

TITLE 41

SETTLEMENTS

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BETWEEN THE CITY OF TACOMA AND THE NISQUALLY INDIAN TRIBE**

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TITLE 41 SETTLEMENTS

CHAPTER I – IMPLEMENTATION OF STIPULATION AND SETTLEMENT BETWEEN THE CITY OF TACOMA AND THE NISQUALLY INDIAN TRIBE

41.01 CITATION OF AUTHORITY

41.01.01 Basis of Authority

- (a) Authority for this Chapter is found in the Constitution and Bylaws of the Nisqually Indian Community, approved by the Assistant Secretary of the Interior on September 9, 1946, pursuant to Section 16 of the Indian Reorganization Act of June 18, 1934, 25 U.S.C. 476. Article III, Section 1 of the Constitution provides that the Community Council is the governing body of the Nisqually Indian Tribe.
- (b) Section 1, Article VI of the Constitution sets forth the enumerated powers of the Community Council of the Tribe. Subsection (f), Section 1 of Article VI provides that the Community Council may promulgate and enforce ordinances, which shall be subject to review by the Secretary of the Interior, governing the appropriation of available funds of the Community for public purposes.
- (c) Section 6 of Article III of the Constitution provides that the Business Committee shall perform such duties as may be authorized by the Community Council.
- (d) The Business Committee was delegated authority in an October, 1970, resolution as adopted by the Community Council and approved by the Secretary of Interior to act on behalf of the Community Council on matters which require Council decision so long as appropriate and sufficient notice is given of the Council meeting and a quorum is not present at that meeting.
- (e) Appropriate and sufficient notice of the August 23, 1988 special Community Council meeting was given and no quorum was present. Thereafter the Business Committee unanimously ratified the TCL Agreement by Resolution 190B-1988 by a unanimous vote of those voting at a Business Committee meeting November 22, 1988.

HISTORICAL AND STATUTORY NOTES

1. This Chapter enacted by Ordinance 1989-1.
2. This Section amended in 1991 by Resolution 4- 1990.
3. The word “chapter” replaced with “section” throughout Title in 2003 amendments where the context required.

4. The word “ordinance” replaced with “subchapter” throughout Title in 2003 formatting amendments where the context required.
5. Subparagraph (b) incorrectly used Article V of the Constitution. This changed to Article VI in all occurrences in 2003 Formatting Amendments.
6. The word “subchapter” replaced with “chapter” throughout Title in 2009 formatting amendments.

41.02 DEFINITIONS

41.02.01 Definitions

For the purpose of this Chapter, the following definitions shall apply:

- (a) “Business Committee” shall mean the Business Committee of the Nisqually Indian Tribe.
- (b) “Derived from the Tacoma City Light Agreement” means funds received directly or indirectly from the City of Tacoma pursuant to the terms of the Stipulation and Settlement Agreement or from any third-party funding source where the amount of the funds or the source of the funds references the TCL Agreement.
- (c) “Fiscal year” shall mean the contract and grant year used by the Tribe in its contracts and grants under Public Law 93-638, as amended.
- (d) “Fish Commission” shall mean the Fish Commission of the Nisqually Indian Tribe.
- (e) “O&M” means operations and maintenance of the Clear Creek hatchery and Mashel River imprint facility.
- (f) “Restricted funds” means funds derived from Tacoma City Light pursuant to Section 2(c) of the TCL Agreement for the estimated cost of the Clear Creek Hatchery operations and maintenance (O&M) during the first six years of the TCL Agreement which are not needed for O&M because:
 - (i) Third-party funding was obtained for O&M; or
 - (ii) The budget requirements for O&M are fully satisfied. Restricted funds shall also include monies derived from the sharing provisions of Section 12 of the TCL Agreement.
- (g) “Secondary fisheries-related projects” means:
 - (i) Any activity in any way related to the fisheries, including, but not limited to, fishery and water resources, Tribal fisheries and other related initiatives and programs;
 - (ii) Tribal education and training; fisheries enforcement;
 - (iii) Fisheries Enforcement; and

