



**Minor Forest Products Harvest Code**  
**of the**  
**Round Valley Indian Tribes**

## TABLE OF CONTENTS

<b>Article I. Statement of Findings .....</b>	<b>3</b>
<b>Article II. General Policy Statement.....</b>	<b>4</b>
<b>Article III. Declaration of Purpose and Scope.....</b>	<b>4</b>
<b>Article IV. Definitions.....</b>	<b>4</b>
<b>Article V. Jurisdiction.....</b>	<b>6</b>
<b>Article VI. Permit Process .....</b>	<b>6</b>
<b>Article VII. Harvesting Process.....</b>	<b>7</b>
<b>Article VIII. Limitations on Harvest of Minor Forest Products and Fees.....</b>	<b>8</b>
<b>Article IX. Enforcement .....</b>	<b>9</b>
<b>Article X. Due Process .....</b>	<b>11</b>

## Article I. Statement of Findings

- 1.1 The Round Valley Indian Tribes shall have jurisdiction over all persons, subjects, property, and all activities occurring within the boundaries of the Reservation or on other lands within its territory as delegated to it by Act of Congress.
- 1.2 The United States Government recognizes the Round Valley Indian Tribes (formerly known as the Covelo Indian Community) as a self-governing entity and recognizes its Tribal Council as the governing body of the Round Valley Indian reservation in accordance with the provisions of the Indian Reorganization Act, 25 U.S.C. '461 *et seq.*
- 1.3 Members of the Round Valley Indian Tribes adopted a Constitution on Dec. 16, 1936, revised on Feb.24, 1959, June 11, 1973, May 8, 1975, and Sept. 14, 1994.
- 1.4 Among the stated objectives of the Constitution are the protection of land, timber, fish, wildlife, water and natural resources.
- 1.5 >From time immemorial, the members of the Tribes and its members have practiced conservation to protect the invaluable natural resources within the Tribes aboriginal territory from waste and excessive exploitation.
- 1.6 The Tribes' forest resources constitute a source of economic, cultural, and spiritual sustenance to the Tribes and its members, and the harvesting of minor forest products for personal and limited commercial use is important to the subsistence needs of many tribal members.
- 1.7 The increasing human population and activities within and immediately adjacent area to the Reservation present potential threats to the tribes management of these forest resources on a sustained yield basis.
- 1.8 It is therefore vital to the welfare of the Tribes that it maintains a comprehensive regulatory structure for the effective allocation and management of opportunities for tribal member harvest of minor forest products on the reservation.

## **Article II. General Policy Statement**

- 2.1 The Round Valley Indian Reservation has Indian forest land (forest lands) including commercial and non-commercial timberland and woodland that are considered chiefly valuable for the production of forest products or to maintain watershed or other land values enhanced by a forest cover, and are accessible to the tribal membership for both personal and limited commercial uses. The Tribes acknowledge their responsibility for management of the forestlands and resources in order that future generations of tribal members may enjoy the continued use of the forestlands as their birthright. Accordingly, in the exercise of the Tribes management responsibility, the Tribal Council has determined that tribal members must make use of the forestlands and resources in accordance with the provisions of this Code.

## **Article III. Declaration of Purpose and Scope**

- 3.1 In recognition of the spiritual, cultural, and economic value of the forest lands and resources of the Round Valley Indian Reservation, and the importance of forest products to the subsistence needs and general welfare of tribal members, the Tribes establish this Code to provide an orderly framework for the allocation and management of opportunities for tribal member harvest of forest products on the Reservation, consistent with the principles of sustained yield management.
- 3.2 This Code effects balance among (1) the Tribes obligation to protect and preserve the forest lands and resources of the Reservation for future generations; (2) the Tribes intent to afford tribal members the greatest possible freedom to use and enjoy the Reservations forest products for personal subsistence and limited commercial purposes; and (3) the Tribes need to generate tribal revenues from harvesting permits and commercial sales as a means to defray the costs and to generate revenues for other tribal governmental purposes.
- 3.3. The harvest of minor forest products shall be limited to enrolled members of the Round Valley Tribes.
- 3.4 This code, when adopted, shall revoke and replace any previous policy, including Policy No. 87-2, entitled Policies and Procedures for the Harvesting of Minor Forest Products and Wood Products for the Round Valley Indian Reservation.

