

ML-118



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
Pacific Regional Office
2800 Cottage Way
Sacramento, California 95825

IN REPLY REFER TO:
BIA FOIA 2014 00508

FEB 24 2014

Cheryl A. Schmit, Director
Stand Up For California
P. O. Box 355
Penryn, CA 95663

Dear Ms. Schmit:

By your February 3, 2014 letter submitted under the Freedom of Information Act, you requested the following: (1) copy of any BIA decision on any application for a Tribal Land Consolidation Area for California Tribes; (2) a list of all pending applications for approval of a Land Consolidation Area in California; and (3) the first 5 pages of any application to the BIA to declare a land consolidation area for California Tribes currently pending.

In response to your request, we find no documents responsive to items 2 and 3. As to item 1, the Regional Director approved a plan for the Agua Caliente Band of Cahuilla Indian on October 6, 2006, and copies of the following are enclosed:

1. October 6, 2006 Approval of Interim land Consolidation Plan.
2. Agua Caliente Tribal Resolution No. 35-06 dated May 16, 2006.
3. Interim Land Consolidation Plan and its exhibits as follows:
 - (1) Executive Order of May 15, 1876;
 - (2) Executive Order of September 29, 1877;
 - (3) Patent of May 14, 1896;
 - (4) Land Status Map of Section 14; and the
 - (5) Record of Decision on Agua Caliente Band's Section 14 Plan dated October 10, 2002 with its Attachment A.

The Tribe's Section 14 Master Plan(as listed as an exhibit to the Plan) was adopted by the City of Palm Springs in 2004 and further information on the plan is available on the Tribe's website, www.aguacaliente.org.

The enclosures consist of 38 pages, and search time was less than 15 minutes. Accordingly, there is no cost for providing the above-listed enclosures (see table set forth in 43 CFR 2.39).



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Telephone: 202-741-5770; Facsimile: 202-741-5769
Toll-free: 1-877-684-6448.

If you consider this response to be a denial of your request, you may file an appeal to the FOIA Appeals Officer. The FOIA Appeals Officer must receive your FOIA appeal no later than 30 workdays from the date of this final letter responding to your FOIA request. Appeals arriving or delivered after 5 p.m. E.T., Monday through Friday, will be deemed received on the next workday. Your appeal must be in writing and addressed to: Freedom of Information Appeals Officer, Department of the Interior, Office of the Solicitor, 1849 C Street, N.W., MS-6556, Washington, D.C. 20240.

You must include with your appeal copies of all correspondence between you and the Bureau of Indian Affairs concerning your FOIA request, including a copy of your original FOIA request and this response letter. Failure to include this documentation with your appeal will result in the Department's rejection of your appeal. The appeal should be marked, both on the envelope and the face of the appeal letter, with the legend 'FREEDOM OF INFORMATION APPEAL.' Your letter should include as much detail as possible any areason(s) why you believe the Bureau's response is in error.

Questions regarding this response may be directed to Carmen Facio, Realty Officer, (916) 978-6062, or to Doug Garcia, FOIA Coordinator, (916) 978-6052.

Sincerely,



Regional Director

Enclosures

cc: Doug Garcia, FOIA Coordinator



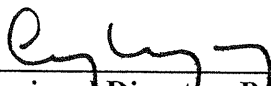
UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS
PACIFIC REGION

APPROVAL OF INTERIM LAND CONSOLIDATION PLAN

The within Interim Land Consolidation Plan prepared pursuant to Section 204 of the Indian Land Consolidation Act (ILCA), 25 U.S.C. § 2203(a), and adopted by the Agua Caliente Band of Cahuilla Indians by Resolution No. 35-06, on May 16, 2006, is hereby approved SUBJECT TO and PROVIDED THAT:

