

ORDINANCE OF THE HOOPA VALLEY TRIBE  
HOOPA INDIAN RESERVATION  
HOOPA, CALIFORNIA

ORDINANCE NO: 1-85, AMENDMENT NO. 2

DATE APPROVED: December 20, 1985

SUBJECT: UNEMPLOYMENT AND DISABILITY INSURANCE ORDINANCE OF THE HOOPA VALLEY TRIBE.

WHEREAS: The Hoopa Valley Tribe did on June 20, 1972, adopt a Constitution and Bylaws which was approved by the Commissioner of Indian Affairs on August 18, 1972, and Article IX, Section 1 (1) of this Constitution and Bylaws authorized the Hoopa Valley Business Council "to safeguard and promote the peace, safety, morals and general welfare of the Hoopa Valley Indians by regulating the conduct of trade and the use of disposition of property upon the reservation, provided that any ordinance directly affecting non-members of the Hoopa Valley Tribe shall be subject to the approval of the Commissioner of Indian Affairs or his authorized representative, and,

WHEREAS: It is the desire of the Hoopa Valley Business Council to enact an Unemployment and Disability Insurance Ordinance to ensure the provision of these vital insurance protection services for all Indians of the Hoopa Valley Reservation, and,

NOW THEREFORE BE IT RESOLVED: That the Hoopa Valley Business Council does hereby adopt for implementation this Unemployment and Disability Insurance Ordinance of the Hoopa Valley Tribe and approvals required by the Commissioner or his authorized representative is requested at the earliest possible time:

I. GENERAL PROVISIONS.

Section 1. - Title

This Ordinance shall be known as the "Unemployment and Disability Insurance Ordinance of the Hoopa Valley Tribe."

Section 2. - Findings and Purpose

(a) The Hoopa Valley Tribe is a federally-recognized Indian Tribe, organized pursuant to a Constitution and Bylaws which were approved by the Commissioner of Indian Affairs on August 18, 1972 and exercising sovereign governmental authority over the Hoopa Valley Reservation established by Executive Order of June 23, 1876, 1 Kapp 815.

(b) The sovereign governmental authority of the Hoopa Valley Tribe extends not only to enrolled tribal members but also to all non-members, whether Indians or non-Indians within the exterior boundaries of the Hoopa Valley Reservation with regard to any conduct which threatens or has some direct effect on the political integrity, the economic security, or the health or welfare of the Tribe.

(c) The power to levy taxes and similar exactions is an inherent and essential part of the authority of the Tribe. The sovereign power of the Tribe to tax is embodied in Article IX, Section 1 (f) of the Constitution and Bylaws of the Hoopa Valley Tribe, approved by the Commissioner of Indian Affairs on August 18, 1972.

(d) The power to regulate the conduct of trade and the use and disposition of property upon the Reservation is also an inherent and essential part of the authority of the Tribe. The sovereign disposition of property is embodied in Article IX, Section 1 (l) of the Constitution and Bylaws of the Hoopa Valley Tribe, approved by the Commissioner of Indian Affairs on August 18, 1972.

(e) Employment by any enrolled tribal member or any non-member within the boundaries of the Hoopa Valley Reservation has a direct affect on the economic security, health and welfare of the Tribe and its enrolled members and their families, and on the Reservation itself.

(f) Because of the uncertainties and often physically arduous nature of employment on the Reservation, unemployment insurance and disability insurance for all employees on the Reservation are necessary concomitants to the economic and social health and welfare of such employees and their families and the well being of all people on the Reservation.

(g) Among the benefits provided by the tribal governments to tribal members and to nonmembers residing or conducting business inside the Reservation are the following: The provision of governmental services, including sewer and water systems, police and fire protection; the promotion and regulation of economic activities within the Tribe's sovereign jurisdiction; and the protection of Reservation lands and resources.

(h) Without the exercise of the Tribe's sovereign authority to tax, as implemented by this Ordinance, it is not possible for the Tribe to provide the unemployment insurance and disability insurance essential to tribal members, Indians who are not tribal members, and non-Indians who are employed inside the Reservation. Because the State of California has enacted a comprehensive unemployment insurance code governing all employers and employees in the State other than those covered under this Ordinance, and because the State's comprehensive unemployment and disability insurance scheme spreads the cost and the insurance risk over the entire population of California other than em-

employers and employees governed by this Ordinance, and because the comprehensive State Unemployment and Disability Insurance Program includes all necessary mechanisms for administration and enforcement, the Tribe has determined that utilization of the State Unemployment and Disability scheme offers the best and most economic insurance protection for enrolled tribal members and all nonmembers, whether Indians or non-Indians employed inside the Reservation.

(i) In order to provide for the health and welfare of the Tribe, its enrolled members and their families, and all persons residing or working inside the Reservation, the Hoopa Valley Business Council adopts this Unemployment and Disability Insurance Ordinance pursuant to the powers vested in it by Article IX, Section 1 (f), (j), (k), and (l) of the Constitution and Bylaws of the Hoopa Valley Tribe of the Hoopa Valley Indian Reservation, California.

(j) Provisions of this Ordinance shall be liberally construed to achieve the purposes set forth herein whether plainly stated or clearly apparent from the context of the language used herein.

