

BISHOP PAIUTE TRIBE

Bishop Paiute Reservation

Bishop, California

UTILITY PROPERTY TAX ORDINANCE

Adopted: December 11, 1996

As amended January 12, 2006

BISHOP PAIUTE TRIBAL PROPERTY TAX ORIDINANCE

ORDINANCE NO. 2 of 1996
As Amended January 12 of 2006

AN ORDINANCE OF THE BISHOP PAIUTE TRIBAL COUNCIL, AS THE GOVERNING BODY OF THE BISHOP PAIUTE TRIBE, STATE OF CALIFORNIA, PROVIDING FOR THE TAXATION OF TAXABLE UTILITY (AND OTHER DESCRIBED) PROPERTY WITHIN THE BISHOP PAIUTE RESERVATION.

The Bishop Indian Tribal Council (Council) of the Bishop Paiute Reservation does ordain as follows:

SECTION 1. FINDINGS AND PURPOSE

The Tribal Council finds and declares that the provision of needed services to tribal members and the provision of infrastructure to promote long-term economic growth for the tribe are a high priority. In order to fund these needed services and infrastructure improvements, the Tribal Council has found it necessary to implement this system of the taxation of property within reservation boundaries. The Tribal Council also finds and declares that the goal of improving the economic and social plight of tribal members, and the fulfillment of Congress' and the Tribal Council's unique obligation towards tribal members is hampered by exposing them to taxation in the same manner as non-tribal members owning property on the reservation. Finally, the Tribal Council recognizes that the property interests of tribal members in trust lands on the reservation are legally and qualitatively distinct from other property interests created on tribal land. Therefore, the Tribal Council finds and declares it necessary that property owned by tribal members be exempted from the provisions of this ordinance.

SECTION 2. TAX IMPOSED

(a) A tax is hereby imposed, at the rate established under section 6 (and as amended by Tribal resolution from time to time by the Council), on taxable property within the Reservation, owned by any utility providing telephone, gas, oil pipeline, electrical, water, cable television service or Billboard Communication Systems (Communication system) as hereinafter defined.

(b) The tax assessed under this ordinance is computed by multiplying the value of the taxable property on the assessment date by the tax rate.

SECTION 3. ADMINISTRATION

The Authority is empowered to administer this tax and, to that end, shall be empowered to adopt rules and regulations both substantive and procedural, orders implementing its decisions, rulings, and instructions, such as may be necessary to the proper and efficient administration of this ordinance.

SECTION 4. DEFINITIONS

In this ordinance:

(a) "Assessment date" means each January 1st.

(b) "Authority" means the Tribal Taxing Authority as established by the Bishop Indian Tribal Council.

(c) "Lease" means any agreement conferring rights to use or possess Tribal lands or to sever products therefrom, including, but not limited to, a lease, right-of-way, franchise, use permit, or a joint venture or operating agreement.

(d) "Owner" means any utility that owns an interest in taxable property, or part thereof, as grantee, lessee, permittee, assignee, sublessee, or transferee, whether of the whole interest or less than the whole. In the case of parties to a joint venture or operating agreement, owners and their interests shall be determined under regulations.

(e) "Utility" means any organization, whether it be a sole proprietorship, partnership, joint venture, trust, estate, unincorporated association, corporation, or government (other than government of the Tribe and any wholly owned subdivision or enterprise of that government), or any part, division, or agency of any of the foregoing, that:

(1) provides telephone, gas, oil pipeline, electrical, water or cable television service on tribal property;

(2) owns or leases rights to extract water or minerals from the Reservation; or

(3) owns or uses property located on the Reservation for the transportation or transmission of telephone, gas, oil pipeline, electrical, water or cable television service to customers located outside of tribal property.

"Utility" excludes members of the Tribe.

(f) "Control" means the right or any kind of ability to direct the performance or activity of another, direct or indirect, whether legally enforceable or not, and however such right may be exercisable or exercised.

(g) "Fraud" has the same meaning as that established in the interpretation of section 7206 of the United States Internal Revenue Code of 1954, as amended or renumbered.

(h). "Levy" means seizure and distraint by any means.

