

FOREST PRODUCTS ORDINANCE

Kashia Band of Pomo Indians Stewarts Point Rancheria

**Kashia Band of Pomo Indians
At Stewarts Point Rancheria
3535 Industrial Drive
Suite B-2**

Santa Rosa California 95403

DEP Tel: (707) 591-0580 x 104, 105, 107

Fax: (707) 591-0583

**Department of Environmental Planning E-MAIL: lynne@stewartspointrancheria.com
reno@stewartspointrancheria.com**

TABLE OF CONTENTS

Cover Sheet	Page 1
Community Council Minutes regarding Ordinances	Page 2
Abstract of Ordinance	Page 3
Ordinance	Pages 4 through 7
Application for Harvesting Permit	Page 8
Harvesting Permit	Page 9

STEWARTS POINT RANCHERIA

COMMUNITY COUNCIL MEETING Nominations Meeting

MINUTES

April 9, 2000

(A Tribal Community Directive issued at the above meeting)

Excerpt from the above

OAK TREE: A 100-year old oak tree has been cut down. It was noted that the falling of oak trees is a serious offense to the environment and tribal members who continually use the oak trees to gather acorns. It was noted that any requests to fall trees on-reservation are to come through the tribal office. An ordinance to protect the environment will be developed to address the issue.

DOG ORDINANCE: Concerns were raised regarding unleashed dogs. This is an ongoing problem and should be addressed. Lynn Silva will check further on an ordinance adopted by the Point Arena Reservation to address the same issue.

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Abstract of Forest Products Ordinance

It is proposed that an Ordinance governing the harvest of Forest Products be established at Stewarts Point Rancheria, modeled on ordinances at 15 other Reservations and Rancherias.

The provisions of the ordinance are:

1. Tribal members may not cut living trees without written permission of the Community Council.
2. Tribal members must apply for a permit to cut firewood or harvest any forest products EXCEPT food items, such as acorns, berries, mushrooms, and herbs.
3. All forest products gathered must be for the personal use of the permit holder and may not be sold.
4. Permits must be in the name of the person gathering the plant material.
5. Permit fees are waived for gathering spiritual or cultural materials.
6. Violations of the ordinance may result in fines, restrictions on the privilege of gathering materials, or both.

Please read the full ordinance for information on Permit Fees, procedures for applying for a permit, and enforcement policies.

Ordinance 10

Forest Products Harvest Kashia Band of Pomo Indians Stewarts Point Rancheria

Section 1. Statement of Findings

1.1 The Kashia Band of Pomo Indians of Stewarts Point Rancheria (Tribe) retains inherent sovereignty over its members and its territory in addition to those powers vested in the Tribal Business Committee and Community Council under the Constitution of the Kashia Band of Pomo Indians of Stewarts Point Rancheria or delegated to it by Act of Congress.

1.2 The Stewarts Point Rancheria, Kashia Band of Pomo Indians is recognized as a sovereign government by the United States of America, and

1.3 The Tribal Business Committee of the Kashia Band of Pomo Indians is a duly authorized body, empowered to conduct government affairs on behalf of the people and to promote and foster the economic development and the health and well being of the general membership, and

1.4 Such Governance places the responsibility for natural resource management upon the tribal government, and

1.4 The natural resources of Stewarts Point Rancheria are essential to the health, welfare, and sovereignty of the Kashia Band of Pomo Indians, and

1.5 From time immemorial, the members of the Tribe have practiced conservation to protect the invaluable natural resources within the Tribe's aboriginal territory from waste and excessive exploitation.

1.6 The Tribe's forest resources constitute a source of economic, cultural, and spiritual sustenance to the Tribe and its members, and the harvesting of forest products for personal use is important to the subsistence needs of many Tribal members.

1.7 The increasing human population and activities within and adjacent to the Rancheria present a potential threat to the Tribe's management of the forest resources.