### Section 3. - Relation to Other Tribal Laws.

All prior ordinances and resolutions of the Tribe regulating, authorizing, prohibiting or in any way dealing with unemployment and disability insurance or any matters relating to enforcement provisions contained herein, are of no further force or effect.

### Section 4. - Definitions.

As used in this Ordinance, the following definitions shall apply unless the context clearly indicates otherwise.

(a) "Code" means the California Unemployment Insurance Code, California Statutes of 1953, Ch. 308, as amended heretofore and hereafter.

(b) "Council" means the Hoopa Valley Business Council, governing body of the Hoopa Valley Tribe.

(c) "Reservation" means the Square portion of the Hoopa Valley Reservation established by the Executive Order of June 23, 1876, 1 Kapp 815 and shall not include any portion of the Hoopa Valley Reservation added thereto thereafter which lies outside the Square.

(d) "Person" or "company" herein used interchangeably, means any individual, firm, partnership, joint venture, club, company, corporation, association, society or any group of individuals acting as a unit but does not mean the United States or any political subdivision or instrumentality thereof, or the Hoopa Valley Tribe or any subordinate entity thereof.

(e) "Unemployment insurance" and "disability insurance" mean unemployment insurance and disability insurance as defined and provided in the California Unemployment Insurance Code, California Statutes of 1953, Ch. 308, as amended heretofore and hereafter.

(f) "Tribe" means the Hoopa Valley Tribe, a federally recognized Indian tribe, organized pursuant to a Constitution and Bylaws which were approved by the Commissioner of Indian Affairs on August 18, 1972.

All other words, terms and phrases used in this Ordinance shall have the meanings assigned to them in the Code.

Section 5. - Mandatory Coverage - General.

Every person who conducts business inside the Reservation shall be subject to the Code and all California law pertinent thereto as a matter of tribal law; therefore, every such person must provide mandatory unemployment insurance and disability insurance upon every employee employed inside the Reservation. The insurance coverage required hereby shall be a condition upon any such person's right to conduct such business inside the Reservation. The conduct of any such business inside the Reservation by any such person shall be deemed a consent to be bound by the Code by operation of tribal law. In addition, any such person must contract in writing for unemployment and disability insurance upon request by the State of California.

Section 6. - Mandatory Coverage - Subordinate Tribal Entities.

All subordinate entities of the Tribe must provide unemployment insurance and disability insurance upon every employee employed with respect to employment inside the Reservation. The insurance coverage required hereby shall be mandatory and each such subordinate entity must contract in writing for unemployment and disability insurance upon request by the State of California.

Section 7. - Tribal Tax Levied.

There is hereby levied upon each employer for all employment subject to this Ordinance a tribal tax in the amount of the contributions required by the Code for unemployment insurance and disability insurance coverage upon such employment of each such employee.

(a) The tax levied hereunder with respect to unemployment insurance shall be paid by the employer and shall not be deducted from wages of the employee.

(b) The tax levied hereunder with respect to disability insurance shall be paid by the employer but may be deducted from wages of the employee.

(c) This Section shall not apply to subordinate entities of the Tribe.

Section 8. - Manner of Compliance.

(a) Every employer, including every subordinate tribal entity, subject to this Ordinance shall register for unemployment insurance and disability insurance with the State of California pursuant to all requirements of the Code.

(b) Every employer, including every subordinate tribal entity, liable for tribal taxes levied under this Ordinance will be credited with all contributions paid to the State of California under the Code with respect to all employment subject to this Ordinance.

Section 9. - Status of Contributions.

All contributions deducted from employees' wages pursuant to this Ordinance shall be deemed tribal taxes and shall be held in trust by the employer for the State of California and shall be exempt from attachment, garnishment, execution or any other remedy for the collection of debts and in the event of insolvency or bankruptcy of the employer, shall not be considered any part of his assets but shall be paid to the State of California prior to the payment of any other claim against the employer.

II. ENFORCEMENT - STATE OF CALIFORNIA.

Section 10. - Enforcement.

With respect to every employer and every employee and all employment subject to this Ordinance, all provisions of the Code shall be applicable irrespective of any action or lack of action by the Council pursuant to this Ordinance.

Section 11. - Validity of State Process.

With respect to the unemployment insurance and disability insurance required by this Ordinance, all state process, whether administrative or judicial, utilized in the administration or enforcement of the Code in any proceeding, whether administrative or judicial, shall be of full force and validity inside the Hoopa Valley Reservation irrespective of any action or lack of action by the Council pursuant to this Ordinance.

Section 12. - Notice to Hoopa Valley Business Council.

Within five days after service of any notice of the State of California authorized by this Ordinance, the state department charged with enforcing the Code shall give notice in writing to the Council of the action taken, the person against whom the action was taken, and may include a brief summary of the action including a description of actions which could be taken by the Council to assist the State in the matter.

Section 13. - Exhaustion of Tribal Remedies.

Enforcement of the Code by the State of California is independent of any action of the Council and does not require resort to or exhaustion of, any tribal remedies by the employer or employees involved in such enforcement.