## **Article IV. Definitions**

- 4.1 In Construing the provisions of this Code and any regulations or orders adopted pursuant to this Code, the following terms shall have the designated meaning unless a different meaning has been provided, or the context clearly requires otherwise:
- (a) Cord: means a four feet wide by four feet high by eight feet long tightly

stacked stack of wood. (Cord of wood equals 128 cubic feet).

- (b) Forest: means an ecosystem of at least one acre in size, including timberland and woodland, which (A) is characterized by more or less dense and extensive tree cover, (B) contains, or once contained, at least 10 percent tree crown cover, and (C) is not developed or planned for exclusive non-forest use.
- (c) Forest Products: means marketable products extracted from Indian forests, such as timber, timber products, including lumber lath, crating, ties, bolts, logs, pulpwood, fuel wood, posts, poles, and split products: bark: Christmas trees, stays, branches, firewood, berries, mosses, pinyon nuts, roots, acorns, syrups, wild rice, mushrooms, and herbs; other marketable material; and gravel which is extracted from, and utilized on Indian forest land.
- (d) Forest Trespass: means the removal of forest products from, or damaging forest products on, forestland, except when authorized by law and applicable federal or tribal regulations. Trespass can include any damage to forest resources on forestland resulting from activities under contracts or permits or from fire.
- (e) Household: means living arrangements of one or more persons in a home, shelter, or abode. If more than one family lives in one house, the living conditions represent one household.
- (f) Minor Forest Products: means forest products that have a relatively low economic value and when harvested and removed will not conflict with the sale of harvestable timber or the future growing stock of timber on the Reservation. Some of the minor forest products include, but are not limited to firewood, fence posts, poles, and Christmas trees.
- (g) Reservation: means all lands within the territorial boundaries of the Round Valley Indian Reservation as well as all lands held in trust by the Federal Government for the benefit of the Tribes, all lands held and managed by the Tribes and their members, and any other lands over which the Tribes may exercise jurisdiction by virtue of agreement or otherwise.
- (h) Stumpage Value: means the value of a forest product in unprocessed form as it is found in the woods.
- (i) Sustained Yield: means the yield of forest products that a forest can produce continuously at any given moment of intensity.
- (j) Sustained Management Yield: means management of a forest property for continuous production with the aim of achieving at the earliest practicable time. An approximate balance between net growth and harvest, either by annual or somewhat longer periods.

- (k) Tribal Law enforcement Officer: means a person duly appointed and authorized by the tribal council to enforce tribal law, including federal law enforcement.
- (l) Tribal Member: shall be a person who is listed on the membership roll of the Round Valley Indian Tribes.
- (m) Permittee: a permittee shall be a person who is named as the recipient of a minor forest products use permit.

#### **Article V. Jurisdiction**

- 5.1 This Code, and any regulations adopted pursuant to this Code, applies to the forest lands of the Reservation and to all persons engaged in the harvest of forest products not covered under a formal contract on these lands.
- 5.2 The Tribal Council may enter in to such agreements with governments, agencies, or persons as it deems appropriate to better fulfill the purpose of this Code. Those agreements may extend the jurisdiction asserted by the Tribe under this Code.