1.8 It is therefore vital to the welfare of the Tribe that it establishes a comprehensive regulatory structure for the effective management of the opportunities for tribal members to harvest forest products on the Rancheria.

Section 2. General Statement

2.1 The Kashia Band of Pomo Indians at Stewarts Point Rancheria has Indian forestlands that are chiefly considered valuable to maintain the watershed or other land values enhanced by forest cover, and are accessible to tribal members for personal use. The Tribe acknowledges its responsibility for management of the forestlands and resources in order that future generations of Tribal members may enjoy the use of the forestlands as their birthright. Accordingly, in the exercise of the Tribe's management responsibility, the Tribal Business Committee has determined that all Tribal members must make use of the forestlands and resources in accordance with the provisions of this Ordinance.

Section 3. Declaration of Purpose and Scope

3.1 In recognition of the spiritual, cultural, and economic value of the forestlands and resources of Stewarts Point Rancheria, and the importance of forest products to the subsistence needs and general welfare of Tribal members, the Tribe establishes this Ordinance to provide an orderly framework for the allocation and

management opportunities for Tribal members' harvest of forest products on the Rancheria, consistent with the principle of sustained yield management.

3.2 This Ordinance effects a balance among: (1) The Tribe's obligation to protect and preserve the forest lands and resources of the Rancheria for future generations; (2) the Tribe's intent to afford the Tribal Members the greatest possible freedom to use and enjoy the Rancheria's forest products for personal subsistence.

3.3 The harvest of forest products shall be limited to enrolled members of the Kashia Band of Pomo Indians of Stewarts Point Rancheria.

Section 4. Definitions

4.1 In construing the provisions of this Ordinance the following terms shall have the designated meaning unless a different meaning has been provided or the context clearly requires otherwise:

a. "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 Rancheria. Some of the forest products include, but are not limited to firewood, fence posts, poles, Christmas Trees, mosses, roots, plants, and herbs. Seeds, nuts, berries, fruits, garden produce, and mushrooms are not included in this definition.

b. A "Cord of Firewood" is a stack of wood four (4) feet wide by eight (8) feet long by four (4) feet high.

c. A "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 condition represents one household.

d. A "Tribal Member" means a person who is listed on the rolls of the Kashia Band of Pomo Indians at Stewarts Point Rancheria.

Section 5. Jurisdiction

5.1 This Ordinance and any regulations adopted pursuant to this Ordinance, applies to the land of the Rancheria and to all persons engaged in the harvest of forest products on these lands.

5.2 The Tribal Business Committee may enter into such agreements with the Sonoma County Sheriff, the Bureau of Indian Affairs, the Tribal Housing Authority, Indian Health Service, or the Environmental Protection Agency or such governments, agencies or persons it deems appropriate to better fulfill the purpose of this Ordinance. Those agreements may extend the jurisdiction asserted by the Tribe under this Ordinance.

Section 6. Permit Process

6.1 Tribal members must obtain a permit from the Tribal Business Committee and the Tribal Department of Environmental Planning before they harvest forest products from the Rancheria. All products harvested with such permits shall be for the personal use of the permittee(s) and may not be exchanged, sold, or traded for other goods or services.

6.2 The permit shall include the Tribal member's name, address, the date of the request, the nature of the request, the kind and quantity of the forest products to be harvested, the area for the request, and any limitations or special conditions. The permit must also include the signature of the authorized tribal official and have the environmental approvals from the appropriate Federal Agency (Agencies) attached as required.

6.3 Forest products may be harvested by someone other than the permittee if the permittee is on site. The permittee must have the permit in their possession while harvesting. The permittee must receive the harvested materials, and be designated by name on the permit. Only under prior special arrangements may a person other than the permittee harvest forest products without the permittee present.

6.4 A permit shall expire 60 days after its date of issuance. A Tribal member may apply for a new permit after the expiration date provided that he or she has complied with all the restrictions and limits of the prior permit.

6.5 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 Administrative Office and in the Tribal Department of Environmental Planning. Copies shall be made available to law enforcement officials as needed.

