

**EXHIBIT I**

**NOTICE OF AVAILABILITY**

**FINDING OF NO SIGNIFICANT IMPACT**

**PROPOSED TULE RIVER TRIBE  
40 ± ACRE FEE-TO-TRUST TRANSFER**

**TULARE COUNTY, CALIFORNIA**

Notice is hereby given that the Bureau of Indian Affairs, Pacific Regional Office, has determined that the proposed acquisition of 17 parcels, encompassing a total of 40± acres, in trust by the United States for the Tule River Tribe (Tribe), is not a major federal action significantly affecting the quality of the human environment. The Bureau's determination was based upon review and consideration of the comments received during the Environmental Assessment public comment period, beginning June 24, 2010 and ending July 26, 2010.

The 40-acre parcel is located in a portion of Southwest ¼ Quarter of the Northeast ¼ Quarter of Section 8, Township 22 South, and Range 27 East, of the Mt. Diablo Base and Meridian, Tulare County, California. The parcel is comprised of 40± acres and is located within the city limits of Porterville, California, adjacent to the Porterville Municipal Airport. The parcel is known as the Tule River Airpark and lies within the city's Enterprise Zone, which is zoned for recreational-oriented uses. The City of Porterville's General Plan designated the site for Light Industrial Uses and the site is within the M-1(AS) (Light Industrial – Airport Safety Overlay) Zone. The Assessor's Parcel Numbers for these 17 properties are 302-400-001 through 302-400-017.

The proposed action is a fee to-to-trust action with no change in land use. The Tribe is seeking to increase and diversify their revenue base to ensure future stability for the Tribe and its members.

For information or to obtain a copy of the Finding of No Significant Impact (FONSI), please contact: Patrick O'Mallan, Bureau of Indian Affairs, Pacific Regional Office, 2800 Cottage Way, Sacramento, California 95825 or at (916) 978-6044.

Additionally, copies of the EA and FONSI are available for review at the Porterville Public Library, 41 W. Thurman Ave, Porterville, CA. Copies are also available for public review at the Tule River Tribal Office located at 340 North Reservation Road, Porterville, California 93258 or online at <http://www.tulerivertribe-nsn.gov/>.

FINDING OF NO SIGNIFICANT IMPACT

CONVEYANCE OF 40 ACRES OF FEE PROPERTY TO FEDERAL TRUST

TULE RIVER TRIBE  
TULARE COUNTY, CALIFORNIA

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AGENCIES: Bureau of Indian Affairs

ACTIONS: Finding of No Significant Impact

SUMMARY:

The Tule River Tribe submitted a request to the Bureau of Indian Affairs (BIA) to approve the acquisition in trust of fee land totaling 40± acres. Seventeen properties are involved in this project. The 40-acre parcel is located in a portion of Southwest ¼ Quarter of the Northeast ¼ Quarter of Section 8, Township 22 South, and Range 27 East, of the Mt. Diablo Base and Meridian, Tulare County, California. The parcel is comprised of 40± acres and is located within the city limits of Porterville, California, adjacent to the Porterville Municipal Airport. The parcel is known as the Tule River Airpark and lies within the city's Enterprise Zone, which is zoned for recreational-oriented uses. The City of Porterville's General Plan designated the site for Light Industrial Uses and the site is within the M-1(AS) (Light Industrial – Airport Safety Overlay) Zone. The Assessor's Parcel Numbers for these 17 properties are 302-400-001 through 302-400-017.

The properties are owned by the Tule River Indian Tribe and managed by the Tule River Economic Development Corporation (TRDEC). TREDC is an instrumentality of the Tribe that manages economic activities including the Tule River Aero Industries and serves as the property manager of the Tule River Air Park. Other tenants at the Airpark include Indian Health Services, which leases office space in one of the buildings on the site and the Central California Interagency Communications Center (CCICC) which coordinates fire protection and firefighting activities among a variety of federal, state and tribal agencies.

The original 40 acre parcel was also divided into 17 lots for industrial development through a parcel map approved by the City of Porterville in 1995. Since that time, industrial development has been gradual but ongoing on the subject site. To date, two large buildings have been constructed on two parcels out of the 17 total parcels at the Porterville Airpark.