III. ENFORCEMENT - HOOPA VALLEY TRIBE.

Section 14. - Civil Enforcement Hearing Before Council.

Upon notice to the Council by any person that an employer, subject to this Ordinance, has violated any provisions of the Code, such employer may be summoned to an enforcement hearing before the Council upon 20 days written notice.

Section 15. - Notice and Service.

Service of the Notice shall be made personally by a person not a member of the Council or by means of certified mail, return receipt requested. The Notice shall cite the employer to appear before the Council at a time and place therein specified which shall not be less than 20 days from the date of service of the Notice. Evidence of the receipt of Notice shall be kept as part of the record in the matter.

Section 16. - Publication of Notice.

Upon a showing to the Council that diligent efforts were made to serve the Notice on the employer and that for sufficient reasons service could not be made, the Council may allow service to be made by posting copies of the Notice in two public places in the Reservation for three weeks and by publication of a copy of the Notice and Complaint once a week for three consecutive weeks in a newspaper of general circulation in the vicinity of the Reservation. In such case the return date shall be not less than 30 days from the date of first publication.

Section 17. - Informal Hearing; Evidence; Attorney.

The hearing will be informal and the employer shall have the right to present evidence in his behalf, both written and oral, and may be represented by an attorney. The Council may grant continuances for good cause shown and may utilize such other procedures as the Council deems proper.

Section 18. - Burden and Standard of Proof.

In the hearing, the burden of proof shall be upon the Council and the standard of proof shall be the greater weight of the evidence. Notice of failure of the employer to comply with the Code shall be deemed a presumption of the facts stated in the state Notice.

Section 19. - Applicable Law.

In the hearing the Council shall apply any applicable law of the Tribe, the Code, any other applicable provisions of California state law pertinent to administration or enforcement of the Code, any applicable laws of the United States or regulations of the Secretary of the Interior and all customs of the Tribe not prohibited by federal law.

Section 20. - Evidence Standard.

The Council shall not be bound by common law rules of evidence but shall use its own discretion as to what evidence it deems necessary and relevant to the matter.

Section 21. - Judgment of the Council.

Subsequent to the hearing, the Council's judgment shall consist of an order of the Council assessing money damages against the employer or directing the performance or prohibition of appropriate legal acts.

Section 22. - Damages--Kind and Amount.

Damages assessed by the judgment may include all delinquent contributions required by the Code, interest thereon, attorney's fees incurred by the Council, and a civil penalty of not more than \$500.00.

Section 23. - Injunction; Collection Procedures; Disbursement.

In addition to assessment of damages, the judgment of the Council may enjoin the employer from further violations of the Code or from conducting any further business inside the Reservation. The Council may utilize any necessary collection procedures including garnishment, attachment and execution upon real or personal property pursuant to rules governing such procedures which the Council deems proper. Any delinquent contributions, interest thereon or attorneys fees collected pursuant to the Code and this Ordinance shall be disbursed by the Council to the agency of the State of California charged with administration of State Unemployment and Disability Insurance.

Section 24. - Exclusion from Reservation.

In addition to the assessment of damages as provided in this Ordinance, the Council is authorized to exclude from the Reservation temporarily or permanently, except from public highways thereon, any employer who is not an Indian, who willfully fails to comply with this Ordinance, provided, that such exclusion may not be adjudged against a person authorized by federal law to be present on tribal land and provided further, that as to any person who owns land within the Reservation which is neither held in trust by the United States nor subject to restrictions against alienation posed by the United States, or is a bona fide resident on such land, such exclusion shall not bar such person from such land which he owns or on which he resides.

Section 25. - Severability.

(a) If any clause, part, or section of this Ordinance shall be adjudged invalid, such judgment shall not affect or invalidate the remainder of the Ordinance, but shall be confined in its operation to the clause, part, or section directly involved in the controversy in which such judgment was rendered.

(b) If any application of this Ordinance or any clause, part, or section thereof, is adjudged invalid, such judgment shall not be deemed to render that provision inapplicable to other persons or circumstances.

Section 26. - Effective Date.

This Ordinance shall be effective as of the date of its approval by the Secretary of the Interior or his duly authorized representative.

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

I, the undersigned, as Chairman of the Hoopa Valley Business Council do hereby certify that the Hoopa Valley Business Council is composed of eight members of which 6 were present, constituting a quorum, at a Regular Meeting thereof; duly and regularly called, noticed, convened and held this 20th day of December, 1985; and that this resolution was adopted by a vote of 5 for with 0 against; and that said resolution has not been rescinded or amended in any way.

DATED THIS 20TH DAY OF DECEMBER, 1985.