6.6 Permit applications shall be available at the Tribal Office during regular business hours.

6.7 Seeds, nuts, berries, fruits, garden produce, and mushrooms are exempt from this Ordinance.

Section 7. Permit Fees

7.1 A fee of \$5.00 (Five Dollars) shall be collected for applications to harvest forest products except for harvest of spiritual or cultural products. No fee shall be collected for harvest of spiritual or cultural products.

Section 8. Limitations on the Harvest of Forest Products

8.1 The limitations imposed in this section shall be on an annual basis, beginning January 1 and ending December 31 of any given year.

(a) No standing live trees greater than 5 inches diameter at breast height may be harvested for any reason without express written approval of the Community Council.

(b) Only dead or downed wood as identified by the Tribal Business Committee and the Tribal Department of Environmental Planning may be harvested for firewood.

(c) Tribal members are encouraged to apply for firewood assistance through the Tribal office rather than attempt to harvest firewood on the Rancheria.

8.2 Trees less than 5 inches diameter at breast height may be harvested inside the boundaries of the fuel break for poles or posts during annual construction or maintenance of the fuel break surrounding Stewarts Point Rancheria as directed by the Tribal Department of Environmental Planning.

8.3 The harvesting of forest products shall be subject to any special conditions the Tribal Business Committee may establish. Any harvesting activities are also subject to the applicable regulations of the Bureau of Indian Affairs governing Indian forest management and operations, generally set forth at 25 CFR Sect. 163.1 through 163.37.

Section 9. 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 Reservation's resources, The Tribal Business Committee encourages Tribal members to report known or observed violations of this Ordinance to the appropriate Tribal authorities.

9.2 Violations of this Ordinance shall be documented in writing from the Tribal Business Committee. Any such violation shall result in the imposition of fines including: treble damages based on the highest valuation obtainable from the raw materials involved in the violation; payment of costs associated with any damage to tribal land, including but not limited to, rehabilitation, reforestation, lost future revenue and lost profits, loss of productivity, and damage to other forest resources; and suspension or revocation of harvesting privileges. In lieu of the stated fines, the Tribal Business Committee may adopt a separate schedule of penalties.

9.3 Any Tribal member who has one or more fines imposed under this Ordinance that remains unpaid for 60 days or more from the date of the issuance of the letter from the Tribal office, shall have his/her harvesting privileges under this Ordinance suspended until such time as all fines are paid in full. Suspension of the

member's harvesting privileges shall be in addition to any other remedy the Tribe may have based on the member's non-payment.

9.4 Repeated violations of this Ordinance shall be grounds for permanent revocation of harvesting privileges.

9.5 Payment of fines shall be withheld from any revenue a member may receive.

Section 10. Due Process

10.1 Upon issuance of written notice of a violation of this Ordinance, the Tribal Department of Environmental Planning shall make an initial report to the Tribal Business Committee concerning the nature and severity of the alleged violation and a recommended penalty, based on the terms set forth in Section 9.2, including any special circumstances for the Tribal Business Committee's consideration.

10.2 Any person issued a letter of violation may request a hearing before the Tribal Business Committee to challenge the basis of the violation. The request for hearing must be presented to the Tribal Office within fourteen (14) days of the date of the letter and must be made on a service request form available upon request in the Tribal Office.

10.3 Notice of the time and place of the hearing shall be provided to the person requesting the hearing at least seven (7) days prior to the hearing date. At the hearing, the Tribal Business Committee shall review the violation, the Tribal Department of Environmental Planning report on the violation, including its recommended penalty, and shall allow the person issued the violation to make a brief statement in refutation, and /or mitigation of the alleged violation. If the Tribal Business Committee 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 terms set forth in Section 9.2, taking into account any mitigating circumstances.

10.4 The decision of the Tribal Business Committee shall be final for all purposes, and no further right to hearing or of appeal shall apply.