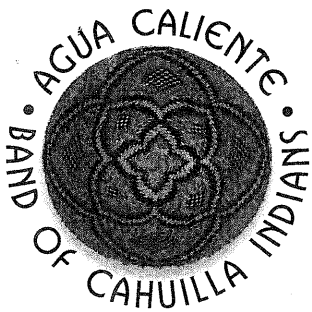
- (1) the exchange value received by the Tribe for land or interests in land covered by Sec. 204 of the ILCA shall be no less than within 10 per centum of the fair market value as determined by the Secretary;
- (2) if the tribal land involved in an exchange is of greater or lesser value than the land for which it is being exchanged, the Tribe may accept or give cash in such exchange in order to equalize the values of the property exchanged;
- (3) any proceeds received by the Tribe to equalize an exchange made pursuant to Sec. 204 of ILCA shall be used exclusively for the purchase of other land or interests in land;
- (4) the Secretary shall maintain a separate trust account for the Tribe when selling or exchanging land pursuant to Sec. 204 of ILCA consisting of the proceeds of exchanges and shall release such funds only for the purpose of buying lands under Sec. 204 of ILCA; and
- (5) the Tribe may retain the mineral rights to such exchanged lands and the Secretary shall assist the Tribe in determining the value of such mineral rights and shall take such value into consideration in determining the fair market value of such lands.

Date: 10-6-06



Regional Director, Pacific Region
Bureau of Indian Affairs
Sacramento, California

Pursuant to the authority
delegated by 209 DM 8, 230 DM 1
and 3 IAM 4



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U.S. PALM SPRINGS AGENCY

2006 MAY 26 PM 4:03

RESOLUTION NO. 35-06

Whereas, the Agua Caliente Band of Cahuilla Indians (the "Tribe") is a federally-recognized Indian tribe governing itself according to a constitution through its duly elected Tribal Council, and exercising sovereign authority over the lands of the Agua Caliente Indian Reservation (the "Reservation"); and

Whereas, since 1977 the Tribe has been purchasing selected parcels of current and former allotted trust land on the Reservation for the purposes of halting the erosion of the Tribal trust land base and encouraging the development of trust lands to their highest and best use through consolidation of parcels and other measures, such as its adoption of a Master Plan for the development of Section 14, T. 4 S., R. 4 E., S.B.M.; and

Whereas, with an increasing volume of potential land purchases, the Tribal Council wishes to set priorities for future land purchases and exchanges, starting in Section 14, and perhaps expanding to other portions of the Reservation in the future; and

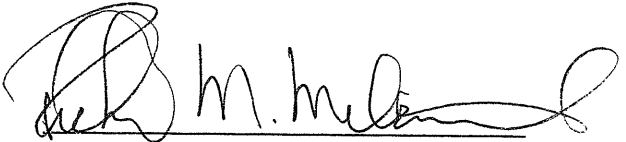
Whereas, under Section 204 of the Indian Land Consolidation Act, 25 U.S.C. Section 2203, a tribe may adopt a land consolidation plan which, when approved by the authorized representative of the Secretary of the Interior, will guide the Bureau of Indian Affairs in its decisions regarding taking parcels into trust for the Tribe by purchase or exchange; and

Whereas, Tribal staff has now prepared such an Interim Land Consolidation Plan, limited in scope to Section 14, T. 4 S., R. 4 E., S.B.M.; and the Tribal Council has reviewed that Interim Land Consolidation Plan for use until further action by the Tribal Council;

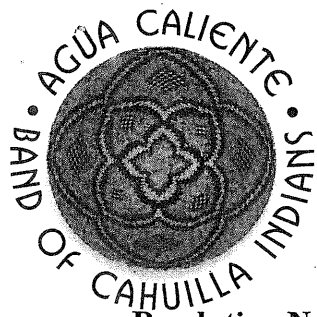
NOW, THEREFORE, BE IT RESOLVED by the Tribal Council of the Agua Caliente Band of Cahuilla Indians that:

1. The Tribal Council hereby approves and adopts the Interim Land Consolidation Plan, and applies it to land acquisitions in Section 14 only; and
2. The Tribal Council hereby requests the authorized representative of the Secretary of the Interior to approve the Interim Land Consolidation Plan.

Dated: May 16, 2006



Richard M. Milanovich, Chairman



Resolution No. 35-06

Page No. 2

TRIBAL COUNCIL

Chairman, Richard M. Milanovich • Vice Chairman, Barbara Gonzales Lyons
Secretary/Treasurer, Moraino J. Patencio • Member, Jeannette Prieto-Dodd • Member, Jeff L. Grubbe

CERTIFICATION

I, the undersigned, the Secretary of the Agua Caliente Band of Cahuilla Indians, hereby certify that the Tribal Council is composed of five members of whom 4, constituting a quorum, were present at a meeting whereof, duly called, and noticed, convened and held this 16th day of May, 2006; that the foregoing resolution was duly adopted at such meeting by the affirmative vote of 3 - 0 - 0, members and that said resolution has not been rescinded or amended in any way.