- (iv) Other activities related directly or indirectly to the Tribe’s fisheries, river and marine resources, including but not limited to social services, health services, educational services, recreational services, elders programs, youth programs, alcohol and drug treatment programs, the community garden, cemetery maintenance, housing, law enforcement, employment, natural resources, land acquisition, roads, tribal enterprises, economic development and/or cultural activities.
- (v) “TCL Agreement” means the Stipulation and Settlement Agreement between the City of Tacoma and the Nisqually Indian Tribe ratified by Resolution 190B-1988.
- (vi) “Unrestricted funds” means the \$250,000 per year obtained from Tacoma City Light pursuant to Section 3 of the TCL Agreement and the yield from the restricted fund after the year six.

HISTORICAL AND STATUTORY NOTES

This Section amended in 1991 by Resolution 4-1990.

41.02.02 Terms to Have Usual and Ordinary Meaning

Any term not specifically defined by this Chapter shall have its usual and ordinary meaning in the context in which it is used and as is consistent with the purposes of this Chapter.

41.03 RESTRICTIONS ON USE OF FUNDS

41.03.01 Restrictions on the Use of Funds Derived From the TCL Agreement

- (a) No person shall solicit, raise, secure, receive, collect, or otherwise obtain, or manage, handle, invest or disburse monies or other things of value derived from the TCL Agreement except in accordance with this Chapter and regulations adopted pursuant to this Chapter.
- (b) No money derived from the TCL Agreement shall be spent until regulations are adopted pursuant to this Chapter.

41.04 DISCLOSURE

41.04.01 Trustees’ Disclosure

- (a) The Trustees shall disclose to the Community Council and the Business Committee quarterly, including the first Monday of January and July of each year, and to all tribal members requesting such information all disbursements

authorized or expended and the status of all funds derived from the TCL Agreement.

- (b) The Trustees shall select and employ, subject to the approval of the Business Committee, a certified public accounting firm to conduct an annual audit, or at the Trustees' discretion more often, of all funds derived from the TCL Agreement. The audit shall be completed within 60 days of the end of each fiscal year.

41.05 RESTRICTED FUNDS

41.05.01 Restricted Funds to be Deposited into Trust Fund

- (a) All restricted funds shall be deposited directly into a special trust fund.
- (b) The principal and the interest or dividends generated from or by the special trust fund shall not be spent during the first six years of the TCL Agreement.
- (c) The interest or dividends accumulated after the sixth year of the TCL Agreement from the special trust fund shall be made available as unrestricted funds as defined in Section 41.06, provided, no more than ninety percent (90%) of the annual yield after year six of the special trust fund shall be disbursed and the remaining funds shall be retained in the special trust fund.

41.06 UNRESTRICTED FUNDS

41.06.01 Community's Unrestricted Funds

- (a) The unrestricted funds shall be spent in accordance with annual budgets approved by resolution of the Community Council. The Business Committee, with the advice of the Trustees, shall prepare and submit such annual budgets for approval of the Community Council. The annual budget for the following fiscal year shall be approved on or before July 31st of each year. Budget proposals shall be prepared in accordance with spending priorities set by the Community Council, provided, ten percent (10%) of the unrestricted funds shall be annually set aside in a separate special trust fund, the principal and proceeds of which are to be spent for the sole purpose of land acquisition.
- (b) The Business Committee shall adopt regulations providing for the method and timing for the Nisqually Indian Community to determine the priority of spending of the unrestricted funds and interest or dividends accumulated after the sixth year of the TCL Agreement from the special trust fund.

- (c) The Trustees shall receive and review spending requests and shall prepare annual budget recommendations for the Business Committee for the spending of the unrestricted funds.
- (d) The Trustees shall manage and invest the unrestricted funds and the funds set aside in the special trust fund for the land acquisition pursuant to Section 41.08 of this Chapter.