Wilfred K. Colegrove  
WILFRED K. COLEGROVE, CHAIRMAN  
HOOPA VALLEY BUSINESS COUNCIL

ATTEST: Deirdre R. Young  
DEIRDRE R. YOUNG / EXECUTIVE SECRETARY  
HOOPA VALLEY BUSINESS COUNCIL

APPROVED:

Ronald M. Jensen  
Area Director

6/25/86  
Date



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**RESOLUTION OF THE HOOPA VALLEY TRIBAL COUNCIL  
HOOPA VALLEY INDIAN RESERVATION  
HOOPA, CALIFORNIA**

RESOLUTION NO: 95-116

DATE APPROVED: October 12, 1995

SUBJECT: HOOPA VALLEY TRIBAL COUNCIL  
MANAGEMENT OF WORKERS' COMPENSATION LIABILITIES

WHEREAS: The Hoopa Valley Tribe did on June 20, 1972, adopt a constitution and bylaws which was approved by the Commissioner of Indian Affairs on August 18, 1972 and ratified by Act of Congress on October 31, 1988, and by Tribal Law, the sovereign authority of the Tribe over the matter described herein is delegated to the Hoopa Valley Tribal Council, acting by resolution, and,

WHEREAS: The Hoopa Valley Tribal Council on 03-28-94 approved the Protected Self-Insurance proposal submitted by Gallagher and Company for the Hoopa Valley Tribal Lands which consisted of Property, Casualty and Workers' Compensation insurance.

WHEREAS: That the Hoopa Valley Tribal Council approved the new insurance plan effective 04/01/94.

NOW THEREFORE BE IT RESOLVED: That the Hoopa Valley Tribal Council approved the following policy to provide for the management of Tribal Workers' Compensation Liabilities.

Purpose

To define the Hoopa Valley Tribal Council's self-funded Workers' Compensation Program, under the direction of Tribal Risk Management for meeting and resolving its industrial injury liabilities in general conformity with accepted Workers' Compensation practice within the community, unless otherwise amended by Tribal resolution.

Background

The Hoopa Valley Tribal Council has self-funded (i.e., "Self-insured") its Workers' Compensation liabilities commencing April 1, 1994. It is incumbent upon Administration to clearly define Tribal policy in managing this risk, to prevent abuse, to control costs, to medically and vocationally rehabilitate Tribal employees and to deliver a program that is equitable to both Tribal employees and the Tribe.

**RESOLUTION NO:** 95-116  
**DATE APPROVED:** October 12, 1995  
**SUBJECT:** **HOOPA VALLEY TRIBAL COUNCIL  
MANAGEMENT OF WORKERS' COMPENSATION LIABILITIES**

Scope

This policy applies to all Tribal departments, activities and enterprises.

Policy

It is the policy of the Hoopa Valley Tribal Council:

1. To self-fund the Tribe's Workers' Compensation liabilities and to administer the program in accordance with accepted law, unless amended by Tribal resolution.
2. To provide employees with Workers' Compensation benefits to which they are entitled under Tribal resolution and Tribal Risk Management procedures, regulations and schedule of benefits, said benefits being defined as follows:
  - A. Usual and customary medical costs will be approved by Tribal Risk Management,
  - B. Medical Services and providers will be approved by Tribal Risk Management,
  - C. All employees will be entitled to the same benefits under the same rules,
  - D. Claim filing period                          90 days
  - E. Disputed claims adjudication
    1. Claims Adjuster
    2. HVTC Tribal Court
  - F. Reviewing agency                                  Tribal Appeal Board
  - G. Modifications                                        Reconsideration within 30 days
  - H. Attorney fees                                        None Allowed
  - I. Income benefits for temporary or total disability                                  No increased compensation

RESOLUTION NO: 95-116  
 DATE APPROVED: October 12, 1995  
 SUBJECT: HOOPA VALLEY TRIBAL COUNCIL  
MANAGEMENT OF WORKERS' COMPENSATION LIABILITIES

- J. Fatality income benefits No increased compensation
1. Children Ceases at age 18 or at maximum allowed under the Workers' Compensation laws of California.
- J. 2. Spouse Ceases upon remarriage or at maximum allowed under the Workers' Compensation laws of California
3. Income Benefits
- |                         | <u>Percent of Wages</u> |   |
|-------------------------|-------------------------|---|
| a. Spouse plus children | 66                      | % |
| Spouse only             | 66                      | % |
| Children only           | 66                      | % |
- 
- |                         | <u>Maximum</u>        | <u>Minimum</u>        |
|-------------------------|-----------------------|-----------------------|
|                         | <u>Weekly Payment</u> | <u>Weekly Payment</u> |
| b. Spouse plus children | \$336.00              | \$224.00              |
| Spouse only             | \$336.00              | \$224.00              |
| Children only           | \$336.00              | \$224.00              |
4. Time Limit
- a. Spouse plus children Until remarriage
- b. Children Until age 18
5. Amount Time Limit
- a. Spouse plus children \$115,000.00
- b. Spouse only \$95,000.00
- c. Children only \$95,000.00
6. Maximum Burial Allowance \$5,000.00
- K. The claims administrator is to inform the insured of any cases where there is a question of coverage, as far as the claim is concerned, prior to the company agreeing to the payment of benefits.

