok Tribe shall be by the Yurok Tribe's Office of the Tribal Attorney, sworn Yurok Tribal Public Safety Department officers, Yurok Tribe Natural Resource Division, Yurok Tribal Heritage Preservation Officer, or other Yurok Tribe departments or agencies at the direction of the Yurok Tribal Council. The list of parties that may enforce this Ordinance shall expand to include any change of official names, new programs, or departments equivalent to those listed.

SECTION 4304. Enforcement Requests and Complaints from Yurok Members

- (a) Yurok members may request the Yurok Tribe, as the Heyhl-keek 'We-roy's trustee, to take specific actions or pursue enforcement of the Heyhl-keek 'We-roy's rights under this Ordinance.
 - (1) All requests shall be reported as soon as possible in writing and include:
 - (A) The name of the author;

- (B) Information or evidence regarding potential violation(s) of this Ordinance;
 - (C) The name of person(s), public or private entity(ies), or government(s) who the author believes is in violation of this Ordinance;
 - (D) The date and time of the alleged violation(s);
 - (E) The location of the alleged violation;
 - (F) Signed under penalty of perjury; and
 - (G) Filed with the Yurok Tribe during normal business hours.
- (2) Request may include as optional information:
- (A) Photos;
 - (B) Videos;
 - (C) Physical evidence; and
 - (D) Additional information.

CHAPTER 4. Remedies

SECTION 4401. Remedies

- (a) Any person, public or private entity, or government who violates any rights in this Ordinance may be subject to the following penalties:
 - (1) Fines, monetary, and other compensatory damages;
 - (2) Injunctions to perform or to refrain from specific conduct or actions;
 - (3) Punitive damages;
 - (4) Nominal damages; and
 - (5) Reasonable enforcement, administrative, clean up, mitigation, and litigation costs, including attorney fees.
 - (A) It is the intent of this Ordinance to ensure the Yurok Tribe representing the rights set forth in this Ordinance can recuperate reasonable costs associated with the legal representation.
- (b) A Court may grant penalties for each violation of a right codified in this Ordinance and for each day a violation took place.
- (c) In determining the type and amount of the penalty and or fine to order, the Yurok Tribal Court shall consider the appropriateness of such fine and or penalty in light of:
 - (1) The cost of restoring the ecosystems, natural community, and Yurok cultural lifeways to the state before the injury occurred;
 - (2) The gravity of the violation;

- (3) Any effects on the rights codified in this Ordinance resulting from the violation; and
 - (4) The economic conditions of the person and or entity charged.
- (d) To guide the assessment of fines and other penalties, the following of mandatory minimum fines shall be consulted.
- (1) *De minimus* impact to a right codified in this Ordinance is a minimum of \$0 fine per right.
 - (2) Minor impact to a right codified in this Ordinance is a minimum \$200 fine per right.
 - (3) Moderate impact to a right codified in this Ordinance is a minimum \$500 fine per right.
 - (4) Severe impact to a right codified in this Ordinance is a minimum \$1,000 fine per right.
- (e) In assessing penalties or fines, the Yurok Tribal Court may assign community service for the benefit of the Heyhl-keek ‘We-roy or Yurok community and or education in addition to or in lieu of payment of fines. In no case will the amount of community service calculated at the Tribal minimum wage be greater than the allowable fines appropriate to the violation.

SECTION 4402. Collection of Remedies

- (a) Monetary Remedies and Fines
- (1) All monetary remedies and fines shall be paid to the Yurok Tribe as the Heyhl-keek ‘We-roy’s trustee.
 - (2) All fines, punitive, and nominal monetary remedies shall be deposited in the Heyhl-keek ‘We-roy’s Trust Account.
 - (3) Reasonable enforcement, administrative, clean up, mitigation, and litigation costs, including attorney fees, monetary remedies shall be paid to the Yurok Tribe.
 - (A) The Yurok Tribe shall distribute these specific funds to reimburse:
 - (i) The Yurok Tribal Departments’ costs related to a specific case enforcing the Heyhl-keek ‘We-roy’s rights; and
 - (ii) The Heyhl-keek ‘We-roy Trust Account if trust funds were used to pay for the enforcement, administrative, clean up, mitigation, and or litigation costs for a specific case enforcing the Heyhl-keek ‘We-roy’s rights.
- (b) Injunction Remedies

- (1) Notice that injunction court orders have been completed shall be sent to the Office of the Tribal Attorney and the Yurok Tribe.
 - (2) The Yurok Tribe, shall conduct an investigation to ensure all injunction court orders have been followed.
- (c) Community Service and Education Remedies
- (1) The Yurok Tribe, shall organize or identify community service opportunities and educational courses that will satisfy any court ordered community service or education.

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

THE FOREGOING ORDINANCE, ENTITLED THE RIGHTS OF THE HEYHL-KEEK ‘WE-ROY ORDINANCE, WAS PASSED AT A REGULARLY SCHEDULED MEETING OF THE YUROK TRIBAL COUNCIL ON _____, 2020____, AT WHICH QUORUM WAS PRESENT, AND THIS ORDINANCE WAS ADOPTED BY A VOTE OF ____ FOR, ___ OPPOSED AND ____ ABSTENTIONS IN ACCORDANCE WITH ARTICLE IV, SECTION 5(j) OF THE CONSTITUTION OF THE YUROK TRIBE.

DATED THIS ___ DAY OF _____ 2021

Joseph L. James, Chairperson

Yurok Tribal Council

ATTEST:

Sherri K. Provolt, Secretary

Yurok Tribal Council