#### **Article VI. Permit Process**

- 6.1 Approval of this policy by the Bureau of Indian Affairs denotes delegated authority for the Tribe to issue both free use and paid permits to tribal members for minor forest products, and “approval” of the “Round Valley Indian Tribes Minor Forest Products Permit” form subject to the following stipulations:
  - (a) Permits may be issued as free use.
  - (b) Permits may be issued as paid permits at the prices prescribed in this code.
  - (c) Permits issued to individual members will not exceed the maximum quantity prescribed in this code, and will not exceed \$5,000 in estimated stumpage value in a fiscal year.
  - (d) The Tribe will maintain a log of all permits issued which at minimum includes the following information: Name of permittee, permittee’s enrollment number, permit number, type and quantity of products permitted for harvest, whether or not the permit was a free use or a paid permit, the amount collected by the Tribe if a paid permit, and the estimated stumpage value of the products permitted for harvest.
  - (e) The requirements of the National Environmental Policy Act, the Endangered Species Act, and the National Historic Preservation Act must be completed.
  - (f) The Tribe will monitor permit compliance.
  - (g) The tribe will submit a copy of the permit log and include permit harvest

data in the Tribe's "Annual Report of Timber Cut" to the Bureau.

- 6.2 Except as expressly defined in this paragraph tribal members must obtain a permit before they may harvest forest products. Permits may be free use or paid permits. Paid permits will be issued at the prices prescribed in this code. Free use permits may be issued for forest products to be used for the permittees personal use up to the amounts prescribed in this code. The following forest products may be gathered for personal use without a permit: berries, mosses, roots, acorns, mushrooms, and plants. Forest products gathered with free use permits or free use without a permit may not be exchanged, sold, or traded for other goods or services. Forest products gathered for commercial purposes require a paid permit. Where no rates are pre-established for paid permits, charges will be based on appraised rates.
- 6.3 The permit shall include the tribal members name, enrollment number, address, the date of the request, the nature of the request, the kind and quantity of forest products to be harvested, product specifications, the designated areas for the request, and any limitations or special conditions. The permit shall also include the signature of the Natural Resource Manager or Natural Resource Department employee(s) designed in writing to act in the manager's behalf. (See section 7.5 for distribution of permit).
- 6.4 Minor forest products may be harvested by someone other than the permittee (proxy). The proxy must have the permit in their possession while harvesting. The permittee must receive the harvested materials, and be designated by name on the permit. If a proxy is used, then the name, address and phone number of the proxy must be listed on the permit. There will be no more than two proxies per permit. The permit will be considered invalid if the correct proxy is not listed.
- 6.5 A permit shall expire within one year after the date of its issuance. A tribal member may apply for a new permit after the expiration date, provided that he or she has not exceeded the quantity limitations of the product being harvested.
- 6.6 The permits shall be consecutively numbered, with each permit assigned its own number. Duplicate copies of each permit shall be kept on file in the Tribal Administration Office and the Natural Resources Department. An additional copy of each permit shall be sent to the Bureau of Indian Affairs, Pacific Regional Office. Copies shall also be made available to the tribal conservation and law enforcement officers as needed.
- 6.7 Permit application forms shall be available at the Natural Resource Department during regular business hours.

## **Article VII. Harvesting Process**

- 7.1 Christmas Trees: must be cut within six inches of the ground. Harvested trees must be within a ten foot radius of a vigorous conifer tree (green with a full crown and free of scars on bole) with good form (no crooks-straight stem). Christmas trees may not exceed 15 ft. in height.

