

## Chapter 13. Hunting and Fishing

### Legislative History.

This chapter of the Law & Order Code was originally enacted by the Tribal Council on May 24, 1988 as chapter 12. On June 10, 1988, the Agency Superintendent approved the chapter as prepared. On August 22, 1988, the Area Director, by telephone, notified the Agency and Tribe that it was rescinding the Agency's approval because one or more provisions interfered with the Secretary's discretionary powers. On September 13, 1988, the Tribal Council re-enacted chapter 12 as chapter 13 after making the changes suggested by the Area Director.

### Sec. 1. Legislative Intent.

As a result of cooperative efforts with the state of Nevada Department of Wildlife, it is possible for the Fort McDermitt Tribe to obtain wild California Big Horn Sheep for future economic development since the Oregon lands of the Tribe are considered extremely good habitat for California Big Horn Sheep. For example, in 1987 the state of Nevada auctioned one tag to hunt a Desert Big Horn Sheep ram for \$54,000. Mr. Richard Heap, Region 1 Manager, Department of Wildlife, estimates conservatively that the Tribe could auction on tag to hunt a California Big Horn Sheep ram for \$25,000 each hunting season.

Mr. Heap is under the impression that Oregon wildlife officials would likely place several restrictions on the introduction of California Big Horn Sheep on the Tribe's Oregon lands, to-wit: no hunting of California Big Horn Sheep for a five year period and that the Tribe possess the ability to manage the sheep. Mr. Heap has offered the services of the Nevada Department of Wildlife, through a Cooperative Management Agreement, whereby his department could provide free technical management assistance to the Tribe in return for such services the Tribe would agree to introduce excessive sheep populations off the reservation within the state of Nevada, thereby resulting in a benefit to the citizens of the Fort McDermitt Tribe and the state of Nevada. Management assistance is also available to the Tribe through the American Indian Natural Resource Association which provides low-cost technical assistance.

In anticipation of the planting of such wild sheep and free technical assistance being offered by the state of Nevada, part of this Code provision is hereby enacted.

The Tribal Council is also aware of the excellent population of pheasants the Tribe has on its Hearn and Giacometto hayland ranch lands. Mr. Heap suggested that our pheasant population will allow the Tribe to operate a hunt that will generate about \$15,000 from the sale of hunting tags to non-Indians at the price of \$20 for one tag with a minimum of 20 tags being purchased by each hunter.

The Tribal Council seeks by the adoption of this Code provision to provided needed services to tribal members that otherwise could not be provided by federal and other tribal funding. California Big Horn Sheep will not chase away our deer population. Pheasants roam the reservation lands, in-part, because tribal members do not hunt them.

In anticipation of authorizing a pheasant hunt by non-Indians, the remainder of this Code is enacted.

Sec. 2. Moratorium on Hunting California Big Horn Sheep.

- (a) Declaration of Moratorium. The Tribal Council hereby declares that there shall not be any hunting of California Big Horn Sheep within the exterior boundaries of the Tribe's Oregon lands as of the day the first California Big Horn Sheep are planted on the Oregon lands through the cooperative efforts of the Tribe and wildlife officials of the states of Oregon and Nevada or the federal government. This moratorium shall be lifted when the planted California Big Horn Sheep population is determined by the Tribal Council to be sufficient to meet the needs of the Tribe and its members:
- (b) Enforcement Provisions; Fine. Any person who violates the moratorium imposed by this regulations by an act of hunting which results in the killing, wounding, injuring, or disturbance of the subject animals in their natural habitat shall be guilty of a civil offense punishable by a penalty levied through the tribal court in an amount not to exceed \$5,000 for each offense.
- (c) Seizure and Impoundment of Equipment. The law enforcement officers of this Tribe or Bureau of Indian Affairs are authorized to impound all vehicles and hunting equipment possessed by those violating this Chapter, in the name of the Fort McDermitt Tribe, and hold same until otherwise directed by a judge of the Tribal Court.
- (d) Issuance of Hunting Permits. Upon a determination that the moratorium on hunting imposed by this regulation of this chapter should be lifted, the Tribal Council may by amendment to this chapter provide for the issuance of a California Big Horn Sheep hunting permit (or permits) which shall be available through a public auction to the highest bidder.
- (e) Use and Distribution of Penalty and Sheep Auction Monies. All monies received from the auction of a permit to hunt a California Big Horn Sheep shall be distributed in the following manner:

10 percent:	Senior Citizens Pleasure Account
10 percent:	Emergency Funeral and Travel Account;
10 percent:	American Legion Post No. 25 Account;
10 percent:	Advertisement and Auction Account;
10 percent:	Sheep Habitat Improvement Account; and,
30 percent:	General Account [for Administrative Costs]

within 30 days of the receipt of such sheep auction monies.