Dated: May 16, 2006



Jeff L. Grubbe, Acting, Secretary/Treasurer

AGUA CALIENTE BAND OF CAHUILLA INDIANS

INTERIM LAND CONSOLIDATION PLAN

Submitted to the Superintendent,
Palm Springs Agency,
Bureau of Indian Affairs,
U.S. Department of the Interior
May 16, 2006

2006 MAY 21 PM 4:03

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BIA PALM SPRINGS AGENCY

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Purpose and Scope

Pursuant to Section 204 of the Indian Land Consolidation Act, 25 U.S.C. §2203(a), the Agua Caliente Band of Cahuilla Indians (the “Tribe”) now submits for the approval of the authorized representative of the Secretary of the Interior this Interim Land Consolidation Plan (the “Plan”).

The purpose of the Plan is to improve the Tribe’s ability to eliminate or reduce undivided fractional interests in allotted Indian trust land, and to consolidate its Tribal landholdings. Although the Tribe has already done much informally toward these goals, it believes that a more formal Plan, starting with a limited geographical scope, to be followed by a larger geographical scope, would better do so.

Although the total acreage of the Agua Caliente Indian Reservation (the “Reservation”) is in excess of 31,000 acres, this Plan covers only the one square mile of the Reservation that is already subdivided into approximately 207 separate parcels. This one square mile is known as Section 14 (T. 4 S., R. 4 E., S.B.M.), and is the ancestral home of the Tribe, possessing the natural hot spring after which the City of Palm Springs is named and from which the Tribe takes its name. (“Agua Caliente” means “hot water.”) This section also has the greatest economic development potential for the Tribe and its allotted members, and serves as the catalyst for the overall economic development of the Reservation. Although the Tribe’s efforts at land consolidation are concentrated on this section, the Tribe’s planning and other efforts concerning other parts of the Reservation continue. When those efforts have reached as mature a stage as have those within Section 14, the Tribe intends to amend or replace this Plan with a much broader plan, covering all of most of the Reservation.

Background of the Agua Caliente Indian Reservation

The Agua Caliente Indian Reservation was first established by the Executive Order of President U.S. Grant of May 15, 1876 to include “Township 4 south, range 4 east, section 14 and east half of southeast quarter and northeast quarter of section 22.”¹ Thus, the very first Agua Caliente Indian Reservation consisted of all of the present Section 14, plus 240 acres in an adjacent section. The natural hot mineral spring noted above, is located in the southwest quarter of Section 14.

By his Executive Order of September 29, 1877² President R.B. Hayes expanded the Reservation to its present size, to include “all the even-numbered sections, and all unsurveyed portions of township 4 south, range 4 east, township 4 south, range 5 east, and township 5 south, range 4 east, San Bernardino meridian.” This reservation consisted of over 31,000 acres and was in the form of a checkerboard because all the odd-numbered sections in the area had been granted to the Southern Pacific Railroad in 1873.

¹ Charles J. Kappler, *Indian Affairs, Laws and Treaties*, vol. 1, p. 821 (G.P.O., 1904). A copy is attached as Exhibit 1. This and later exhibits will be referred to as [1].

² *Id.*, p. 822. [2]

Because of non-Indian encroachments on various such Executive Order reservations in southern California, Congress passed the Mission Indian Relief Act of January 12, 1891, 26 Stat. 712. Among other things, this statute authorized the President to issue federal patents for the lands that a federal commission reported as in the actual possession of various tribes of southern California. President Grover Cleveland issued such a patent [3] on May 14, 1896, covering all of Section 14, plus several other sections. (A later patent covered most of the remainder of the Reservation.).