- 7.2 Firewood: the cutting of firewood will only be allowed in designated areas.
- (a) Designated areas for the harvest of firewood shall be identified by the Natural Resources Department on an annual basis, generally in September, or on an as-needed basis consistent with applicable resource management standards. Department employees or consulting foresters assigned this task shall identify the designated harvesting areas by use of colored flagging, and will identify trees, poles, etc., permitted for harvest by use of spray paint.
  - (b) The identification of designated harvesting areas shall be subject to the review of the Tribal Council on an annual basis, and the conclusions from the review shall be made available to the tribal community in published form.
- 7.3 Poles and Posts; the cutting of poles and posts shall be allowed only in designated harvesting areas with the trees pre-marked. (see section 8.2). Pieces may not exceed 8 inches in diameter at any point along the length of the piece.
- 7.4 Clean up; all slash created by the harvesting activity shall be lopped and scattered by the permittee to a height of less than 24 inches. The permittee shall also dispose of trash carried in to, or found in, the harvesting area. In general, harvesting areas shall be left in the same or better conditions than initially found.
- 7.5 Seasonal Condition; when weather conditions are such that extensive damage to tribal roads may occur through use, harvesting activities will not be permitted.
- 7.6 All cut trees shall be utilized to the fullest extent possible.
- 7.7 Wood cutters shall have spark arresters on their chainsaws and shall carry appropriate fire equipment, including at least a shovel and fire extinguishers.
- 7.8 The harvesting of forest products shall be subject to any special conditions the tribal council may establish. Harvesting activities are also subject to applicable regulations of the Bureau of Indian Affairs governing Indian forest management and operations, generally set forth at 25 CFR 163.1 through 163.37.

#### **Article VIII. Limitations on Harvest of Minor Forest Products and Fees**

- 8.1 The limitations imposed in this section shall be on a tribal fiscal year basis.
- (a) Christmas Trees; one tree, of any conifer species per household or tribal organization without charge from designated areas. For more than one tree, a charge of fifty cents per lineal foot (\$.50/ft) shall be assessed. No re-sale permitted.
  - (b) Firewood; oak, madrone, and other living hardwoods, seven cords per household without charge. For more than seven cords, or for re-sale, a stumpage fee of five dollars a cord (\$5.00/cord) shall be charged. Dead or down wood that cannot be sold economically as saw-logs or has only a firewood value (all species), the quantity shall be without charge. The

cutting of firewood will be allowed only in designated areas.

- (c) Poles and Posts; (all species) three hundred pieces for use on tribal or allotted land without charge. For more than three hundred pieces, a charge of one dollar per piece (\$1.00/piece) shall be assessed. The area of harvest shall be designated by the Natural Resources Department.
- (d) Sand and Gravel; ten cubic yards of sand and/or gravel per household, without charge, in areas designated by the Natural Resources Department. No re-sale is permitted.
- (e) Other Products; to be negotiated with the Natural Resources Department on an individual basis. The charges for these products will be based on appraised rates.

### **Article IX. Enforcement**

- 9.1 All tribal members have the individual responsibility to conform their conduct to tribal law and to refrain from engaging in any activities that would constitute an unauthorized use or exploitation of the Tribe's natural resources. In keeping with the tradition of tribal stewardship of the Reservations resources, all tribal members are encouraged to report known or observed violations of this Code to the appropriate tribal authorities.
- 9.2 Tribal law enforcement and conservation officers are fully authorized to enforce the provisions of this Code consistent with the General Orders adopted by the Tribal Council on October 7, 2003. Federal law enforcement authorities will be contacted in those cases where violations of this code also constitute a violation of Federal law.
- 9.3 Violations of this Code shall be documented by written citations issued by tribal law enforcement or conservation officers on citation forms approved by the Tribal Council. A copy of the citation shall be provided to the person charged with the violation of this Code and shall inform the alleged violator of any recourse available to challenge the citation. .
- 9.4 The **[Tribal Council/Tribal Court]** is authorized to assess fines and/or penalties for specific violations of this Code as set forth below.
  - (a) Unauthorized Harvest: It shall be a violation of this Code for any person to harvest forest products from tribal trust lands of the Reservation without tribal or federal authorization, including tribal permits issued under this Code. Any such violation of this Code shall result in imposition of civil penalties, including: (1) treble damages based on the highest stumpage value obtainable from the raw materials involved in the violation; (2) payment of costs associated with any damage to tribal forest land, including but not limited to, rehabilitation, reforestation, lost future revenue and lost profits, loss of productivity, and damage to other forest resources; and (3) suspension or revocation of harvesting privileges. In lieu of the stated penalties, the Tribal Council may adopt a separate schedule of civil penalties.