(I) "Regulations" means the regulations adopted by the Authority.

(j) "Reservation" means the land contained within the Bishop Paiute Reservation.

(k) "Taxes" means the tax, and any interest, penalty, or costs, imposed or assessed pursuant to this ordinance.

(l) "Taxable Property" means real property (including water and mineral rights), tangible personalty, fixtures and unitary property owned or used by a utility on the Reservation.

(m) "Tribal Council" means the Bishop Indian Tribal Council.

(n) "Tribe" means Bishop Paiute Tribe.

(o) "Person" means any individual, partnership, joint venture, trust, estate, unincorporated association, corporation, government (other than government of the Tribe and any wholly owned subdivision of that government), and any "owner" or "utility" as those terms are defined in this ordinance.

(p) "Billboard Communication System" (Communication System) shall include, but not be limited to any and all structures, scaffolding and/or surfaces that display advertising to the general public and for which fees are paid either by or to the owner of such structures, scaffolding and/or surfaces.

SECTION 5. VALUATION

(a) The value of taxable property shall be determined as provided in this section, or by any method adopted by the Authority which accurately reflects fair market value.

(b) The value of taxable property shall be presumed to be the portion of total unit value adopted for the utility by the California State Board of Equalization for the prior assessment year which is properly allocable to the reservation, or, in the case of taxable property on the Reservation owned or used by a utility but not subject to assessment by the State Board of Equalization, the final value established by the Inyo County Assessor or Inyo County Assessment Appeals Board, as appropriate, for that portion of the utility's taxable property allocable to the reservation in the prior assessment year. Owners of utility property subject to tax under this ordinance shall submit, by January 15th. of each year, prior to the assessment date, an allocation of unit or system value to the Reservation. This allocation shall be computed by multiplying unit or system value by the ratio of the replacement cost (less depreciation) of taxable property located on the Reservation to the replacement cost (less depreciation) of total taxable property within the unit or system.

The value of taxable property on the Reservation which is owned or used by a utility, but not subject to valuation by the California Board of Equalization or the Inyo County Assessors shall be established by any method adopted by the Authority which accurately reflects fair market value.

(c) Nothing in this section shall prevent the Authority from adopting any method for valuing taxable property which accurately reflects fair market value.

(d) The Authority may engage private appraisal firms for the valuation of utility property and determination of allocation factors.

(e) Any person owning taxable property on the Reservation shall submit a copy of the property statement required by California Revenue and Taxation Code section 441 or 826, as appropriate, at the same time such statement is filed with either the Inyo County Assessors office or the State Board of Equalization, as appropriate. Persons filing the property statement described in section 441 shall identify which property is located on the Reservation.

SECTION 6. RATE OF TAX

The tax rate shall be established in regulations or by Tribal Council resolution. The rate shall not be less than one percent (1 %), nor more than ten percent (10%). Until another rate is established, the tax rate shall be the average property tax rate for Inyo County in the prior assessment year. A change in the rate must be announced by July 1st following the assessment date for which it is effective.

SECTION 7. ASSESSMENT

(a) Taxable property shall be assessed annually on the assessment date. The assessments made by the Authority are presumed to be correct.

(b) Taxes assessed shall be a lien against the taxable property in favor of the Tribe. Such lien shall arise as of the assessment date, without notice or demand, and shall be prior and superior to all other liens and encumbrances upon the property.

(c) Owners of taxable property shall be liable for the taxes assessed.

(d) If an owner is a corporation or a trust, then the corporation or trust shall be liable for the taxes. If an owner is an association, joint venture, or partnership, or a part thereof, then the associates, participants, or partners both general and limited, shall be jointly and severally liable for the taxes. Subject to alteration by agreement between them, any associate, participant, or partner shall have a right of contribution from any other associate, participant, or partner for its proportional share of taxes paid.

(e) The owners of the taxable property shall be jointly liable for the taxes assessed with respect to said lease and shall be severally liable for such taxes in proportion to their interests in

the taxable property on the assessment date. Subject to alteration by agreement between them, any owner shall have a right of contribution from any other owner for its proportional share of taxes paid. The Authority in its discretion, and with the consent of all such owners, may relieve one or more of them from personal liability if it determines that the taxes are adequately secured by the taxable property, the personal liability of the remaining owners, or any bond it may require to be posed.