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RESOLUTION NO: 95-116  
DATE APPROVED: October 12, 1995  
SUBJECT: HOOPA VALLEY TRIBAL COUNCIL  
MANAGEMENT OF WORKERS' COMPENSATION LIABILITIES

- L. There is no "presumption" that cardiovascular disease, pneumonia or hernias are caused by employment.
- M. "Stress" Claims    No coverage
- N. Environmental Tobacco    No coverage
3. To, whenever possible and whenever irresolvable issues do not create adversarial conditions, treat occupationally injured or ill Tribal employees as "clients" rather than "claimants"; to assist them in securing equitable benefits in an atmosphere of fairness to all parties.
  4. To provide for the best medical care available to assure timely medical rehabilitation to productive work of the occupationally injured or ill employee either in a light duty capacity while recuperating to full pre-injury duties with no restrictions, or, through vocational rehabilitation, to a work environment with which the employee may cope to his or her advantage and the Tribe's.
  5. To direct and control medical care for the occupationally injured or ill employee through accredited medical providers who meet Tribal Risk Management requirements of excellence.
  6. To provide for on-going counseling with the occupationally injured or ill employee to assure the employee of the best follow-up treatment possible.
  7. To discourage treatment by non-medical disciplines, unless such treatment is authorized by, recommended by, or performed under the supervision of a qualified Doctor of Medicine.
  8. To consult directly with occupationally injured or ill employees to assure them of the Tribe's interest in their progress, to seek their advice in eliminating such causes of disability in the future and to counsel the employee toward eventual rehabilitation or resolution of the employee's residual disability.
  9. To develop rehabilitation standards which will permit occupationally injured or ill employees to be returned to productive work.

RESOLUTION NO: 95-116  
DATE APPROVED: October 12, 1995  
SUBJECT: HOOPA VALLEY TRIBAL COUNCIL  
MANAGEMENT OF WORKERS' COMPENSATION LIABILITIES


10. To avoid litigation of disputed cases by encouraging direct conference with the employee, or employee representative, to resolve by equitable compromise those issues in dispute.
11. To contract, under Tribal Risk Management, with a qualified third party claims administrator, to provide for day-to-day claims administration and payments of benefits and costs in accordance with Tribal Council Resolution.
12. Nothing hereunder is intended to be or shall be interpreted to be a waiver of Sovereign Immunity.

### CERTIFICATION

I, the undersigned, as chairman of the Hoopa Valley Tribal Council do certify that the Hoopa Valley Tribal Council is composed of (8) eight members and of which (6 ) six members were present, constituting a quorum, at a regular meeting there of; duly and regularly called, noticed, convened and held this 12th day of October 1995; and that this resolution was adopted by a vote of (5 ) five for, none (0) opposed, and none (0 ) abstaining; and that since it's been approved, this resolution has not been rescinded, amended, or modified in any form.

DATED THIS 12TH DAY OF OCTOBER, 1995

  
Dale Risling Sr., Chairman  
Hoopa Valley Tribal Council

ATTEST.   
Darcy Baldy, Executive Secretary  
Hoopa Valley Tribal Council

Res. No. 95-116

**RESOLUTION OF THE HOOPA VALLEY TRIBAL COUNCIL  
HOOPA VALLEY INDIAN RESERVATION  
HOOPA, CALIFORNIA**

RESOLUTION NO: 94-22

DATE APPROVED: May 19, 1994

SUBJECT: **HOOPA VALLEY TRIBAL COUNCIL MANAGEMENT OF TORT  
LIABILITIES**

WHEREAS: The Hoopa Valley Tribe did on June 20, 1972, adopt a constitution and bylaws which was approved by the Commissioner of Indian Affairs on August 18, 1972 and ratified by Act of Congress on October 31, 1988, and by Tribal Law, the sovereign authority of the Tribe over the matter described herein is delegated to the Hoopa Valley Tribal Council, acting by resolution, and,

WHEREAS: The Hoopa Valley Tribal Council on March 28, 1994 approved the Protected Self-Insurance proposal submitted by Gallagher and Company for the Hoopa Valley Tribal Lands which consisted of Property, Casualty and Workers' Compensation insurance.

WHEREAS: The Hoopa Valley Tribal Council approved the new plan effective 04/01/94

NOW THEREFORE BE IT RESOLVED: That the Hoopa Valley Tribal Council approves the following policy to provide for the management of tribal TORT liabilities.

Purpose

To define the Hoopa Valley Tribal Council's self-funded Tort Liability Program, under the direction of Tribal Risk Management for meeting and resolving its liabilities in general conformity with accepted Common Law practice within the community, unless otherwise amended by Tribal resolution.

Background

The Hoopa Valley Tribal Council has self-funded (i.e., "Self-insured") its Tort Liability Management commencing April 1, 1994. It is incumbent upon Administration to clearly define Tribal policy in managing this risk, to prevent abuse, to control costs, and to deliver a program that is equitable to both the public and the Tribe.

Scope

This policy applies to all Tribal departments and activities.