- (f) Authority to Enact New Provisions. The Tribal Council may enact new provisions of this Regulation from time to time as needs of tribal members require.

Sec. 3. Restriction on the Hunting of Pheasants on the Hearn and Giacometto Ranch Lands.

- (a) Declaration of Restriction. The Tribal Council hereby declares that no person shall hunt any species of pheasant within the exterior boundaries of the Hearn and Giacometto Ranch lands of the Fort McDermitt Tribe from that point of those ranches that begins on the west side of U.S. Highway 95 unless in possession of a permit or "pheasant stamp" issued by the Tribal Council issued for each such bird. When the

Tribal Council opens pheasant hunting on the Hearn and Giacometto Ranches, the restriction shall remain closed to non-Indians and non-members.

- (b) Unlawful Possession or Killing Prohibited; Fine. Any person who violates this regulation of this chapter by an act of hunting which results in the killing, wounding, injuring, or disturbance of the subject animals within the exterior boundaries of the Hearn and Giacometto Ranches shall be guilty of a civil offense punishable by a penalty levied through the Tribal Court of not more than \$100. Each pheasant taken in violation of this regulation shall constitute a separate offense.
- (c) Exceptions. This section shall not apply to any person who is in possession of any pheasant that is reasonably determined to have been struck by a motor vehicle. The people of the Fort McDermitt Tribe do not waste eatable foods.
- (d) Issuance of Pheasant Hunting Stamps. Pheasant hunting stamps to authorize the hunting of pheasants within the exterior boundaries of the Hearn and Giacometto Ranches may be issued to non-members by the Tribe upon the payment of a fee of \$20 per pheasant stamp. Such stamps may be issued by the Tribal Council or a designated official upon the receipt of an application therefore subject to a minimum purchase of 20 stamps per applicant.
- (e) Use and Distribution of Pheasant Penalty and Tag Monies. All monies received from the sale of pheasant hunting tags shall be distributed in the following manner:

10 percent:	Senior Citizens Pleasure Account
10 percent:	Emergency Funeral and Travel Account;
10 percent:	American Legion Post No. 25 Account;
10 percent:	Advertisement and Auction Account;
10 percent:	Sheep Habitat Improvement Account; and,
30 percent:	General Account [for Administrative Costs]

within 30 days of the receipt of such sheep auction monies.

- (f) Authority to Enact New Provisions of this Chapter. The Tribal Council may enact new provisions of this Regulation from time to time as needs of tribal members require.

#### Sec. 4. Regulation of Fishing.

- (a) Application of Regulation. (1) All Indians residing within the exterior boundaries of Fort McDermitt Indian Country (the "Old Reservation", "Lasa Purchase", "Hog John Ranch" and other lands owned by the Tribe) and those enrolled members residing without the exterior boundaries can fish wherever they desire within the exterior boundaries of Fort McDermitt Indian Country. (2) All other persons over the age of 14 years must possess, in addition to any state fishing license, a permit or stamp issued by the Tribal Council or its designated official. Each permit or stamp shall be issued upon the payment of a fee of \$2.00 per day or \$12.00 per year.
- (b) Penalty; Enforcement; Fine. Any person who violates this regulation by an act of fishing which results in the killing, wounding, injuring, or disturbance of the subject animals in their natural habitat shall be guilty of a civil offense punishable by a fine levied through the Tribal Court of not more than \$100. Each fish taken in violation of this regulation shall constitute a separate offense.

(c) Use and Distribution of Penalty and Permit/Stamp Monies. All monies received from the collection of fishing license, permits or stamps shall be distributed in the following manner:

50 percent: Habitat Improvement; and  
50 percent: Community Activities Account.

within 30 days of the date of their collection.

(d) Authority to Enact New Provisions of this Chapter. The Tribal Council may enact new provisions of this Regulation from time to time as needs of tribal members require.