(t) The Authority shall have the authority to assess unassessed taxable property interests as of the date on which they should have been assessed, and to redetermine incorrect or erroneous assessments.

SECTION 8. PROHIBITION ON PASS-THROUGH OF TAX

(a) Notwithstanding any other provision of law, no person may identify as a separate line item on each regular bill of a utility customer or subscriber the amount of the customer's or subscriber's bill assessed as the tax imposed by this ordinance and the identity of the authority to which the tax is paid;

(b) Violation of subdivision (a) shall be punished by a fine imposed by the Authority in the greater of:

(1) Treble the amount of fee due in the year in which the violation occurs; or

(2) \$5,000.00

(c) All utilities shall comply with the requirements of 47 USCS Section 542 and California Public Utilities Code Section 454.

(1) In enacting this ordinance, it is intent of the Tribal Council that the tax imposed herein meet the definition of a tax of "general applicability", as defined in 47 USCS Section 542 (g)(2)(A).

(2) In enacting the ordinance, it is the intent of the Tribal Council to prohibit itemized pass-through of the tax imposed by this ordinance or adjustment of customer or subscriber rates on the Reservation because of the imposition of the tax imposed by this ordinance.

SECTION 9. EXEMPTIONS

(a) Nothing in this chapter shall be construed as imposing a tax on a member or on the government of the Tribe or on any wholly-owned subdivision or enterprise of the government of the Tribe.

(b) Nothing in this chapter shall be construed as imposing on the federal government a tax which is prohibited by federal law.

SECTION 10. DESIGNATION OF INDIVIDUAL

(a) Each owner must designate and provide the mailing address of a natural person for the purposes of notice. The Authority may by regulation impose requirements as to the individuals who shall be designated under this section, and may require information or documentation it deems necessary for the proper and efficient administration of this tax to be provided with the designation.

(b) No designation need be made by any person who is exempt under section 8, provided that the Authority may require such person to file a statement of exempt status.

SECTION 11. FILING OF DECLARATION

(a) Except as provided in subsection (c) of this section or as otherwise provided by the Authority, each utility that is an owner must file a declaration of its interest in any taxable property on or before December 15th following each assessment date. The Authority may by form or regulation require the information and documents which it deems necessary for proper and efficient administration of the tax and require that the declaration be signed by specified persons.

(b) If an owner fails to provide information or documents within its possession or control which are relevant to a determination of the value of taxable property and which it is required to provide under this ordinance, the Authority may proceed to determine the value and to assess the taxes. The assessment is binding on the owner unless it is shown that the valuation, on the basis of the best information available to the Authority, was clearly erroneous or unless the Authority for other good cause shown relieves the owner from the operation of this subsection.

(c) No declaration need be filed by any person who is exempt under section 8, provided that the Authority may require such person to file the information necessary to establish exempt status.

(d) The Authority may by form or regulation require any person to file the information or documents deemed necessary for the proper and efficient administration of the tax.

SECTION 12. PAYMENT OF TAX

(a) The tax shall be paid in two installments, one-half being delinquent if not paid by May 15 of each year and the other one-half being delinquent if not paid by December 15 of the following year. Provided, that no payment of tax shall be due less than three (3) months after the time an assessment is made and notice thereof given and the Authority shall extend the time for payment accordingly.

SECTION 13. EXTENSION OF TIME

An owner may request an extension of time for filing a declaration. The request must be made to the Authority in writing by the due date for the declaration. An extension of time may be granted at the discretion of the Authority.

SECTION 14. RECORD KEEPING

(a) The Authority may by regulation prescribe the records which shall be kept by each owner with respect to a lease or its interest therein.

(b) In the case of an owner which is part of a corporation, partnership, association or other person, separate records for the owner must be maintained.

(c) Records required to be kept under this section must be preserved for four (4) years beyond the time payment of tax is made, or if no payment is due, for four (4) years beyond the due date of the declaration to which the records relate.