Even though both the General Allotment Act of 1887, 25 U.S.C. 331, et seq., and the Mission Indian Relief Act authorized allotment, and even though Congress directed the allotment of this Reservation in the Act of March 2, 1917, 39 Stat. 969, 976, and even though the Supreme Court directed the Secretary to complete the allotment of the Reservation in *Arenas v. U.S.*, 322 U.S. 419 (1944), very few allotments were actually made on the Reservation before 1959. Those few that were made were of greatly differing values. To complete the allotment process at the highest level of value for each allottee possible, Congress passed the Agua Caliente Equalization Act of September 21, 1959, 25 U.S.C. §951, et seq. Under its authority, over 90% of the Reservation was allotted, leaving only certain canyons, cemeteries, and the natural hot mineral springs parcels unallotted. See 25 U.S.C. 953(b). Exhibit 4 shows the current land status of the entire Reservation, including allotted and unallotted lands, trust and fee. [4]

There were approximately 121 allottees, all the members of the Tribe alive on the date of the enactment of the statute who had not previously received an allotment of greater value than the newly-issued allotments.. Typically, each allottee received three parcels: a small parcel in Section 14 (typically 2-5 acres) for commercial development, a medium sized parcel elsewhere suitable for irrigated agriculture, and a large parcel of desert or mountain land suitable for, at most, dry farming. In this way, Section 14 was divided into numerous relatively small parcels so that each allottee could share in the development of this section located immediately adjacent to downtown Palm Springs.

Congress intended to facilitate such development by enacting the Long-Term Leasing Act, 25 U.S.C. §415(a). This statute has since been amended to allow other tribes to participate, but it originally pertained only to the Agua Caliente Indian Reservation. It allowed approval of leases of up to 99 years, as opposed to the previous statutory maximum of 25 years, plus one 25-year extension. Such a 50-year term was simply not suitable for large-scale financing, which requires a minimum of 65 years.

Under this long-term leasing authority, much of the Reservation was leased for development. However, such development directly benefited only the allottees themselves. The Tribe itself owned only the canyons, which were not really suitable for development, two cemeteries, and the 8-acre parcel with the natural hot mineral spring. Only this last parcel was suitable for development. The Tribe leased it to a non-Indian firm, which built the Spa Hotel on it. The tribe received the rent from this one lease, but had little other income with which to provide services to its members. In 1992 a bank foreclosed on the non-Indian lessee's interest, and the Tribe purchased the leasehold interest.

During the years since large-scale allotment in 1959, almost a quarter of the acreage of Section 14 has passed into fee ownership. This was largely because, during the 1959-1968 period many of the allottee-owners were under the control of conservators whose fees often exceeded the rent income from the leases that they negotiated for the allottees, so that the land had to be sold to pay their fees.³ Also, prior to 1977 the City of Palm Springs downzoned much land in Section 14 to the point where it could not be developed or leased, forcing some allottees to sell their useless land. Such sales ended in 1977 when the U.S. Supreme Court refused to review a decision of the U.S. Court of Appeals that cities and counties lacked jurisdiction to control the use and development of trust land.⁴ Between these two factors, much allotted trust land in Section 14 and elsewhere on the Reservation passed into fee status.

While some of the original 121 allottees of 1959 have since passed on, often leaving their allotted parcels to their children, many of the original allottees are fortunately still alive. With the active encouragement of the Tribe, many have taken their own steps to maintain the value of their intact parcels, such as by executing wills that do not leave each parcel to all of their children, but instead leaving each parcel to one heir. However, the Tribe's membership now stands at approximately 430. The majority of the members are not allotted and, if an unallotted member does not inherit trust land, that member will never reap the benefits of leasing.

In order to provide benefits for *all* members of the Tribe, both allotted and unallotted, the Tribe has embarked on two major efforts.

The first is establishing a tribal governmental gaming enterprise under the Indian Gaming Regulatory Act. That enterprise provides funds with which the Tribe provides a series of benefits to all members. However, the Tribe realizes that gaming, at least in its present remunerative form, will not last forever. Therefore, even before gaming started, the Tribe also embarked on its second effort, an effort that will likely outlast gaming.

The second such major effort is acting to increase the trust land base of the Reservation, both allotted and unallotted Tribal trust land, and to maximize its value and utility. Attached hereto is a map [5] showing the current land status of all parcels in Section 14. (Compare the numerous small parcels in Section 14 with the much larger parcels elsewhere on the Reservation [4].) That map shows the following breakdown of the approximately 207 parcels into which Section 14 is divided:

Unallotted Tribal trust land	65.27 acres
Fee land owned by Tribe	5.07 acres
Leased allotted trust land	293.36 acres
Unleased allotted trust land	92.45 acres
Fee land	176.77 acres

³ This practice ended in 1968 with the enactment of the Tunney Act, the Act of October 17, 1968, 25 U.S.C. 954, which ended the period of control of the conservators.