41.07 HATCHERY OPERATIONS AND MAINTENANCE

41.07.01 Hatchery Operations and Maintenance Monies

- (a) The hatchery O&M money which is received pursuant to the TCL Agreement, with the exception of Congressional funding, shall be segregated and administered separately from general Tribal monies. The Nisqually Natural Resources Division, with the advice of the Fish Commission, shall prepare an annual O&M budget for approval by the Business Committee. Once approved, O&M funds shall be spent in accordance with this budget.
- (b) For Congressional funding of hatchery O&M, the Nisqually Natural Resources Division, with the advice of the Fish Commission, shall prepare an annual O&M budget for approval by the Business Committee, and to be administered in the same manner as other federally funded Tribal programs. Once approved and funded, these O&M funds shall be spent in accordance with this budget.
- (c) Surplus monies derived from:
 - (i) Unexpended O&M monies derived from whatever source; and
 - (ii) Revenues generated by the operation of the Clear Creek hatchery shall be placed in a separate special trust fund, the principal and proceeds of which shall be prioritized to fishery related and enhancement projects, provided fifteen percent (15%) shall be deposited in the special trust fund under Section 41.05 of this Chapter and fifteen percent (15%) shall be deposited in the Community's Unrestricted Fund under Section 41.06 of this Chapter. The surplus monies will be spent in an amount and in the priority approved by the Business Committee with the advice of the Fish Commission.
- (d) The Trustees shall manage the funds set aside in the special trust fund developed from hatchery surplus monies pursuant to Section 41.08 of this Chapter.

41.08.01 The Trustees

- (a) A Board of Trustees, consisting of nine Trustees, is established to manage and invest these funds derived from the Tacoma City Light Agreement, and advise the Business Committee concerning their disbursement.
- (b) The Trustees shall manage the investment of restricted funds, the land acquisition trust fund and the hatchery surplus trust fund. It shall be the responsibility of the Trustees to invest these funds so as to obtain the best and safest return on investment.
- (c) The Trustees shall acquire, invest, reinvest, exchange, sell, convey, control, divide, partition and manage the restricted fund, the land acquisition trust fund and the hatchery surplus trust fund, in accordance with the standards provided by law, and in so doing, may:
 - (i) Receive property from any source as additions to the trust funds created by this Chapter to be held and administered under regulations adopted thereafter.
 - (ii) Make loans, either secured or unsecured, at such interest as the Trustees may determine, to any person, including any beneficiary of a trust, or program, provided, the power to loan shall be limited to loans at a reasonable rate of interest and for adequate security;
 - (iii) Receive compensation for their services and/or expenses pursuant to regulations adopted by the Business Committee considering all circumstances including the time, effort, skill, and responsibility involved in the performance of services by the Trustees;
 - (iv) Employ persons, including lawyers, accountants, investment advisors, or agents, even if such persons are associated with a Trustee, subject to approval of the Business Committee and, as necessary, the Secretary of Interior, to advise or assist the Trustees in the performance of their duties or to performing any act, regardless of whether the act is discretionary, and to act without independent investigation upon their recommendations, except the Trustees may not delegate all of their duties and responsibilities, and except this employment does not relieve the Trustees of their liability for the discretionary acts of a person, which if done by the Trustees, would result in liability to the Trustees, or of the duty to select and retain a person with reasonable care; and
 - (v) Rely with acquittance on the advice of counsel on questions of law.
- (d) Nine Trustees shall be appointed within 60 days of the enactment of this Chapter. The Trustees shall include at least 6 tribal members. One member or the Business Committee shall serve as a Trustee. One member of the Fish Commission shall

serve as a Trustee. The Trustees shall also include 3 persons with expertise in the field of finance, accounting or law.