SECTION 15. INTEREST IMPOSED

Annual rates of interest shall be established in regulations. Interest shall be imposed on any unpaid amount of tax from the date the payment was due, without regard to any extension of time or stay of payment, to the date payment is received. Interest at a lesser rate shall be paid on any overpayment of tax from the date the date the payment was made to the date the overpayment is refunded.

SECTION 16. PENALTIES FOR FAILURE TO FILE

(a) If an owner fails to file a declaration by the time due, a penalty often percent (10%) of the tax due with respect to the assessment date, but not less than \$100, shall be assessed against the owner.

(b) An additional penalty of one percent (1 %) of the tax due for the assessment date, but not less than \$100, shall be assessed for each full month the declaration is overdue. Provided, that the additional penalty shall not, except as to the minimum amounts, exceed twenty-four percent (24%) of the tax.

(c) A declaration filed on or before an extended date for filing is timely filed.

(d) For good cause shown, the Authority may in its discretion relieve the owner from all or part of the penalties imposed by this section.

SECTION 17. PENALTIES FOR FAILURE TO PAY

(a) An owner failing to pay an amount of tax by the time due shall be assessed a penalty of five percent (5%) of the amount of the underpayment.

(b) An additional penalty shall be assessed of one-half percent (0.5%) of the underpayment for each full month payment is overdue, but not to exceed thirty-six (36%) of the underpayment.

(c) An amount paid on or before an extended date for payment is timely paid.

(d) For good cause shown the Authority may in its discretion relieve the owner from all or part of the penalties imposed by this section.

SECTION 18. PENALTIES FOR ATTEMPT TO EVADE OR DEFEAT TAX

(a) Any owner under-assessed by reason of incomplete or incorrect information provided through negligence or intentional disregard of the rules and regulations (but without the intent to defraud) shall be assessed a penalty of \$250, plus twenty-five percent (25%) of the underpayment of tax.

(b) If any part of an under-assessment of tax is shown to be due to fraud, an owner shall be assessed a penalty of fifty percent (50%) of the underpayment of tax.

(c) Any person who assists an owner in fraud resulting in an under-assessment shall be subject to a penalty of \$500, plus twenty-five percent (25%) of the underpayment of tax. Any liability arising under this subsection shall be assessed and collected as a tax imposed by this ordinance.

SECTION 19. CHARGES FOR ADMINISTRATIVE COSTS

An owner failing to pay any taxes at the time due may be charged for extraordinary administrative costs incurred in collecting the unpaid amount, including attorney fees and other costs of collection outside the jurisdiction of the Tribe. These charges shall be assessed unless the Authority for good cause shown relieves the owner from the operation of this section.

SECTION 20. FAILURE TO COMPLY WITH ORDINANCE

Any owner or other person obligated to pay taxes pursuant to this ordinance, to designate an individual, to file a declaration, to provide information or documents or allow access to property within its possession or control, to furnish a surety bond or other security, or to comply with a lawful order of the Authority, and failing to do the same in accordance with provisions of this ordinance and the regulations, may have its rights to engage in productive activity within all or some of the Reservation suspended, until compliance is made or for such shorter time as the Authority may provide. The Authority is empowered to order such suspension, provided that it shall first give the person to be suspended notice and an opportunity to be heard, and that any suspension may be appealed to the Tribal Council.

SECTION 21. INTERFERENCE WITH ADMINISTRATION

(a) It shall be unlawful for any person, forcibly, or by bribe, threat or other corrupt practice, to obstruct or impede the due administration of this tax.

(b) It shall be unlawful for any person willfully to fail to comply with a subpoena duly issued pursuant to section 37.

(c) It shall be unlawful for any person to commit fraud, or knowingly to assist another in the commission of fraud, with the intent to evade or defeat the assessment or collection of taxes imposed by this ordinance.

(d) It shall be unlawful for any person with knowledge and intent to falsely verify by written statement any declaration or document.

(e) Any Tribal member who violates any of the provisions of this section shall be guilty of an offense and, upon conviction, shall be sentenced to a term of imprisonment of not more than 180 days, or ordered to pay a fine not to exceed \$500, or both.

