Illegal Dumping Enforcement Strategies

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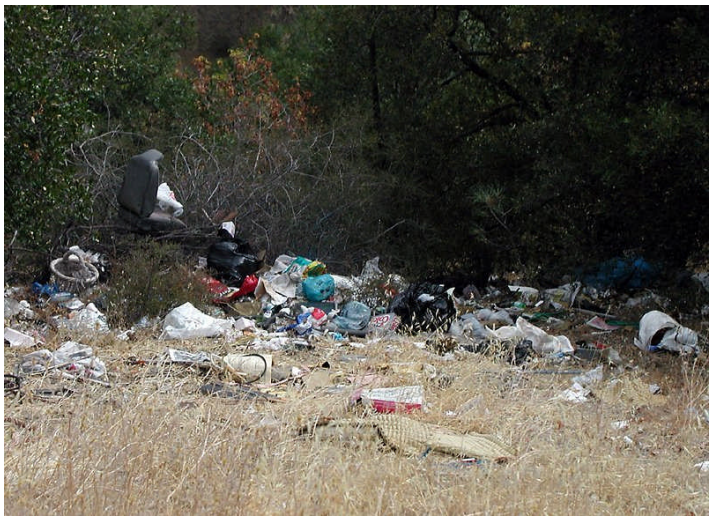
Overview

- Causes of Illegal Dumping
- Developing and implementing an Illegal Dumping Prevention and Enforcement Program
- Non-enforcement measures to prevent illegal dumping
- Enforcement measures to prevent illegal dumping
- Resources available

Causes of Illegal Dumping

- How does EPA define an “open dump” or “illegal dump”?
- An area of any size or content where waste is disposed of illegally by more than one family.



Little dump

Big dump

Both are illegal dumps by EPA’s standards

Causes of Illegal Dumping

- Convenience
- Cost
- Lack of information
- Past practices
- No solid waste management plan
- No enforcement

Photo from the Ft Independence Tribe

Developing a Prevention and Enforcement Program

Three Steps:

1. Understand the problem
2. Gain tribal government and community support
3. Choose your approach

Developing a Prevention and Enforcement Program

Step 1: Understand the problem

Options:

- Door-to-door survey
- Hold a community gathering
- Survey at the dumpsites

The Yakima Nation environmental staff surveyed people using the local dumpsite and found that most using it did not know it was unsafe and illegal.

Developing a Prevention and Enforcement Program

Step 2: Gain tribal government and community support

Options:

- Photographs
- Maps
- Press coverage
- Tours
- Explanation of costs

Photo from a Torres Martinez tour of illegal dumpsites

Developing a Prevention and Enforcement Program

Step 3: Choose your approach

This presentation will give some ideas for enforcement and prevention approaches.

Keep in mind how the chosen approach:

- Reflects the values and goals of the tribe
- Provides for tribal control and sovereignty
- Involves tribal government and community members
- Builds on local knowledge, experience and expertise
- Allows for continuous feedback including a complaint mechanism
- Is feasible

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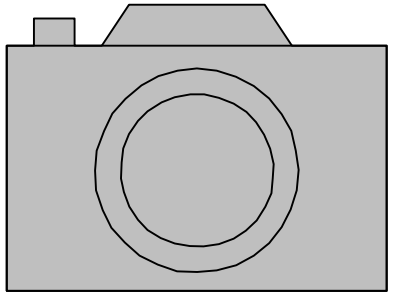
Non-Enforcement Measures to Prevent Illegal Dumping: Overview

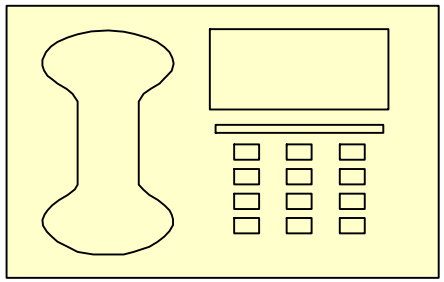
- Community Outreach and Education
- Cleanup
- Dump Tracking
- Posting Signs
- Lighting
- Barriers
- Hotlines
- Rewards
- Monitoring and Surveillance Cameras