BACKGROUND, REGULATORY AND STATUTORY CONSTRAINTS:

Approval of the fee to trust application allows the Tribe to explore expanded job creation efforts consistent with the City of Porterville's growth strategy. The realization of the project would increase the standard of living and provide employment opportunities for both Tribal members and citizens of the City of Porterville. Profits from the project will be allocated by the Tule River Tribal Council for community development, land purchases, business development, support for law enforcement and the judicial system, Tribal services, and contributions to the Tribal fund.

The trust acquisition process described in 25 CFR 151 allows the Tule River Tribe to acquire land in trust status; exercise tribal sovereign powers over the land, facilitating self-determination, diversify economic development, and provide much needed tribal housing. The single greatest practical effect of the proposed trust acquisition is removal of the subject properties from local civil jurisdiction and taxation effectively preventing unwarranted discriminatory actions toward the Tribe.

#### DESCRIPTION OF THE PROPOSED PROJECT:

The proposed action is a fee to-to-trust action with no change in land use. In 1986, the Bureau of Indian Affairs informed the Tribe that it had over \$150,000 plus interest in its Indian Monies Proceeds of Labor (IMPL) Account. The Tribe chose to invest the IMPL funds in economic development projects and ultimately acquired two (2) forty (40) acre parcels of real property off the reservation in 1989. One 40 acre parcel was located just west of the Porterville Airport and was later subdivided by the Tribe into a 17 lot industrial park (the "Porterville Airpark").

The Tribe and the City of Porterville entered into a purchase agreement dated May 9, 1989 which closed with a Corporation Grant Deed dated September 27, 1990 and recorded October 29, 1990.

To begin the industrial park, in 1992, the Tribe and the City of Porterville were joint applicants for a grant from the Economic Development Administration of the U.S. Department of Commerce to fund infrastructure development for an industrial park on the subject site. The EDA awarded \$600,000 in support of a \$750,000 construction program under the Economic Development Assistance Programs—under the Public Works and Economic Development Act of 1965, as amended (42 U.S.C. § 3121 *et seq.*), and the Trade Act of 1974, as amended (19 U.S.C. §§ 2341-2391). In 1994, this grant was amended to be an \$800,000 grant in support of a one million dollar construction project.

In 1993, designs for sewer, water, storm drainage facilities, and road improvements including paving, curb, gutter and sidewalk, with connection to City of Porterville existing systems were started. These improvements were constructed and the Porterville Airpark has full access to municipal water and sewer services.

The buildings on the land currently house the Tule River Economic Development Corporation (TREDC) and a U.S. Department of Agriculture (USDA) warehouse for distributing food to low-income families. TREDC is an instrumentality of the Tribe that manages other economic development programs including Tule River Aero Industries, an FAA repair station that specializes in general aircraft aviation that serves the adjacent Porterville Municipal Airport. Other tenants on the site include Indian Health Services, which leases office space in one of the buildings on the site and the Sequoia National Forest Emergency Command Center, a Central California Interagency Communications Center (CCICC) which coordinates fire protection and firefighting activities among a variety of federal, state and tribal agencies. The Eagle Mountain Casino Warehouse Facility which stores non-gaming supplies for operation of the Tribe's casino round off the existing tenants at the facility. The Assessor's Parcel Numbers for properties are 302-400-001 through 302-400-017.

To continue this pattern of economic cooperation, the Tribe and the City have entered into the Cooperation Agreement effective April 1, 2010. In that Agreement, the Tribe agrees to follow the City of Porterville General Plan and zoning in effect for the Porterville Airport and to obtain the written approval of the City before initiating any future development project at the Porterville Airpark.

#### ENVIRONMENTAL IMPACTS:

An Environmental Assessment (EA) dated June 2010 has been prepared to determine the environmental impacts that may result as a consequence of the Bureau of Indian Affairs proposal to accept land into trust for the benefit of the Tule River Tribe. The EA was distributed for public review and comment for the period beginning June 24, 2010 and ending July 26, 2010.