- (e) The Trustees shall be appointed by the Business Committee, except that the Trustee who is a member of the Fish Commission shall be appointed by the Fish Commission. A trustee(s) may be removed by the Business Committee for just cause.
- (f) The Business Committee Trustee shall serve a term as Trustee no longer than his or her term as a Business Committee member. At the expiration of a Business Committee Trustee's term on the Business Committee, the Business Committee shall appoint a new Trustee from its membership to fill the vacancy.
- (g) The Fish Commission Trustee shall serve a term as Trustee no longer than his or her term as a Fish Commission member. At the expiration of a Fish Commission Trustee's term on the Fish Commission, the Fish Commission shall appoint a new Trustee from its membership to fill the vacancy.
- (h) The initial term of office of the remaining seven Trustees shall be determined by draw. Three Trustees shall serve 3-year terms, two Trustees shall serve 2-year terms and two Trustees shall serve 1-year terms. Thereafter, the Business Committee shall appoint Trustees for 3-year terms to fill the vacancies of those whose terms have expired.
- (i) The Trustees shall draft regulations governing their conduct to be submitted to and approved by the Business Committee.

41.09 ENFORCEMENT

41.09.01 Enforcement of Chapter

- (a) Federal criminal statutes shall apply to all funds derived from the Tacoma City Light Agreement. Any violations of the provisions of this Chapter or the regulations established implementing this Chapter shall be punishable in the Federal District Court to the extent permissible or in the Nisqually Tribal Court, and/or in the State court. If federal prosecutors elect not to prosecute or determine prosecution is not available for violation of the provisions of this Chapter or the regulations adopted hereunder, they shall be punishable in the Nisqually Tribal Court and/or State court.
- (b) For purposes of enforcement of this Chapter, violation of any provision of the regulations adopted hereunder shall be considered a violation of this Chapter.

- (c) Suspected violators of this Chapter or of the regulations of the Nisqually Indian Tribe adopted herein shall be accorded due process of law.
- (d) If any person is found to have violated this Chapter or any lawful regulation or rule made hereunder for which no penalty has been specifically provided, he or she shall be liable for a civil penalty of not more than \$500.00 per violation plus court costs.
- (e) Notwithstanding any criminal charges, any individual adjudged to have violated this Chapter or regulations adopted hereunder shall be obligated to repay the Tribe the amount of monetary loss. Such restitution shall be paid into the fund which suffered the loss.
- (f) Notwithstanding any other provision of this Chapter, any and all violations of this Chapter and the regulations adopted hereunder shall be prosecuted to the fullest extent of the law.

41.10 TRAINING PROGRAMS

41.10.01 Training of Tribal Members

All tribal members shall enjoy equal opportunity and equal access to the training programs offered by the TCL Agreement.

41.11 ATTORNEYS' FEES

41.11.01 Payment of Attorneys' Fees

The TCL Agreement resolves litigation between the Nisqually Indian Tribe and the City of Tacoma and obligates the Nisqually Indian Tribe under paragraph VIII of the Special Counsel Contract dated June 4, 1981, to payment of attorneys' fees and costs. A percentage of the annual unrestricted funds, that percentage to be negotiated with the Business Committee, will be used to pay these fees and costs.

41.12 SEVERANCE

41.12.01 When Section is Found Invalid or Application Found Invalid

- (a) If any clause, part or section of this Chapter shall be judged invalid, such judgment shall not affect or invalidate the remainder of the Chapter, 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 Chapter 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.

41.13 EFFECTIVE DATE

41.13.01 Effective as Provided by Constitution

This Chapter shall be and become effective as provided by Article VI, Section 4 of the Nisqually Constitution.

HISTORICAL AND STATUTORY NOTES

1. This Section amended in 1991 by Resolution 4-1990.
2. Article V incorrectly used. Changed to Article VI in 2002 Formatting Amendments.

**TITLE 41
SETTLEMENTS**

**CHAPTER II – ORDINANCE IMPLEMENTING STIPULATION
AND SETTLEMENT BETWEEN
THE CITY OF CENTRALIA AND THE NISQUALLY INDIAN
TRIBE**

41.14 CITATION OF AUTHORITY

41.14.01 Basis of Authority

- (a) Authority for this Ordinance is found in the Constitution and Bylaws of the Nisqually Indian Community, approved by the Assistant Secretary of the Interior on September 9, 1946, pursuant to Section 16 of the Indian Reorganization Act of June 18, 1934, 25 U.S.C. § 476. Article III, Section 1 of the Constitution provides that the Community Council is the governing body of the Nisqually Indian Tribe.
- (b) Community Council of the Tribe. Subsection (f), Section 1 of Article VI provides that the Community Council may promulgate and enforce ordinances, which shall be subject to review by the Secretary of the Interior, governing the appropriation of available funds of the Community for public purposes.
- (c) Section 6 of Article III of the Constitution provides that the Business Committee shall perform such duties as may be authorized by the Community Council. This Chapter was adopted by authority of the Community Council to govern the management, expenditure and investment of certain funds.