(f) Any nonmember of the Tribe who violates any of the provisions of this section may be excluded from land subject to the jurisdiction of the Tribal Council.

(g) Any person who violates any of the provisions of this section, or whose employees or agents violate any of the provisions of this section, may have its rights to engage in productive activity within all or some of the Reservation temporarily or permanently suspended. The Authority is empowered to order such suspension, provided that it shall first give the person to be suspended notice and an opportunity to be heard, and that any suspension may be appealed to the Tribal Council.

SECTION 22. COLLECTION POWERS

(a) The Authority shall have full power to collect any taxes assessed, including the power to attach and seize, in accordance with the provisions of this chapter, the assets of an owner or any property subject to a lien, and any other powers available to the Tribe for collection of debts owed it.

(b) The Authority may bring suit or enforcement proceedings in any court of competent jurisdiction. Provided, that the bringing of suit or enforcement proceedings shall not constitute a waiver of sovereign immunity and, further provided, that the Authority shall not be compelled to assert a claim for taxes in litigation by way of counterclaim or otherwise.

SECTION 23. SECURITY FOR PAYMENT

Whenever necessary to secure the payment of taxes due or reasonably expected to become due, the Authority is authorized to require the owner to furnish an acceptable surety bond in an appropriate amount, payable to the Authority and conditioned upon the payment of the taxes therein identified no later than the date on which the liability becomes conclusive, or to furnish other acceptable security in an appropriate amount, and to require the owner to furnish additional security as it becomes necessary.

SECTION 24. LIEN FOR TAXES

(a) If an owner fails to pay taxes due after demand by the Authority, the unpaid amount of tax shall be a lien in favor of the Tribe upon all property or rights to property of those liable under section 7.

(b) The lien shall arise at the time the demand is made, shall attach to all property then owned and thereafter acquired, and shall continue until the amount of the lien is satisfied or released, and shall be effective against related persons without notice.

(c) The lien shall not be effective as against other parties until notice is recorded in the offices of the Authority in a form available for inspection by the public.

(d) Provided, that the lien created under section 7(b) shall arise on the assessment date without demand for payment and, further provided that, if a lien is required as a condition for granting an extension of time or stay of payment, such lien shall arise according to the terms of the extension or stay.

(e) The Authority may by regulation exempt certain property from the operation of the lien created by this section.

SECTION 25. FORECLOSURE OF LIEN

(a) The Authority may foreclose upon any or all items of property or rights to property subject to a lien for taxes by levying upon the same and, where such property does not consist of money, converting the same into money by any appropriate means including the sale thereof or the operation under receivership of the business in which the property is used. Provided, that the Authority may by regulation prescribe the circumstances in which property or rights to property subject to a lien may be retained to offset the amount due, rather than being converted into money.

(b) The Authority may by regulation provide for the redemption of property levied upon, within time limits and on terms specified.

(c) The effect of a levy upon any person for obligations due or payable to an owner or persons liable under section 7 shall be continuous from the date the levy is first made until the liability out of which the levy arose is satisfied.

(d) Any person in possession of or obligated with respect to property or rights to property upon which a levy has been made who, upon demand by the Authority, surrenders such property or rights to property (or discharges said obligation), shall be discharged from any obligation or liability to the owner or persons liable under section 7 whose property or rights to property were levied upon.

(e) The Authority shall carry out the provisions of this section under regulations comporting with due process, and no court proceeding shall be required in order for it to do so.

(f) Proceedings for the sale of property substantially in compliance with the regulations shall be effective to transfer to the purchaser all right, title, and interest therein of the owner or person whose property or rights to property were levied upon. Provided that, where required by federal law, the sale of property shall not be final without the approval of the Secretary of the Interior.

(g) The Authority may delegate and empower persons to carry out the procedures of this section including appropriate law enforcement officials, who shall render assistance in this regard on request by the Authority.

SECTION 26. APPLICATION OF PROCEEDS

(a) Money levied by the Authority, or realized from property or rights to property levied upon, shall be applied first to the expenses of the levy and proceedings for the conversion of property, and then to the liability for costs, penalties, interest, and tax, in that order.