It is our decision, in cooperation with the Tule River Tribe, to select the Proposed Action Alternative. Other alternatives considered were the No Action Alternative. Based upon the analysis in the Environmental Assessment for the proposed action, we have determined that this action will not significantly affect the quality of the human environment. Therefore an Environmental Impact Statement is not required.

The following is based on the following factors:

- A. The direct effects of the proposed action (trust conveyance) will not have an impact to topography, soil types & characteristics, geologic setting and mineral resources. See EA Section 4.1.
- B. No adverse effects to water resources or wetlands will result from the proposed project. See EA Section 4.2.
- C. The direct effects of the proposed action (trust conveyance) will not impact air quality thresholds. See EA Section 4.3.
- D. No adverse impacts to living resources would result from the implementation of the proposed project. See EA, Section 4.4.
- E. There will be no Historic Properties Affected as a result of this proposed project. Should any subsurface materials be encountered during any future construction activities, work in the vicinity shall be halted and procedures implemented to ensure significant resources are not adversely affected. See EA, Section 4.5.
- F. Since no construction or development is proposed as part of an administrative land conveyance action, no significant impacts on infrastructure would occur as a result of direct effect. See EA Section 4.6.
- G. There will be no significant impact to the transportation network. See EA, Section 4.7.
- H. Since no construction or development is proposed as part of this direct effects action, there would be no construction-level, or post-operational noise associated with the proposed conveyance, nor would any new or existing sensitive receptors be created or impacted. See EA Section 4.8.
- I. Since no construction or development is proposed as part of this direct effects action prominent visual features on the project site would remain the same, and would not be impacted. See EA Section 4.9.
- J. Since no construction or development is proposed as part of this direct effects action, there would be no measurable impacts upon the attitudes, expectations, and cultural

values of local community members as a result of the proposed project. See EA Section 4.10.

- K. The trust conveyance of the property will result in the loss of property taxes to the City of Porterville and Tulare County would be equal to 0.0012047% of the total assessments collected for Tulare County. See EA Section 4.11.
- L. There is no indication that either the construction or operation of future industrial or commercial development would impact a higher minority population component or low-income population component than the general population of the surrounding area impacting Environmental Justice. See EA Section 4.12.
- M. Cumulative impacts are considered to be insignificant. See EA, Section 4.13.

The Vice Mayor of the City of Porterville sent a letter dated July 20, 2010 to the BIA expressing the City's support of the proposed trust conveyance (Attachment A).

Caltrans Division of Aeronautics in a letter to the BIA dated July 23, 2010 provided comments relative to airport-related noise, safety and regional land use planning issues (Attachment B).

Kay McGuire, Board Chair of the Porterville Chamber of Commerce, remitted a letter dated July 22, 2010 supporting the proposed trust conveyance of the Porterville Airpark on behalf of the Tule River Tribe (Attachment C).

#### RESPONSE TO EA COMMENTS

Tulare County Counsel Kathleen Bales-Lange in a letter dated July 26, 2010 presented five Exhibits including those from Tulare County Resource Management Agency, a law firm that represents the County of Tulare (Nielsen, Merksamer, Pirandello, Mueller and Naylor), letters from concerned citizens, a newspaper article from the Porterville Recorder newspaper, and the Tulare County Airport Land Use Commission. The County and the supporting exhibits are expressing concerns regarding the potential for intense commercial use (Attachment D).

County of Tulare Resource Management Agency (RMA) – RMA expressed concerns that the EA did not adequately address the Need for the Proposed Action. In response, Section 1.0 and 1.3 of the EA does adequately address the need for the project which identifies the purpose of this action is to continue to expand the Tule River Tribe's land base to satisfy Tribal needs in the areas of Tribal self-determination, housing, economic self-sufficiency and alleviation of poverty.

RMA also was concerned that the EA failed to consider alternatives. Two alternatives are presented in the EA; the Proposed Action and the No Action Alternative. These are the only options available to the BIA and therefore the EA did indeed consider alternatives.

RMA is concerned that the EA did not adequately address air quality including traffic-related emissions. In response, the EA presented two alternatives; the Proposed Action (trust conveyance) and the No Action Alternative (no change in status) in which air quality would not be impacted as there is no change in land use.