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RESOLUTION NO: 94-22

DATE: MAY 19, 1994

SUBJECT: HOOPA VALLEY TRIBAL COUNCIL MANAGEMENT OF TORT LIABILITIES

Policy

It is the policy of the Hoopa Valley Tribal Council:

1. To self-fund the Tribe's Tort liabilities and to administer the program in accordance with accepted practice in the community, unless amended by Tribal resolution.
2. To require that all Tort liability claims shall be filed and logged as received with the Tribal Risk Management office.
3. To assure that all Tort claims against the Hoopa Valley Tribal Council, its departments, activities and its personnel shall be in writing, giving full and complete detail as to circumstances, dates and times, locations, personnel and equipment involved, as well as costs incurred and demand for monetary damages.
4. To require that all claims will, without any exception, be filed with Tribal Risk Management within one hundred (100) days of the alleged occurrence.
5. To direct Tribal Risk Management to advise the claimant, in writing within forty-five (45) days of receipt of the claim, of acceptance or denial of the claim; if no response is sent to the claimant within forty-five (45) days, the claim is deemed denied.
6. To require that a written claim must be filed and acted upon in writing, in accordance with the above provisions prior to any legal action being taken.
7. To reject as unacceptable to the Tribal Council any claim or legal action for punitive or exemplary damages.
8. To require that if a claim is denied, claimant has, without exception, six(6) months in which to commence legal action.
9. To direct that any claim filed with any other Tribal department, or activity, shall be immediately forwarded to the Tribal Risk Management office for action.
10. To direct the Tribal Risk Management office to conduct or otherwise secure the necessary investigation of Tort liability claims with the full cooperation and assistance from Tribal Staff and forward appropriate written responses to claimants.

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RESOLUTION NO: 94-22

DATE: MAY 19, 1994

SUBJECT: HOOPA VALLEY TRIBAL COUCIL MANAGEMENT OF TORT LIABILITIES

11. To require that all such investigations be treated as confidential, as a work-product for litigation purposes and not subject to public disclosure.
12. To contract, under Tribal Risk Management, with a qualified third party claims administrator, to provide for day-to-day claims administration investigation and payments in accordance with Tribal Council Resolution.
13. To meet and confer with the Tribe's excess insurance carrier as soon as it becomes apparent that a specific claim may exceed Tribal self-insured retention.
14. To grant the third party claims administrator \$10,000.00 Tort settlement authority.
15. To grant Tribal Risk Management \$25,000.00 Tort settlement authority.
16. To direct that all settlements of Tort claims in excess of Tribal Risk Management's authority be brought before the Hoopa Valley Tribal Council, meeting in Executive Session, for discussion and approval.
17. To refer all claims derived from injuries incurred within the scope of Self-Governance activities to the Federal Tort Claims process.
18. To not waive Sovereign immunity from suit respecting any Tort claims hereunder.



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RESOLUTION NO: 94-22

DATE: MAY 19, 1994

SUBJECT: HOOPA VALLEY TRIBAL COUNCIL MANAGEMENT OF TORT LIABILITIES

**CERTIFICATION**

I, the undersigned, as chairman of the Hoopa Valley Tribal Council do certify that the Hoopa Valley Tribal Council is composed of (6) six members and of which (6) six members were present, constituting a quorum, at a regular meeting there of; duly and regularly called, noticed, convened and held this 19th day of May, 1994; and that this resolution was adopted by a vote of (5) five for, (0) opposed, and (0) abstaining; and that since it's been approved, this resolution has not been rescinded, amended, or modified in any form.

DATED THIS NINETEENTH DAY OF MAY, 1994

  
\_\_\_\_\_  
DALE RISLING, SR., CHAIRMAN  
HOOPA VALLEY TRIBAL COUNCIL

  
\_\_\_\_\_  
ATTEST: MARLA MCLEOD, EXECUTIVE SECRETARY  
HOOPA VALLEY TRIBAL COUNCIL

**RESOLUTION OF THE HOOPA VALLEY TRIBE  
HOOPA VALLEY INDIAN RESERVATION  
HOOPA, CALIFORNIA**

**RESOLUTION NO:** 94-22, Amendment #1

**DATE APPROVED:** OCTOBER 12, 1995

**SUBJECT:** HVTC - MANAGEMENT OF TORT LIABILITIES

**WHEREAS:** The Hoopa Valley Tribe did on June 20, 1972, adopt a Constitution and Bylaws which was approved by the Commissioner of Indian Affairs on August 18, 1972 and ratified by Act of Congress on October 31, 1988 and, by Tribal Law, the Sovereign Authority of the Tribe over the matter described herein is delegated to the Hoopa Valley Tribal Council, acting by resolution, and,

**WHEREAS:** The Hoopa Valley Tribal Council on May 19, 1994 approved by resolution No. 94-22 the HVTC, Management of TORT Liabilities;

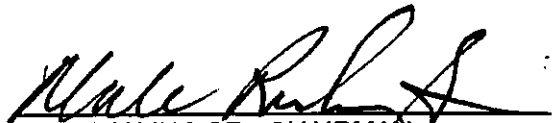
**NOW THEREFORE BE IT RESOLVED THAT:** That on October 12, 1995 the Hoopa Valley Tribal Council approved the following amendment to the policy;

1. To have all legal issues adjudicated by the Hoopa Valley Tribal Court;
2. To not be liable for any alleged damages in excess of \$1,000,000.00 per occurrence.

**CERTIFICATION**

I, the undersigned, as Chairman of the Hoopa Valley Tribal Council do certify that the Hoopa Valley Tribal Council is composed of (8) members of which six (6) were present constituting a quorum, at a regular meeting thereof, duly called, noticed, convened and held this 12th day of October, 1995; and that this resolution was adopted by a vote of five (5) for, none (0) against, and none (0) abstaining; and that since its approval this resolution has not been rescinded, amended, or modified in any form.