HISTORICAL AND STATUTORY NOTES

1. This Chapter enacted by Tribal Council Resolution 101-1992.
2. Article V incorrectly used in subparagraph (b). Changed to Article VI in 2002 Formatting Amendments

41.15 DEFINITIONS

41.15.01 Definitions

For the purpose of this Chapter, the following definitions shall apply:

- (a) “CCL Agreement” means the Stipulation and Settlement Agreement entered between the City of Centralia and the Nisqually Indian Tribe on February 28,

1991. “CCL” stands for Centralia City Light, the operator of a hydroelectric facility on the Nisqually River.

- (b) “Mitigation funds” means those funds received pursuant to Paragraphs 2.1 and 2.2 of the CCL Agreement that are to be used exclusively for fisheries enhancement and rehabilitation.
- (c) “Restricted funds” means those funds received pursuant to Paragraphs 6 and 8 of the CCL Agreement and are identified by this Chapter as restricted.
- (d) “Trustees” or “Board of Trustees” means the board of trustees provided for under this Chapter to manage, disburse and invest the funds received under the CCL Agreement.
- (e) “Unrestricted funds” means all other funds received pursuant to or as a result of the CCL Agreement, unless such funds are specifically identified as restricted funds or mitigation funds.

41.15.02 Terms to Have Usual and Ordinary Meaning

Any term not specifically defined by this Chapter shall have its usual and ordinary meaning in the context in which it is used and as is consistent with the purposes of this Chapter.

41.16 RESTRICTIONS ON USE OF FUNDS

41.16.01 Restrictions on the Use of Funds Derived From the CCL Agreement

- (a) No money derived from the CCL Agreement shall be spent following adoption of this Chapter until regulations are adopted pursuant to this Chapter. Expenditures authorized prior to this Chapter shall not be affected.
- (b) No person shall solicit, raise, secure, receive, collect, or otherwise obtain, or manage, handle, invest or disburse monies or other things of value derived from the CCL Agreement except in accordance with this Chapter and regulations adopted pursuant to, and following, adoption of this Chapter.

41.17 DISCLOSURE

41.17.01 Trustees' Disclosure

- (a) The Trustees shall disclose to the Community Council and the Business Committee quarterly, including the first Monday of January and July of each year, and to all Tribal members requesting such information, all disbursements authorized or expended and the status of all funds derived from the CCL Agreement.
- (b) The Trustees shall select and employ, subject to the approval of the Business Committee, a certified public accounting firm to conduct an annual audit, or at the Trustees' discretion more often, of all funds derived from the CCL Agreement. The audit shall be completed within one hundred and twenty (120) days of the end of each fiscal year. The audit may be conducted by the Tribe's auditors and at the same time as the Tribal program audit.

41.18 RESTRICTED FUNDS

41.18.01 Restricted Funds to be Deposited into Trust Fund

- (a) Of the funds received from the "second installment" pursuant to Paragraph 8.2 of the CCL Agreement, the amount of \$1.5 million (\$1,500,000.00) shall be deposited directly into a special trust fund and shall be restricted. The remainder shall be unrestricted, except as provided below.
- (b) The principal and the interest or dividends generated from or by the special trust fund shall not be spent during the first five years of this Chapter, from 1992 through the end of the calendar year of 1996. These amounts shall be restricted.
- (c) The amount accumulated on the special trust fund to the end of 1996 shall become the principal and shall not be spent and shall be restricted for twenty-five (25) years, through the year 2017. In the year 2018, in accordance with a budget developed by the Community Council, all funds in the account exceeding the amount of \$2 million (\$2,000,000.00) may be spent as unrestricted funds or may be reinvested in the account to become restricted. At least \$2 million (\$2,000,000.00) shall become the new principal for this special trust fund and shall be managed as restricted funds in accordance with the following terms for another twenty-five (25) years, through the year 2042.
- (d) One half of the amount of interest or dividends accumulated after the fifth year from the special trust fund, beginning in the year 1998, shall be made available as