(b) The balance, if any, shall be remitted to any person who has claimed and proven legal entitlement thereto, provided that the Authority may set reasonable time limits or other conditions on the making and proving of such claims.

SECTION 27. RELEASE OF LIEN

(a) Payment of the entire liability of the owner on account of whose liability the lien arose shall operate to release the lien.

(b) The payment of any part of the liability shall operate to reduce the amount of the lien by the amount paid less the amount of any liability for taxes which has accrued since the lien, the amount of which is not reflected therein.

(c) Where a lien has been recorded and the Authority thereafter receives all or part of the taxes giving rise to the lien, the Authority will immediately cause a notation of the complete or partial release of the lien to be made in the record.

(d) The Authority may in its discretion release liens on certain property without payment of all outstanding liabilities, for good cause and where the interests of the Tribe are adequately protected by other security.

SECTION 28. INTERFERENCE WITH FORECLOSURE

(a) It shall be unlawful for any person to remove from the jurisdiction of the Tribal Councilor Reservation any property on which there is a lie~ for taxes which is effective against that person pursuant to section 7.

(b) It shall be unlawful for any person in possession of or obligated with respect to property or rights to property which have been levied upon, to fail to surrender such property or rights or to discharge such obligation upon demand by the Authority therefor, except as to any part of the property or rights as is, at the time of the demand, subject to an attachment or execution under any judicial process.

(c) Any person violating the provisions of this section shall be personally liable for the value of the property removed or not surrendered, or for the amount of the obligation not discharged, not exceeding the amount for which the levy was made. Any liability arising under this section shall be assessed and collected as a tax imposed by this ordinance.

SECTION 29. ASSIGNMENT OR TRANSFER OF INTERESTS IN TAXABLE PROPERTY

(a) If a person buys substantially all of the assets of an owner within the Reservation, that person shall withhold from the purchase price and pay to the Authority the amount of taxes owed by the owner prior to the purchase.

(b) Any buyer failing to withhold taxes shall be personally liable up to the value of all the property acquired. Any liability arising under this section shall be assessed and collected as a tax imposed by this ordinance.

(c) The buyer shall make a written request and, within 30 days after the owner's records are made available for audit, the Authority shall send a notice to the buyer for the taxes due. Thereafter, the buyer shall not be personally liable under this section for any taxes in excess of the amount stated in the notice, or for any such taxes if no notice is given within the time required.

(d) No consent to the assignment or transfer of any lease shall be granted by the Tribe unless the Authority first certifies that all taxes owed by the transferor have been paid, or that payment has been adequately secured.

SECTION 30. MUTUAL ASSISTANCE AGREEMENTS

The Authority is authorized to negotiate mutual assessment and collection assistance agreements with any other tax jurisdiction. The agreements so negotiated will come into force only upon ratification by the Tribal Council.

SECTION 31. PROHIBITION OF SUITS

No suits for the purpose of restraining the assessment or collection of the taxes imposed under this chapter shall be maintained in any court by any person, whether or not such person is the person against whom such taxes were assessed.

SECTION 32. STATUTE OF LIMITATIONS

(a) Any action in a court or by levy for collection of taxes imposed under this chapter must be commenced within four (4) years after a notice of assessment is given, except as provided in subsections (b) and (c) of this section.

(b) The running of the period of limitations shall be suspended during any period the Authority is prohibited by any court from commencing collection proceedings and while any petition for reassessment is pending pursuant to section 32, or while any claim for refund is pending under section 33.

(c) The running of the period of limitations may be suspended for any period agreed upon between the owners of a lease and the Authority.

SECTION 33. PETITIONS FOR REASSESSMENT

(a) A reduction in assessment shall not be made unless the person who is an owner, or his or her agent, makes and timely files with the Authority a verified, written application showing the facts claimed to require the reduction and the petitioner's opinion of the proper assessment. The form for the application and the information required to be supplied by the petitioner shall be prescribed by the Authority.

(b) A petition for reassessment is deemed timely filed when it is postmarked or received by the Authority no later than 30 days from the date of the notice of tax assessment being contested.