DATED THIS 12TH DAY OF OCTOBER, 1995

  
DALE RISLING SR., CHAIRMAN  
HOOPA VALLEY TRIBAL COUNCIL

ATTEST:   
DARCY BALDY, EXECUTIVE SECRETARY  
HOOPA VALLEY TRIBAL COUNCIL

Res. No. 94-22, Amendment #1

**RESOLUTION OF THE HOOPA VALLEY TRIBAL COUNCIL  
HOOPA VALLEY INDIAN RESERVATION  
HOOPA, CALIFORNIA**

RESOLUTION NO: 95-116, AS AMENDED

DATE APPROVED: December 18, 1996

SUBJECT: **HOOPA VALLEY TRIBAL COUNCIL MANAGEMENT  
OF WORKERS' COMPENSATION LIABILITIES**

WHEREAS: The Hoopa Valley Tribe did on June 20, 1972, adopt a constitution and bylaws which was approved by the Commissioner of Indian Affairs on August 18, 1972 and ratified by Act of Congress on October 31, 1988, and by Tribal Law, the sovereign authority of the Tribe over the matter described herein is delegated to the Hoopa Valley Tribal Council, acting by resolution, and,

WHEREAS: The Hoopa Valley Tribal Council on 03-28-94 approved the Protected Self-Insurance proposal submitted by Gallagher and Company for the Hoopa Valley Tribal Lands which consisted of Property, Casualty and Workers' Compensation insurance.

WHEREAS: That the Hoopa Valley Tribal Council approved the new insurance plan effective 04/01/94.

NOW THEREFORE BE IT RESOLVED that the Hoopa Valley Tribal Council approved the following policy to provide for the management of Tribal Workers' Compensation Liabilities; and

NOW, THEREFORE, BE IT FURTHER RESOLVED that on December 18, 1996 the Hoopa Valley Tribal Council approved proposed amendments to the plan and shall apply to all worker's compensation cases pending as of the date of the adoption of this resolution.

Purpose

To define the Hoopa Valley Tribal Council's self-funded Workers' Compensation Program, under the direction of Tribal Risk Management for meeting and resolving its industrial injury liabilities in general conformity with accepted Workers' Compensation practice within the community, unless otherwise amended by Tribal resolution.

Resolution: 95-116 As Amended  
Date: December 18, 1996

### Background

The Hoopa Valley Tribal Council has self-funded (i.e., "Self-insured") its Workers' Compensation liabilities commencing April 1, 1994. It is incumbent upon Administration to clearly define Tribal policy in managing this risk, to prevent abuse, to control costs, to medically and vocationally rehabilitate Tribal employees and to deliver a program that is equitable to both Tribal employees and the Tribe.

### Scope

This policy applies to all Tribal departments, activities and enterprises.

### Policy:

It is the policy of the Hoopa Valley Tribal Council:

1. To self-fund the Tribe's Workers' Compensation liabilities and to administer the program in accordance with accepted law, unless amended by Tribal resolution.
2. To provide employees with Workers' Compensation benefits to which they are entitled under Tribal resolution and Tribal Risk Management procedures, regulations and schedule of benefits, said benefits being defined as follows:
  - A. Usual and customary medical costs will be approved by Tribal Risk Management,
  - B. Medical Services and providers will be approved by Tribal Risk Management,
  - C. All employees will be entitled to the same benefits under the same rules,
  - D. Claim filing period                      90 days
  - E. **Claims Adjudication**

**1. Claims Adjuster; the Claims Adjuster is the adjuster assigned the claim by the Third Party Administrator. The Third Party Administrator is defined as the independent contractor and not as officers or employees of the Hoopa Valley Tribe/Tribal Council to provide claims adjusting and administrative services to the Hoopa Valley Tribal Council's Workers' Compensation Program.**

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**2. Hearing Officer; the Hearing Officer will be the assigned Supervisor of the Claims Adjuster and the Supervisor of the Workers' Compensation Program administered by the Third Party Administrator.**

**2.(a) Modification-Reconsideration within 30 Calendar days of the date of service. Date of Service will be determined by a completed Proof of Service Form. Service shall be completed by personal service or use of certified mail, return receipt requested.**

**3. Hoopa Valley Tribal Court;**

**Judicial Review: Claimant or the Employer may file for judicial review of the Hearing Officer's decision in the Hoopa Valley Tribal Court provided that all administrative remedies shall have been exhausted. Any appeal of the Hearing Officer's determination shall be filed within thirty (30) calendar days from the date of service of the Hearing Officer's determination. Date of Service shall be determined by a completed Proof of Service Form. Service shall be completed by personal service or use of certified mail, return receipt requested. Failure to file an appeal of the Hearing Officer's decision within the requisite time period divests the Hoopa Valley Tribal Court of subject matter jurisdiction to render judicial review of the Hearing Officer's decision. The Hoopa Valley Tribal Court shall hear and dispose of appeals of the Hearing Officer's decision under the rules of the Hoopa Valley Tribal Court. The decision of the Hoopa Valley Tribal Court shall be final. Appellate review of the decision of the Hoopa Valley Tribal Court is prohibited.**

**3(a) Standard of Review: The Hoopa Valley Tribal Court shall utilize an abuse of discretion standard in appellate review of the decisions of the Hearing Officer.**

F.