Non-Enforcement Measures to Prevent Illegal Dumping : Outreach and Education

Outreach and education may include:



- Press releases
- Publicity photographs
- Outreach materials
- Public hotline
- Presentations
- Cleanup days



For more information and tips on starting a tribal outreach/education program, see Chapter 6 of the *Tribal Decision-Maker's Guide to Solid Waste Management*

Non-Enforcement Measures to Prevent Illegal Dumping : Cleanup

Tribal Example

Pinoleville Tribe is converting a former dumpsite into a native garden. By beautifying the former dumpsite, the tribe is simultaneously reducing the likelihood that waste will again be left on the site and creating a special place on the reservation for tribal members to experience nature.

For more information on illegal dumping cleanup, see our “Open Dump Cleanup Webpage” at www.epa.gov/region09/waste/tribal/open-dump.html

Non-Enforcement Measures to Prevent Illegal Dumping : Dump Tracking

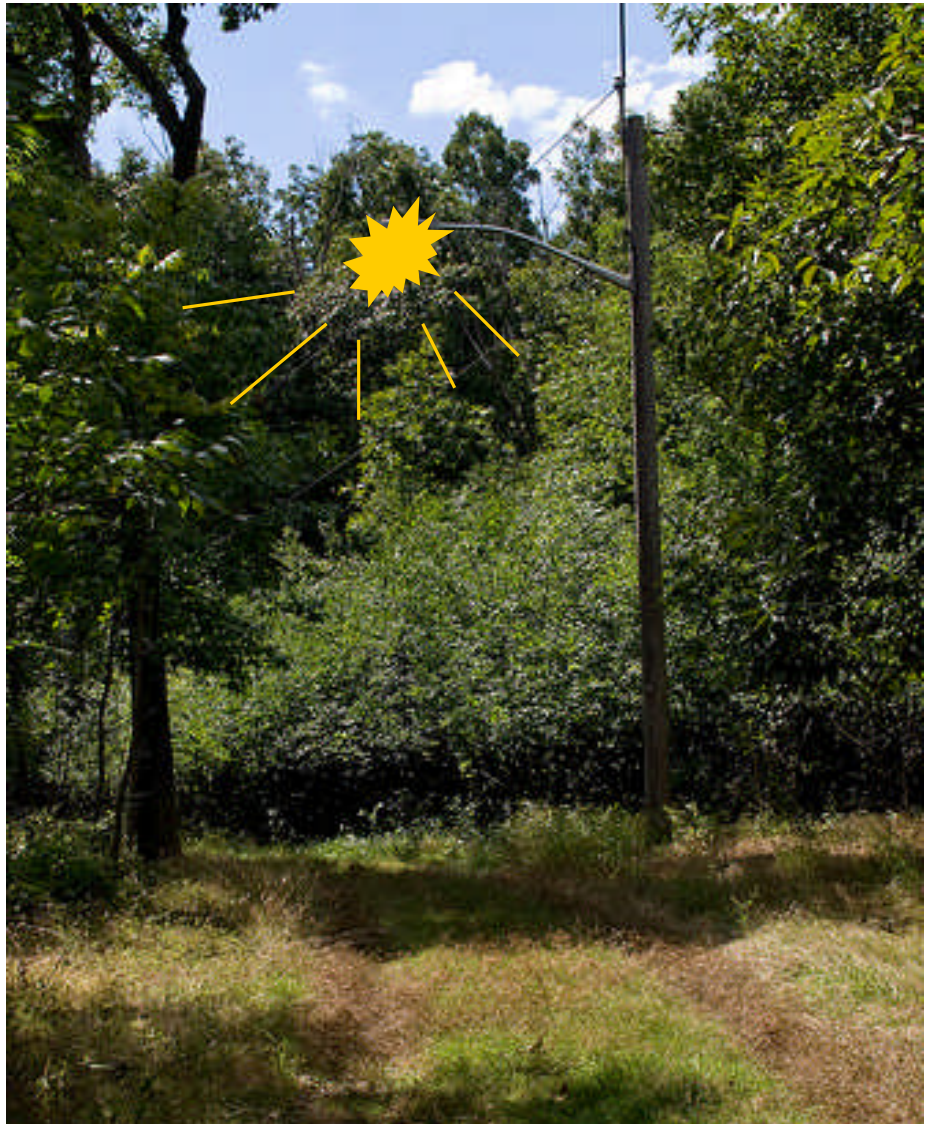
Data collected should include at a minimum:

- Location
- Size and contents
- Responsible party (if known)
- Enforcement actions taken
- Resources expended

Non-Enforcement Measures to Prevent Illegal Dumping: Posting Signs

Non-Enforcement Measures to Prevent Illegal Dumping: Lighting

Install lighting in areas where illegal dumping occurs



Non-Enforcement Measures to Prevent Illegal Dumping: Barriers

Examples of barriers include:

- highway dividers
- fences
- berms
- trenches
- landscaping

Non-Enforcement Measures to Prevent Illegal Dumping: Hotlines & Rewards

Example of a tribal illegal dumping prevention billboard offering a reward

Non-Enforcement Measures to Prevent Illegal Dumping: Monitoring and Cameras

Monitoring can include:

- surveillance cameras
- motion sensing beepers
- patrolling by environmental rangers or police.

Even dummy cameras can be effective

Enforcement Measures to Prevent Illegal Dumping: Overview

- Lawmaking Authority
- Illegal Dumping Codes
  - Penalties
  - Enforcement Body
  - Judicial Body
- Strategy for Enforcement
- Resources

Enforcement Measures to Prevent Illegal Dumping: Lawmaking Authority

Tribes have extensive authority to create illegal dumping codes

It is uncertain to what extent tribal dumping codes apply to non-members on non-Indian lands that are within the contiguous boundary of the reservation.

State and local governments in both Public Law 280 states and non-Public Law 280 states have limited authority to regulate dumping on tribal land.

The exact limits on state and local authority within Indian country in both types of states are uncertain due to conflicting case law.

Enforcement Measures to Prevent Illegal Dumping: Illegal Dumping Codes

Components to Illegal Dumping Codes

- Dumping Code Purpose
- Dumping Definition
- Dumping Sanctions
- Dumping Enforcement Responsibility
- Dumping Adjudicative Responsibility

Enforcement Measures to Prevent Illegal Dumping: Illegal Dumping Codes

Code Purpose: Example from Hopland

"2.1. The open dumping and open burning of solid wastes shows disrespect for the natural resources of the Reservation, and for the Reservation community; it causes irreparable damage to the land and the environment; it is a threat to the health and safety of Hopland residents."

Enforcement Measures to Prevent Illegal Dumping: Illegal Dumping Codes

Code Definition: Example from Hopland

"6.1. It shall be unlawful for any person … to dump, scatter, or place, or cause to be dumped, scattered or placed any solid waste material, hazardous or not . . . ."

Enforcement Measures to Prevent Illegal Dumping: Illegal Dumping Codes

Code Sanctions: Example from Hopland

"9.1. Any person who violates any of the provisions of this Code is subject to an assessment of civil damages for such unlawful activities.... Any person who is found by the court to have committed the alleged violations shall be subject to ... a civil penalty in an amount up to $500.00 dollars for each day of each violation."

Enforcement Measures to Prevent Illegal Dumping: Illegal Dumping Codes

Common sanctions include:

- Fines
- legal action against property owners
- property seizure and vehicle impoundment
- community service
- court-ordered cleanup and
- exclusion from the tribe's land

or some combination of these

Before

After

Enforcement Measures to Prevent Illegal Dumping: Illegal Dumping Codes

Dumping Enforcement Responsibility: Example from Hopland

"5.4. The [Hopland] EPA has a duty to investigate under this Code. Upon receiving a credible complaint or report, the EPA shall, on its own initiative, or in conjunction with Tribal law enforcement or other cooperating agencies, perform a thorough investigation of any violations alleged against any person or entity."

Enforcement Measures to Prevent Illegal Dumping: Illegal Dumping Codes

Common enforcement bodies include:

- Tribal Enforcement
  - Tribal environmental agency
  - Tribal police
- External Enforcement
  - Another tribe's enforcement agency
  - State and local enforcement
  - Federal enforcement

Enforcement Measures to Prevent Illegal Dumping: Illegal Dumping Codes

Dumping Judicial Responsibility: Example from Hopland

"8.1. If appropriate, the [Hopland] EPA, in its sole discretion, will attempt to resolve any unauthorized open dumping … through its administrative process…."