RMA commented that the impact of greenhouse gas (GHG) emissions was not evaluated in the cumulative impact section of the EA. In response, the GHG emissions effects of the Proposed

Action (trust conveyance) and the No Action Alternative (no change in status) will not impact climate change as no GHG emissions will occur.

RMA is concerned that the EA was inadequate due in part to the proximity of the project site to the Porterville Municipal Airport, building and fire standards, health and social problems, food-handling standards, seismic considerations, and fire safety. In response, both the Proposed Action (trust conveyance) and the No Action Alternative (no change in status) included duly permitted buildings and facilities that are provided with emergency services (See Pages 24 and 25 of the DEA), gaming and gaming-related social problems will not occur with either of the alternatives presented, food-handling standards are not applicable, seismic hazards are addressed on Pages 13 to 14 of the EA, fire protection is described on Page 24 of the EA, and airport safety is addressed on Page 27 of the EA and within the Cooperative Agreement between the Tribe and the City of Porterville.

RMA is concerned that the EA did not adequately address the noise impacts of the proposed project. In response, noise is discussed on Pages 27-28 of the DEA.

RMA is concerned that the project would have possible adverse affects on local government. The EA on Page 23 includes a discussion of property taxes. Page 24 of the EA also lists the 2009 Tulare County Indian Gaming Local Community Benefit Committee grant funding to the County of Tulare and the City of Porterville by the Tule River Tribe.

RMA expressed concern that the EA did not analyze water supply impacts. In response both the Proposed Action (trust conveyance) and the No Action Alternative (no change in status) will not affect groundwater supply as municipal water is provided by the City of Porterville. Both the Project and No Action Alternative will not increase the demand for municipal water and groundwater is not exploited for either of the Alternatives.

RMA expresses concern that the EA's discussion of wastewater disposal is minimal. In response, two alternatives are proposed in the EA; the Proposed Action and the No Action Alternative. In sum, either the property is conveyed to federal trust status or it remains in fee status. Either alternative will not affect the City's capacity to serve the site.

RMA suggests the need for a traffic study to be prepared in support of the EA. In response, both the Proposed Action (trust conveyance) and the No Action Alternative (no change in status) do not have the potential to increase and thereby impact traffic and circulation and therefore a traffic study is not warranted.

RMA expressed the desire for an Environmental Impact Statement instead of an EA. In response, the Proposed Alternative is not considered a major federal action that will have a significant effect on the environment. Simply stated, the Proposed Alternative is an administrative action that will convey the property from fee simple status to land that will be held in trust by the federal government on behalf of the Tule River Tribe.

The letter from Nielsen, Merksamer, Pirandello, Mueller and Naylor, attorneys representing Tulare County provide concerns that a casino/resort, gas station/truck stop, large commercial center or other intense commercial use could be built at the undeveloped portion of the Airpark property. In response, Tulare County Counsel completely fails to mention that the City of

Porterville will be required to approve any development at the Porterville Airpark property, which such MOU also requires the Tribe to follow all applicable City of Porterville planning requirements.

A letter from concerned citizen Dennis Townsend received July 26, 2010 expressed concerns that once the land is conveyed to federal trust that an auto mall, outlet mall, or gas station were to be developed it would require a business plan. As with the response above, the City of Porterville will be required to approve any development at the Porterville Airpark property pursuant to the Tule River Tribe/City of Porterville MOU.

Randall Carroll, owner of Carroll's Tire Warehouse expressed concerns that Indians would be granted free rein to develop business tax free. As with the other two preceding comments, the City of Porterville will be required to approve any development at the Porterville Airpark property.

Finally, a letter was received from Jason LoBue, Planner III; Tulare County Airport Land Use Commission dated July 23, 2010 and concerns were expressed regarding changes in land use.

In response, the City of Porterville fulfilled the requirements of the land use law through adoption of the Porterville Municipal Airport Master Plan as the controlling General Plan element for land use in the vicinity of the airport and the related adoption of the AS (Airport Safety) and AD (Airport Development) Zones as components of the Porterville Zoning Ordinance. Under the terms of the Cooperation Agreement referenced above, the Tribe has committed to conform future development to the Airport Master Plan and Zoning Ordinance.