G. Modifications    Reconsideration within 30 days

H. Attorney fees    None Allowed

I. Income benefits for temporary or No increased compensation  
total disability

J. Fatality income benefits                              No increased compensation

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1. Children Ceases at age 18 or at maximum allowed under the Workers' Compensation laws of California.

J. 2. Spouse Ceases upon remarriage or at maximum allowed under the Workers' Compensation laws of California

3. Income Benefits

	<u>Percent of Wages</u>
a. Spouse plus children	66 %
Spouse only	66 %
Children only	66 %

	<u>Maximum Weekly Payment</u>	<u>Minimum Weekly Payment</u>
b. Spouse plus children	\$336.00	\$224.00
Spouse only	\$336.00	\$224.00
Children only	\$336.00	\$224.00

4. Time Limit

a. Spouse plus children	Until remarriage
b. Children	Until age 18

5. Amount Time Limit

a. Spouse plus children	\$115,000.00
b. Spouse only	\$95,000.00
c. Children only	\$95,000.00

6. Maximum Burial Allowance \$5,000.00

K. The claims administrator is to inform the insured of any cases where there is a question of coverage, as far as the claim is concerned, prior to the company agreeing to the payment of benefits.

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- L. There is no "presumption" that cardiovascular disease, pneumonia or hernias are caused by employment.
- M. "Stress" Claims   No coverage
- N. Environmental Tobacco   No coverage
- O. **Employees determined to be acting outside of the Scope of their employment shall be afforded NO COVERAGE under the Hoopa Tribe's Workers' Compensation plan; and**
- P. **CHIROPRACTIC TREATMENT: Coverage shall be denied and benefits shall not be paid to any claimant who seeks treatment from a Chiropractor for any work related injury, except upon the written referral of a licensed Medical Doctor (MD). Medical expenses incurred by claimant for treatment by a Chiropractor will not be covered unless prior written referral is made by a licensed Medical Doctor.**
3. To, whenever possible and whenever irresolvable issues do not create adversarial conditions, treat occupationally injured or ill Tribal employees as "clients" rather than "claimants", to assist them in securing equitable benefits in an atmosphere of fairness to all parties.
  4. To provide for the best medical care available to assure timely medical rehabilitation to productive work of the occupationally injured or ill employee either in a light duty capacity while recuperating to full pre-injury duties with no restrictions, or, through vocational rehabilitation, to a work environment with which the employee may cope to his or her advantage and the Tribe's.
  5. To direct and control medical care for the occupationally injured or ill employee through accredited medical providers who meet Tribal Risk Management requirements of excellence.
  6. To provide for on-going counseling with the occupationally injured or ill employee to assure the employee of the best follow-up treatment possible.
  7. To discourage treatment by non-medical disciplines, unless such treatment is authorized by, recommended by, or performed under the supervision of a qualified Doctor of Medicine.
  8. To consult directly with occupationally injured or ill employees to assure them of the Tribe's interest in their progress, to seek their advice in eliminating such causes of disability in the future and to counsel the employee toward eventual rehabilitation or resolution of the employee's residual disability.

Resolution: 95-116 AS AMENDED

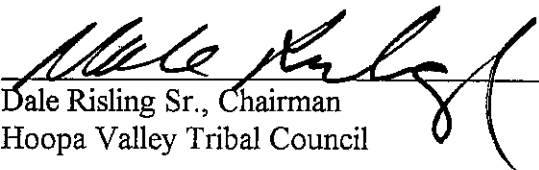
Date: December 18, 1996

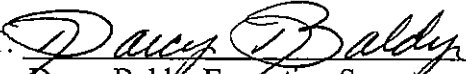
9. To develop rehabilitation standards which will permit occupationally injured or ill employees to be returned to productive work.
10. To avoid litigation of disputed cases by encouraging direct conference with the employee, or employee representative, to resolve by equitable compromise those issues in dispute.
11. To contract, under Tribal Risk Management, with a qualified third party claims administrator, to provide for day-to-day claims administration and payments of benefits and costs in accordance with Tribal Council Resolution.
12. Nothing hereunder is intended to be or shall be interpreted to be a waiver of Sovereign immunity

### CERTIFICATION

I, the undersigned, as Chairman of the Hoopa Valley Tribal Council do certify that the Hoopa Valley Tribal Council is composed of (8) eight members and of which (6) six members were present, constituting a quorum, at a regular meeting there of, duly and regularly called, noticed, convened and held this 18<sup>th</sup> day of December 1996; and that this resolution was adopted by a vote of five (5) for, none (0) opposed, and none (0) abstaining; and that since it's been approved, this resolution has not been rescinded, amended, or modified in any form.

DATED THIS EIGHTEENTH DAY OF DECEMBER 1996

  
Dale Risling Sr., Chairman  
Hoopa Valley Tribal Council

ATTEST:   
Darcy Baldy, Executive Secretary  
Hoopa Valley Tribal Council