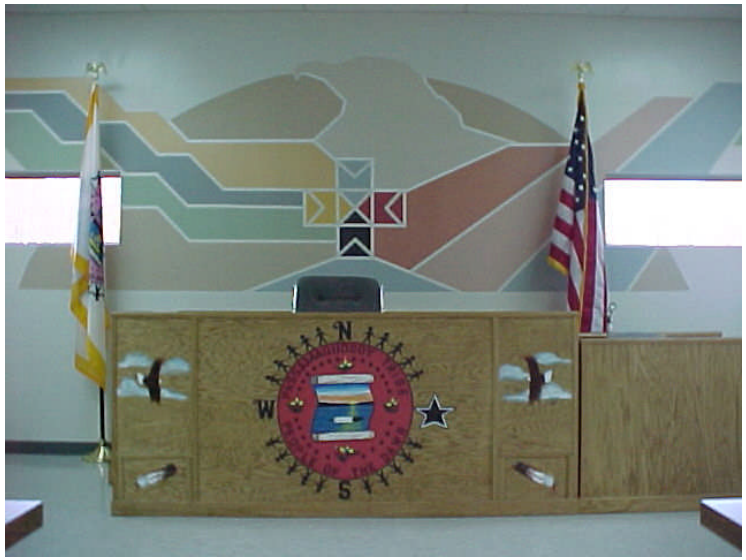
"8.6. If, after receiving a citation, the alleged offender believes that he or she has not violated the terms of the Code, he or she may appeal the EPA's finding in writing to the EPA Director."

"9.1. The Director of the EPA is authorized to file a civil action against such person on behalf of the Tribe in Tribal Court …."

Enforcement Measures to Prevent Illegal Dumping: Illegal Dumping Codes

Common Judicial Responsibility:

- Tribal
  - Tribal court
  - Tribal environmental agency
  - Tribal council
- Non-tribal
  - State courts (limited)
  - Federal courts (limited)



Enforcement Measures to Prevent Illegal Dumping: Resources Available

Resources for code drafting

- The ***Tribal Law and Policy Institute*** (TLPI) website includes a wealth of sample codes and code drafting resources.
  - See www.tribal-institute.org/lists/codes.htm.
- The ***National Tribal Justice Resource Center*** (NTJRC) website includes several sample codes.
  - See www.tribalresourcecenter.org/legal/details.asp?53.
- The ***National Indian Justice Center*** (NIJC) website includes links to model codes.
  - See www.nijc.org/resources.html.
- The ***UCLA Law School Tribal Legal Development Clinic*** assists tribes with legal projects, including code drafting.
  - The application form is available on the Clinic website: www.law.ucla.edu/home/apps/academic/clinical/TribalLegalDevelopment.aspx

Enforcement Measures to Prevent Illegal Dumping: Resources Available

Resources for enforcement

- The ***U.S. Department of Justice Office of Community Oriented Policing Services*** (COPS) awards grants to improve law enforcement capabilities in Indian country.
  - See www.usdoj.gov/otj/grant-fund.htm
- The ***National Congress of American Indians*** (NCAI) website includes a list of law enforcement agreements between tribes and non-tribal governments
  - See www.ncai.org/Law_Enforcement_Agreements.100.0.html
- The ***Bureau of Indian Affairs*** funds tribal governments to conduct law enforcement through a 638 contract or compact.

Enforcement Measures to Prevent Illegal Dumping: Resources Available

Resources for Judicial Systems

- The ***Bureau of Justice Assistance***'s (BJA) Tribal Courts Assistance Program provides support to tribal justice systems.
  - See www.tribaljusticeprograms.org/programs/tcap.asp.
- The ***National Tribal Justice Resource Center*** (NTJRC) website has online resources and is available to consult tribes.
  - See www.tribalresourcecenter.org/tribalcourts/.
- The ***Tribal Law and Policy Institute*** (TLPI) website includes a Tribal Court Clearinghouse.
  - See www.tribal-institute.org/lists/justice.htm.
- The ***National Indian Justice Center*** (NIJC) performs court system consulting and evaluation.
  - See www.nijc.org/resources.html.
- The ***National Center for State Courts*** (NCSC) links to tribal justice resources.
  - See www.ncsconline.org/wc/CourTopics/ResourceGuide.asp?topic=TribCt