(c) Petitions for redetermination of tax for taxable property also subject to valuation by the California State Board of Equalization or the Inyo County Assessor shall be limited to issues of the allocation of value of taxable property situated within and without the Reservation. Owners wishing to contest the valuation of such taxable property must have filed an Application for Change in Assessment with the Inyo County Assessment Appeals Board or a Petition for Reassessment with the California Board of Equalization, as appropriate, and have contested the valuation of their taxable property for California property taxes. The Authority shall make adjustments in the value of taxable property on the Reservation or appropriate refunds of tax in accordance with the findings of the Inyo County Assessment Appeals Board or the California Board of Equalization as appropriate.

(d) Petitions for redetermination of tax for taxable property not also subject to valuation by either the California State Board of Equalization or the Inyo County Assessor may include both issues of valuation and allocation of value.

(e) The Authority shall rule on claims for refund according to procedures established in regulations.

SECTION 34. CLAIMS FOR REFUNDS

(a) A refund of taxes shall not be made unless the person who is an owner, or his or her agent, makes and timely files with the Authority a verified, written claim for refund showing the facts claimed to require the refund. The form for the claim and the information required to be supplied by the claimant shall be prescribed by the Authority.

(b) A claim for refund shall be considered timely filed if it is received or postmarked not later than six months from the date of the alleged overpayment.

(c) Claims for refund shall be limited to issues of the allocation of value of taxable property situated within and without the Reservation. Owners wishing to contest the valuation of taxable property must have filed an Application for Change in Assessment with the Inyo County Assessment Appeals Board or a Petition for Reassessment with the California Board of Equalization, as appropriate, and have contested the valuation of their taxable property for California property taxes. The Authority shall make adjustments in the value of taxable property on the Reservation or appropriate refunds of tax in accordance with the findings of the Inyo County Assessment Appeals Board or the California Board of Equalization as appropriate.

(d) The Authority shall rule on claims for refund according to procedures established in regulations.

(e) If the Authority determines that an owner has made an overpayment, the Authority shall refund the overpayment, with applicable interest to the owner.

(f) If the owner entitled to a refund owes unpaid taxes, the refund shall be offset and reduced by such unpaid amounts.

(g) No refund or credits for taxes paid shall be made or allowed to any person by any court or agency other than as provided in this section.

SECTION 35. CLOSING AGREEMENTS

(a) If at any time the Authority in good faith is in doubt of the liability of the owner for the payment of taxes, it may compromise the liability by entering in writing with the owner a closing agreement that adequately protects the interests of the Tribe, provided that such agreement shall be subject to approval by the Tribal Council.

(b) If entered into after an~ court acquires jurisdiction of the matter, a closing agreement shall be part of a stipulated order or judgment disposing of the case.

(c) As a condition for entering into a closing agreement, the Authority may require the provision of security for payment of any taxes due according to the terms of the agreement.

(d) A closing agreement is conclusive as to the liability or non-liability for payment of taxes relating to the periods referred to in the agreement, except upon a showing of fraud, malfeasance, or misrepresentation or concealment of a material fact.

SECTION 36. CONFIDENTIALITY RULES

(a) It shall be unlawful for any employee or former employee of the Authority to reveal to any individual, other than another employee or legal counsel of the Authority, any information contained in the declaration of any owner or any other information about any owner acquired as a result of his or her employment by the Authority, except:

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(1) To the owner or to its authorized representative;

(2) To an employee or member of the Tribal Council authorized by the Authority to obtain information for use in connection with the governmental function of said employee or council member, provided that it shall be unlawful for the employee or council member to reveal said information except as permitted in this section;

(3) To an authorized representative of another Indian tribe or a state or local government entity, provided that the receiving tribe or state has entered into a written agreement with the Authority to use the information for tax purposes only and that the receiving tribe or state has enacted a confidentiality statute similar to this section;

(4) To an authorized representative of a federal agency, pursuant to the terms of a reciprocal agreement for the exchange of such information;

(5) In compliance with the order of any court of competent jurisdiction in which the information sought is material to the inquiry;

(6) In any administrative or judicial proceeding to enforce any act or collect taxes, or in any matter in which the owner has put its liability for taxes or the amount thereof at issue;

(7) In recording tax liens on the taxable property of an owner or collecting taxes by levy upon the property or rights to property of an owner;

(8) In statistical releases not identifying the information provided as applicable to any single owner;

(9) To the extent of revealing whether an owner has or has not made a designation (and, if so, the name and address of that designee), or whether a person is or is not a designee (and, if so, by whom he has been designated); and

(10) To the extent of revealing to the purchaser or intended purchaser of taxable property the amount and basis of any unpaid taxes for which the seller is liable.