- (b) Violation of Permit Conditions: It is a violation of this Code for a permittee to violate any of the conditions of the tribal harvest permit. Any such violation of this Code shall result in imposition of civil penalties, including (1) treble damages based on the highest stumpage value obtainable from the raw materials involved in the violation; (2) payment of costs associated with any damage to forest land, including but not limited to, rehabilitation, reforestation, lost future revenue and lost profits, loss of productivity, and damage to other forest resources; and (3) suspension or revocation of harvesting privileges. In lieu of the stated penalties Tribal Council may adopt a separate schedule of civil penalties.
  - (c) Violation of Established Harvesting Limitations: It is a violation of this Code for a permittee to violate established area, seasonal, or other harvesting limitations. Any such violation of this Code shall result in imposition of civil penalties, including (1) treble damages based on the highest stumpage value obtainable from the raw materials involved in the violation; (2) payment of costs associated with any damage to the tribal forest land, including but not limited to, rehabilitation, reforestation, lost revenue and lost profits, loss of productivity, and damage to other forest resources; and (3) suspension or revocation of harvesting privileges. In lieu of the stated penalties, the Tribal Council may adopt a separate schedule of civil penalties.
  - (d) No Clean Up: It is a violation of this Code for a permittee to fail to clean up the harvest areas as required by Section 7.4. The first violation shall result in imposition of monetary civil penalties as set forth by Tribal Council; the second violation; may result in suspension of the permittee tribal members harvesting privileges for a period of one to five years.
  - (e) Trespass: Any unauthorized harvest of forest products from tribal trust lands of the Reservation without tribal or federal authorization (see Section 10.4 (a)), any violation of tribal permit conditions (see Section 10.4 (b)), or any other violation of established harvesting limitations (see Section 10.4 (c)), shall also constitute a forest trespass within the meaning of 25 U.S.C. 3103(8) and be subject to the federal penalties set forth in the 25 CFR 163.29.
- 9.5 Any tribal member who has one or more civil penalties imposed under this Code that remain unpaid for more than 60 days from the date of issuance of the citation, or of the [Tribal Council/Tribal Court's] decision pursuant to Article XI, whichever is applicable, shall have his/her harvesting privileges under this Code suspended until such time as all such penalties are paid in full. Suspension of the members harvesting privileges shall be in addition to any other remedy the Tribes may have based on member's non-payment.
- 9.6 Repeated violations of this Code by a tribal member shall be grounds for permanent revocation of the members harvesting privileges.

## Article X. Due Process

- 10.1 Upon issuance of a written citation for violation of this Code, the Natural Resources Department shall make an initial report to the [Tribal Council/Tribal Court] concerning the nature and severity of the alleged violation and a recommended penalty, based on the schedule adopted by Council, including any special circumstances for the Tribal Councils consideration.
- 10.2 Any person issued a written citation for violation of this Code may request a hearing before the [Tribal Council/Tribal Court] to challenge the basis of the citation. The request for hearing must be presented to the tribal Administrative Office within ten (10) days of receipt of the citation and must be made on a hearing request form available upon request at either the Natural Resources department or the Tribal Administration Office during regular business hours.
- 10.3 Notice of the time and place of the hearing shall be provided to the person requesting the hearing at least five (5) days prior to the hearing date. At the hearing, the [Tribal Council/Tribal Court] shall review the citation, the Natural Resources Department's report on the citation, including its recommended penalty, and shall allow the person issued the citation to make a brief statement in refutation, and/or mitigation, of the alleged violation(s). If the [Tribal Council/Tribal Court] determines, based on the information presented, that it is more likely than not that the person committed the violation, it shall impose a penalty or penalties in accordance with the schedule set forth by Tribal Council, taking into consideration any mitigating circumstances.
- 10.4 The decision of the **[Tribal Court/Tribal Council]** shall be final for all purposes, and no further right to hearing or appeal shall lie.