General resources available

The Tribal Solid Waste Team

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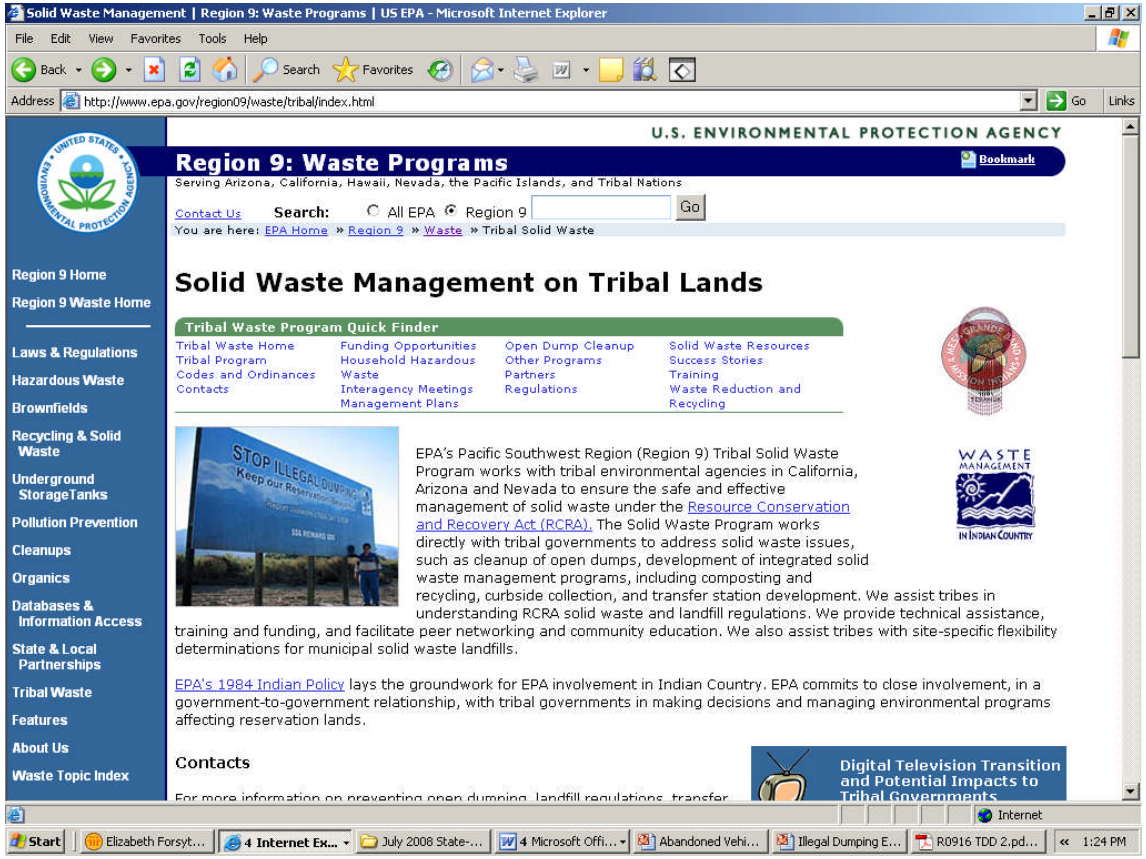
General Resources Available

Tribal Solid Waste Team Website:

www.epa.gov/region09/waste/tribal/



DUMP
CLOSED
STARTING APRIL 9, 1998
• NO BURNING OF TRASH
• NO DUMPING ON GROUND
IF YOU HAVE QUESTIONS
OR
TO REPORT ILLEGAL DUMPING
CALL YOUR DISTRICT OFFICE
BURNING OR DUMPING OF SOLID WASTE AT THIS LOCATION IS A
VIOLATION OF
CHAPTER 6, SECTION 601
OF THE
TOHONO O'ODHAM NATION SOLID WASTE CODE

Questions?