SECTION 11. Sovereign Immunity of the Tribe

11.1 There is no waiver of Sovereign Immunity of the Kashia Band of Pomo Indians of Stewarts Point Rancheria in the implementation and enforcement of this ordinance.

**Application for Permit to Harvest Cultural or Spiritual Plants, or Forest Products (except live trees), at
Stewarts Point Rancheria**

Name _____

Address _____

City _____ State _____ Zip _____

Telephone or Contact Number _____

Enrolled member of the Kashia Band of Pomo Indians **Yes** ____ **No** ____

I wish to apply for a permit to gather the following materials on the Rancheria:

_____ **Amount** _____.

Proposed Dates of Harvest _____.

Reason for Harvest: _____

Fee: Cultural or Spiritual Items: No Fee

All others: **\$5.00 enclosed** **Yes** _____ **No** _____

Initial each
box below

Application cannot be processed without the appropriate fee enclosed.

- ☐ I have received and read a copy of the Forest Harvest Ordinance for Stewarts Point Rancheria, and understand the provisions of the Ordinance.
- ☐ I understand that there are strict limits regarding the type and amount of forest products that I can harvest and that live trees may not be harvested except with express written permission from the Community Council.
- ☐ Anything I harvest is for my personal use or for distribution to Rancheria residents at no cost and **may not be sold or re-sold**.
- ☐ This **application is not a permit!** I must wait to harvest until I receive a completed permit form from the Tribal Office.
- ☐ I also understand that **violations** of the conditions of the permit once it is received **may result in fines and/or permanent suspension** of the right to harvest at Stewarts Point Rancheria.

Signed _____ Date _____

Office use only: Received by _____ Date _____ Approved ____ Yes ____ No ____ / ____ / ____

Tribal Chairman

Date

Permit to Harvest Cultural or Spiritual Plants, or Forest Products (except live trees), at Stewarts Point Rancheria

The Kashia Band of Pomo Indians of Stewarts Point Rancheria hereby grants permission to:

Name _____

Address _____

City _____ State _____ Zip _____

Telephone or Contact Number _____

for the purpose of harvesting the following items: _____ in the

following amounts _____ to be collected at the following locations: _____

between the following dates: ____/____/____ and ____/____/____.

Initial each
box below

- ☐ These items are for the personal use of the individual named in this permit or for distribution to Rancheria residents at no cost. The person to whom this permit is issued must have this permit on his/her person and be present during harvesting.
- ☐ I have received and read a copy of the Forest Harvest Ordinance for Stewarts Point Rancheria, and understand the provisions of the Ordinance.
- ☐ I understand that there are strict limits regarding the type and amount of forest products that I can harvest and that live trees may not be harvested except with express written permission from the Community Council.
- ☐ Anything I harvest is for my personal use or for distribution to Rancheria residents at no cost and **may not be sold or re-sold.**
- ☐ I also understand that **violations** of the conditions of the permit **may result in fines and/or permanent suspension** of the right to harvest at Stewarts Point Rancheria.

This permit expires 60 days from the date signed by the Tribal Chairman.

Signed _____ Date _____
Permit Holder

Signed _____ Date _____
T Tribal Chairman

Office Use only: Review by Tribal Department of Environmental Planning completed ____/____/____

Clearances obtained from appropriate Federal Agency ____/____/____

Clearance Documents attached: _____ Yes _____ No

Notes:


CERTIFICATION

We, the undersigned officers of the Kashia Band of Pomo Indians of the Stewarts Point Rancheria, hereby certify that the foregoing ordinance was adopted at a duly called meeting of the Community Council of the Kashia Band of Pomo Indians of the Stewarts Point Rancheria on March 14, 2004, with a quorum present and by a vote of 93 for, 0 against, 0 absent, and 0 abstaining.


Eric Wilder, Tribal Chairman

3/29/04
Date

ATTEST:


Kimberly Scarioni, Tribal Vice-Chairwoman

3-29-04
Date