unrestricted funds in accordance with annual budgets developed by the Community Council.

- (e) The remaining one half of the amount of interest or dividends accumulated after the fifth year from the special trust funds, beginning in the year 1998, shall be reinvested in the special trust fund as it accumulates and shall become restricted.
- (f) The funds now remaining of the “first installment” under Paragraph 8.1 of the CCL Agreement shall be unrestricted in the year 1994, or sooner if an emergency arises as determined by the Community Council. Until that time the funds shall be restricted.
- (g) The funds remaining of the “second installment” under Paragraph 8.2 of the CCL Agreement, after deduction of \$1.5 million (\$1,500,000.00) under subpart (a) above, shall be deposited as restricted funds until spent as follows:
 - (i) one hundred thousand dollars (\$100,000.00) shall be spent as unrestricted in the year 1994;
 - (ii) one hundred thousand dollars (\$100,000.00) shall be spent as unrestricted in the year 1995;
 - (iii) one hundred thousand dollars (\$100,000.00) shall be spent as unrestricted in the year 1996;
 - (iv) the remaining principal amount shall be spent as unrestricted in the year 1997; and
 - (v) the interest or dividends generated on these funds shall be spent in accordance with subsection 41.18.01(h).
- (h) Interest or dividends generated on the mitigation funds and funds under subsection 41.18.01(g) shall be accounted for separately and shall be spent on funeral expenses, Tribal building maintenance, and emergency medical assistance not otherwise covered by other funding sources (eye care, hearing aid, dental assistance, etc.), as provided by annual budgets prepared in accordance with established procedures. Funds remaining in this account at year’s end shall be carried over into the next year’s allocation for this account.
- (i) All savings by Centralia received by the Tribe under Paragraph 6 of the CCL Agreement shall be spent or invested as provided in annual budgets developed by the Community Council.

41.19 ANNUAL BUDGETS

41.19.01 Community’s Unrestricted Funds

- (a) The unrestricted funds shall be spent in accordance with annual budgets approved by resolution of the Community Council. The Business Committee, with the

advice of the Trustees, shall prepare and submit such annual budgets for approval of the Community Council. The annual budget for the following fiscal year shall be approved on or before July 31st of each year. Budget proposals shall be prepared in accordance with spending priorities set by the Community Council, provided, ten percent (10%) of the unrestricted funds shall be annually set aside and accounted for separately in a trust fund, the principal and proceeds of which are to be spent for the sole purpose of land acquisition.

- (b) The Business Committee shall adopt regulations providing for the method and timing for the Nisqually Indian Community to determine the priority of spending of the unrestricted funds.
- (c) The Trustees shall receive and review spending requests and shall prepare annual budget recommendations for the Business Committee for the spending of the unrestricted funds.
- (d) The Trustees shall manage and invest the unrestricted funds and the funds set aside for the land acquisition, but these funds may be commingled as long as they are accounted for separately.