(b) For purposes of this section, "employee of the Authority" shall include any person for whose services the Authority has contracted, provided that such person shall agree in the contract for services to abide by the provisions of this section.

(c) Any employee or council member who violates any of the provisions of this section shall be subject to a fine of \$50, or suspension of thirty (3) days, or both.

(d) , The Authority may further restrict the disclosure of information and provide for compliance with the provisions of this section.

SECTION 37. EFFECTIVE NOTICE

(a) Notice required to be given by the Authority may be effectively given to an owner by mailing to the individual last designated by the owner, at the address shown on the designation. Where an owner has not designated an individual, notice is effectively given by mailing to the owner or any other person who owns an interest in the lease. The foregoing is not intended to exclude the use of other methods of giving notice, including publication, where comporting with due process.

(b) Public notice of a lien shall be effective as to all property and rights to property of an owner, business, or person so long as the description of the owner, business, or person is sufficient to put a reasonable person on inquiry to ascertain the existence of a lien on the property of said owner, business, or person.

SECTION 38. INVESTIGATIVE AUTHORITY

(a) For the purpose of enforcing the provisions of this ordinance, the Authority is authorized to inspect property, to examine and require the production of any pertinent records, books, information, or evidence, and to require the presence of any person and require him to testify under oath concerning the subject matter of an inquiry, and to make a permanent record of the proceedings.

(b) As a means for accomplishing the foregoing, the Authority is hereby vested with the power to issue subpoenas and summonses, pursuant to regulations comporting with due process.

SECTION 39. OATHS AND AFFIRMATIONS

Any agent or employee designated by the Authority for that purpose is authorized to administer such oaths or affirmations and to certify to such papers as may be necessary under this ordinance or the regulations.

SECTION 40. RECEIPTS; DISBURSEMENTS

(a) There is hereby created in the treasury of the government of the Tribe the Tax Administration Suspense Fund.

(b) All money received by the Authority for taxes shall be deposited forthwith to the credit of said Fund.

(c) Payment of claims for refund shall be disbursed from this Fund, except to the extent that there is a pertinent escrow established pursuant to subsection (e) of this section.

(d) At the end of each month, the balance remaining in the Fund, after the payment of refunds under subsection (c) of this section, shall be transferred to the general fund or to such other funds, or the credit of such accounts, as may be provided by Tribal law.

(e) Notwithstanding the foregoing, the Authority may in its discretion hold certain contested amounts in escrow, or direct some balance to be maintained in the Tax Administration Suspense Fund from month-to-month in anticipation of additional payments which may have to be made therefrom.

SECTION 41. SEVERABILITY

If any provision of this ordinance, as amended, or its application to any person or circumstance, is held invalid by a final judgment of a court of competent jurisdiction, the invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable.

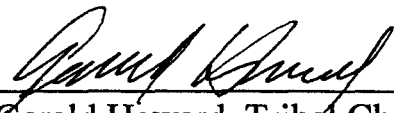
SECTION 42. EFFECTIVE DATE

This amended ordinance shall become effective January 12, 2006.

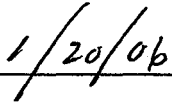
CERTIFICATION

The foregoing Amended Ordinance was passed at a duly called meeting of the Bishop Tribal Council held on the 12th day of January, 2006 with a quorum present and voting 2 AYES, 0 NAYS, 0 ABSTAINING, and 2 ABSENT. Chairman voting only in case of tie.

BISHOP TRIBAL COUNCIL:



Gerald Howard, Tribal Chairman



ATTEST:

/s/ Wanda Summers
Wanda Summers, Secretary

Date: 1/17/06 _____