#### SUMMARY OF MITIGATION MEASURES

The Best Management Practices (BMPs) and mitigation measures described in the EA are considered project elements and will be implemented as conditions of approval to assure that environmental effects are insignificant. The following mitigation measures listed below are either:

- (1) Elements of project design/operation, or
- (2) BMPs, which have been incorporated in project planning and design, or
- (3) Conditions of federally required permits and approvals, such as the enrollment under the general storm water discharge permit for construction activities (Clean Water Act).

As with the mitigation measures described in the EA, the following mitigation measure will be implemented as conditions of approval:

- To continue the long-term pattern of economic cooperation, the Tribe and the City have entered into the attached Cooperation Agreement effective April 1, 2010 (Attachment E). In that Agreement, the Tribe agrees to follow the City of Porterville General Plan and zoning in effect for the Porterville Airport and to obtain the written approval of the City before initiating any development project at the Porterville Airpark.

#### ADDITIONAL MITIGATION MEASURES



No additional mitigation measures were identified.

#### ALTERNATIVES CONSIDERED:

##### ***Land Trust Action and Secretarial Determination***

The proposed action includes the conveyance of property that is composed of approximately 40-acres of land within the limits of the City of Porterville west of the Porterville Municipal Airport off of West Street, Tulare County, California from fee simple to federal trust status.

Although there are no new or future changes in land use for the project parcels contemplated for the reasons outlined above, the City/Tribal Agreement which was adopted by both parties on April 1, 2010 creates a legally binding process in which future actions will be subject to the City's general plan and land use regulations and policies.

##### **No Action Alternative**

The "No Action" alternative would maintain the status quo of the site as "fee land". It would not be conveyed to Federal trust.

If the no action alternative were selected, the project area would still be available for development. It will remain under the jurisdiction of the City of Porterville. Accordingly, none of the potential impacts to environmental resources as discussed in Section 5.0 would occur. However, the no action alternative would have adverse impacts of its own. Primarily, the proposed project's contribution to the economy of the Tribe and the City of Porterville may not be sustained unless an infusion of cash is obtained through trust status designation, both in terms of short-term and long-term benefits.

The No Action Alternative is considered unacceptable by the Tribe since it fails to meet the goal of self-sufficiency of the Tule River Indian Reservation and is inconsistent with several articles in the Constitution and Bylaws of the Tule River Tribe.


#### DETERMINATION:

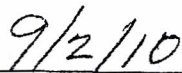
After review and independent evaluation, the BIA has determined that the proposed federal action, to approve the Tule River Tribe's request to take the proposed 40-acre site into trust for the purpose of operating the Porterville Airpark, does not constitute a major federal action that would significantly affect the quality of the human environment within the meaning of NEPA. This conclusion is based on the analysis contained in the EA, consideration of public comments received, the response to those comments, and the mitigation imposed. Therefore, an Environmental Impact Statement is not required and the BIA is issuing this FONSI.

This FONSI will be distributed to all persons and agencies known to be interested in the proposed action as indicated by their comments on the EA. Additionally, copies of the EA and FONSI are available for review at the Porterville Public Library, 41 W. Thurman Ave, Porterville, CA. Copies are also available for public review at the Tule River Tribal Office located at 340 North Reservation Road, Porterville, California 93258 or online at <http://www.tulerivertribe-nsn.gov/>.

For Further information, contact Pat O'Mallan, Environmental Protection Specialist, Pacific Region Office, 2800 Cottage Way, Sacramento, CA 95825, or at (916) 978-6044.

*"This FONSI is a finding on environmental effects, not a decision to proceed with an action, and therefore cannot be appealed. 25 CFR Part 2.7 requires a 30-day appeal period after the decision to proceed with the action is made before the action may be implemented. Appeal information will be made publically available when the decision to proceed is made."*  
(BIA National Environmental Policy Act Handbook, 59 IAM3)

  
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Acting Regional Director, Pacific Region

  
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Date