41.20 DUTIES OF TRUSTEES

41.20.01 The Trustees

- (a) A Board of Trustees, consisting of five Trustees and two alternates, is established to manage and invest these funds derived from the CCL Agreement, and advise the Business Committee concerning their disbursement.
- (b) It shall be the responsibility of the Trustees to invest these funds so as to obtain the best and safest return on investment. The restricted funds shall be maintained in accounts separate from other funds, but all other funds may be commingled as long as they are accounted for separately.
- (c) The Trustees shall acquire, invest, reinvest, exchange, sell, convey, control, divide, partition and manage all funds in accordance with the standards provided by law, and in so doing, may:
 - (i) Receive property from any source as additions to the trust funds created by this Chapter to be held and administered under regulations adopted thereafter.
 - (ii) Make loans at such interest as the Trustees may determine by regulations, provided, the power to loan shall be limited to loans at a reasonable rate of interest and for adequate security;
 - (iii) Receive compensation for their services and/or expenses pursuant to regulations adopted by the Business Committee considering all

- circumstances including the time, effort, skill and responsibility involved in the performance of services by the Trustees;
- (iv) Employ persons, including lawyers, accountants, investment advisors or agents, even if such persons are associated with a Trustee, subject to approval of the Business Committee and, as necessary, the Secretary of the Interior, to advise or assist the Trustees in the performance of their duties or to perform any act, regardless of whether the act is discretionary, and to act without independent investigation upon their recommendations, except the Trustees may not delegate all of their duties and responsibilities, and except this employment does not relieve the Trustees of their liability for the discretionary acts of a person, which if done by the Trustees, would result in liability to the Trustees, or of the duty to select and retain a person with reasonable care; and
 - (v) Rely with acquittance on the advice of counsel on questions of law.
- (d) Five Trustees shall be appointed within 30 days of the enactment of this Chapter. The Trustees shall be Tribal members.
 - (e) The Trustees shall be appointed by the Business Committee. A trustee(s) may be removed by the Business Committee for just cause.
 - (f) The initial term of office of the Trustees shall be determined by draw. Three Trustees shall serve 3-year terms and two Trustees shall serve 2-year terms. Thereafter, the Business Committee shall appoint Trustees for 3-year terms to fill the vacancies of those whose terms have expired.
 - (g) The Trustees shall draft regulations governing their conduct to be submitted to and approved by the Business Committee.

41.21 ENFORCEMENT

41.21.01 Enforcement of Chapter

- (a) Federal criminal statutes shall apply to all funds derived from the CCL Agreement. Any violations of the provisions of this Chapter or the regulations established implementing this Chapter shall be punishable in the Federal District Court to the extent permissible or in the Nisqually Tribal Court, and/or in the State court. If federal prosecutors elect not to prosecute or determine prosecution is not available for violation of the provisions of this Chapter or the regulations adopted hereunder, the violator shall be punishable in the Nisqually Tribal Court and/or State court.
- (b) For purposes of enforcement of this Chapter, violation of any provision of the regulations adopted hereunder shall be considered a violation of this Chapter.

- (c) Suspected violators of this Chapter or of the regulations of the Nisqually Indian Tribe adopted herein shall be accorded due process of law.
- (d) If any person is found to have violated this Chapter or any lawful regulation or rule made hereunder for which no penalty has been specifically provided, he or she shall be liable for a civil penalty of not more than \$500.00 per violation plus court costs.
- (e) Notwithstanding any criminal charges, any individual adjudged to have violated this Chapter or regulations adopted hereunder shall be obligated to repay the Tribe the amount of monetary loss. Such restitution shall be paid into the fund which suffered the loss.
- (f) Notwithstanding any other provision of this Chapter, any and all violations of this Chapter and the regulations adopted hereunder shall be prosecuted to the fullest extent of the law.

41.22 TRAINING PROGRAMS

41.22.01 Training of Tribal Members

All Tribal members shall enjoy equal opportunity and equal access to the training and apprentice programs offered by the CCL Agreement.

41.23 SEVERANCE

41.23.01 When Section is Found Invalid or Application Found Invalid

- (a) If any clause, part or section of this Chapter shall be judged invalid, such judgment shall not affect or invalidate the remainder of the Chapter, 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 Chapter 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.

41.24 EFFECTIVE DATE

41.24.01 Effective Date as Provided by Constitution

This Chapter shall be and become effective as provided by Article VI, Section 4 of the Nisqually Constitution.

HISTORICAL AND STATUTORY NOTES

Article V incorrectly used. Changed to Article VI in 2002 Formatting Amendments.