

# Developing Tribal Environmental Laws

PRESENTED BY:

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&

Jacky Barnum - Environmental Manager

Cabazon Band of Mission Indians

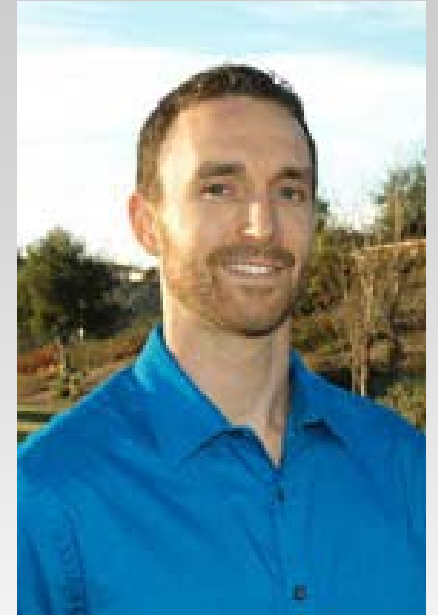
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**Please sign in**



# Presenter Introduction

## Joshua M. Simmons



### ➤ Founding President of Prosper Sustainably

- Assist individuals, organizations, and tribes develop and implement lasting solutions to meet environmental and sustainability needs
  - ETEP Development, Strategic Planning, Grant Writing, Program Development
  - Project Management, Environmental Codes Drafting, Feasibility Studies, Plans

### ➤ Former SYCEO Director (2007 – 2014)

- Transformed the Santa Ynez Chumash Environmental Office (SYCEO) into a nation leading tribal environmental agency
- Secured 42 grants for \$4.3 million in funding

### ➤ Training Instructor – Env Codes, ETEPs, Grants Writing

- Instructed on behalf of ITEP, ITCA, OVIWC, etc.



# Tribal Consulting Experience

- **Drafting Environmental Codes**
  - Cabazon Band of Mission Indians
    - Env Review, Air, Water, Waste, USTs, Chemicals & Haz Substances
  - Pala Band of Mission Indians
- **Tribal Waste Codes Development Workshop Instructor**
  - Institute for Tribal Environmental Professionals
- **ETEP & Strategic Planning Projects**
  - Rincon Band of Luiseño Indians
  - Pala Band of Mission Indians
  - La Jolla Band of Luiseño Indians
  - Buena Vista Rancheria Band of Me Wuk Indians
- **GAP Work Plan Development**
  - Chemehuevi Indian Tribe
- **DOE Grant Writing Assistance (funding secured)**
  - Pala Band of Mission Indians

# Session Objectives

- Provide overview of how to develop a tribal environmental law
  - Describe step-by-step law development process
  - Provide and demonstrate how to use templates and other resources
  - **Legal considerations not covered (e.g. jurisdiction)**
- Review draft Cabazon Environmental Code – **Session #2**
  - Covering Permitting, Enforcement, Environmental Review, Air, Water, Waste, USTs, Hazardous Substances, etc.
  - Describe the approach and considerations
  - Show Environmental Review Checklist

# Terminology

**This is how the following words will be used during this webinar:**

- **Law = Code, Ordinance, Statute, Regulation**
- **Code = A Series of Laws**
- **Statute / Ordinance = Law Adopted by a Legislative Body**
  - E.g. A law adopted by the Tribal Council (if they have that authority)
- **Regulation = Rules Adopted Under an Ordinance or Statute**
  - Must be consistent with the Ordinance/Statute
  - May cover gaps or provide more detailed requirements

# Tribal Environmental Law Development Steps

- **Scoping**
  - Identify Issues and Objectives to be Addressed
  - Identify and Consider Enforcement Options and Capabilities
  - Consider Available and Needed Tribal Resources
- **Review Tribal Constitution and other governing documents**
- **Research and Review Similar Laws**
- **Draft or Revise Tribal Environmental Law**
- **Presentation & Review**
  - Including Council and Legal Review
- **Enact Tribal Environmental Law**
- **Implement Tribal Environmental Law**

# Tribal Environmental Law Development Steps

- **Scoping – ongoing process**
  - **Identify Issues and Objectives to be Addressed**

# Identifying Issues & Objectives

## ➤ Specific or General

- Area Specific Issues and Objectives

- E.g. Open Burning, Roadside Illegal Dumping

- General Issues and Objectives

- These can be cultural, social, economic, etc.

- ❖ E.g. Promoting Economic Development



# Identifying Issues & Objectives

- **Specific or General**
- **Current & Potential Issues**
- **Community Objectives for Resources**
- **Methods for Identifying Issues & Obj:**
  - **Review Documents (e.g. Env Inventory, IWMP)**
  - **Community Surveys / Workshops**
  - **Discuss w/ Leaders, Staff, Supervisors, Partners, Stakeholders, etc.**
- **Track Sources and List Findings**
- **First opportunity to engage tribal community – USE IT WELL**

# Tribal Environmental Law Development Steps

- **Scoping – ongoing process**
  - **Identify Issues and Objectives to be Addressed**
  - **Identify and Consider Enforcement Options and Capabilities**

# Identifying Enforcement Options

- **Consider Enforcement Options**
  - E.g. Penalties & Remedies
- **Consider Other Enforcement Alternatives**
  - Including other legal and non-legal means
    - E.g. Community Education & Outreach

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# Consider Available & Needed Resources

- **Consider Available and Needed Resources for Implementation and Enforcement of Tribal Waste Laws**
  - **E.g. Funding, Enforcement Officers, etc.**

# Tribal Environmental Law Development Steps

## ➤ Scoping

- Identify Issues and Objectives to be Addressed
- Identify and Consider Enforcement Options and Capabilities
- Consider Available and Needed Tribal Resources

## ➤ Review Tribal Constitution and other governing documents

- What is the process for enacting tribal laws? Who needs to approve?

# Tribal Environmental Law Development Steps

## ➤ Scoping

- Identify Issues and Objectives to be Addressed
- Identify and Consider Enforcement Options and Capabilities
- Consider Available and Needed Tribal Resources

## ➤ Review Tribal Constitution and other governing documents

## ➤ Research and Review Similar Laws

# Conducting Research Tribal Environmental Laws

- **Review Tribal Constitution and other governing laws/documents**
  - Articles of Organization, Treaties, Tribal-State Compacts, etc.
- **Review Tribal Laws – from your own tribe**
  - Look for Potential Conflicts, Model Language/Provisions/Sections, etc.
- **Review Similar Env Laws – from other tribes and municipalities**
  - Models/Templates, Language, Provisions, Sections
  - Note relevance (contact other tribes/municipalities for feedback)
- **Maintain a Research Log**



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# Drafting Your Tribal Env Law

- **Review Relevant Laws and Templates in Detail**
  - Identify useful language, provisions, and sections
- **Cut and Paste Language, Provisions, and Sections into the Outline**
  - The fewer models/templates you use the better
  - Edit language as needed
- **Review and Revise Drafts**
  - If not being drafted by a qualified attorney, have regular legal review
- **Optional: Simultaneous research, review, and draft**

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  - Including Council and Legal Review (ongoing)
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# Thank You! Questions?

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