⁴ *Santa Rosa Band of Indians v. Kings County*, 532 F.2d 655 (9th Cir., 1975).

Although this effort to increase the trust land base of the Reservation, and to maximize its value and utility, was applied through out the Reservation, its focus has always been on Section 14, the section where all allottees had a parcel, where the parcels were the smallest, and where the greatest development potential is found. To understand what steps the Tribe took in this effort, see the next section of this Plan.

Previous Land Consolidation and Anti-Fractionation Efforts

1. *The Indian Planning Commission.* In 1971, while the Tribe was still in conflict with the City of Palm Springs over which government would control the use and development of trust land within the City and on the Reservation, the Tribe took its first step at exerting that control itself. It did so by creating the Indian Planning Commission, a body composed of a majority of qualified non-Indians who would review development proposals under standard objective principles of land use law, and make professional recommendations to the Tribal Council. Its first Executive Director was John Roberts, the former head of the Planning Department of the City of Los Angeles.

2. *The Land Use Contracts.* The second step that the Tribe took was motivated by the fact that the Tribe lacked the professional staff and other in-house capability to manage its own full-service land use department. Within 30 days after the U.S. Supreme Court refused to review the *Santa Rosa* case in 1977 that held that tribes, not cities or counties, had land use jurisdiction over trust land, the Tribe and the City of Palm Springs entered into a Land Use Contract by which:

- a. With slight variations, the Tribe adopted all of the City's land use measures as the Tribe's own, and applied them to trust land on the Reservation within the City;
- b. Designated the City to be the Tribe's agent to enforce those Tribal measures on trust land within the City;
- c. Allowed any party dissatisfied with a land use decision of the City to appeal to the Tribal Council, whose decision would be final.

That land use contract can be cancelled by either party on 30 day's notice, for any reason, or no reason. And yet it is still in effect today. There has been fewer than one such appeal per year. In those appeals, the Tribe has not been a rubber stamp for developers. While the Tribe has often overruled the City, it has also sometimes agreed with the City.

Such Tribal control, and other factors, have slowed the erosion of the Tribe's trust land base. In recent years, very little allotted trust land has passed into fee status. In the years since 1977, the Tribe has entered into similar land use contracts with the Cities of Cathedral City and Rancho Mirage, and with the County of Riverside regarding trust land located in the unincorporated parts of the County. In recent years, those contracts have been modified so as to place projects conducted by the Tribe itself on unallotted Tribal trust land under direct Tribal control, outside the scope of any land use contract.

3. *Tribal Land Purchases.* The third step that the Tribe took in this effort to restore, control, and benefit from its trust land base is a program of targeted purchases of allotted trust parcels, often when receiving word that the allottee-owner wished to sell the parcel into fee status. Primarily since the early 1990's, the Tribe has more than tripled its total acreage of unallotted Tribal trust land from approximately 2,073.06 acres in 1959-1977, to approximately 6,245 acres today. Much of the focus of this effort has been in Section 14, where the unallotted Tribal trust land base has increased from approximately 14 acres in 1995 to approximately 65 acres today.

While the Tribe would prefer to purchase every parcel of former allotted trust land that has passed into fee, its finances do not permit it to purchase every such parcel. Land values now often exceed \$100,000/acre. In Section 14, values approach and sometimes exceed \$1,000,000/acre. Therefore, the Tribe has concentrated its purchases on those strategically-located parcels that lend themselves to development for particular projects, or are adjacent to existing unallotted Tribal trust lands. A brief examination of the land status map of Section 14 [5] will show how, although there are scattered parcels of unallotted Tribal trust land in the section, the bulk are concentrated in one contiguous tract near the western edge of the section, stretching northward from the Spa Hotel parcels, on which are located the natural hot mineral spring. This has been the Tribe's primary land acquisition area, partly because it is contiguous to existing and important parcels of unallotted Tribal trust land, and partly because the Tribe envisions large projects for this area, such as an expansion of the existing Spa Resort Hotel, expansion of the existing Spa Resort Casino, construction of a new Tribal Government Center, retail and other commercial ventures, etc. None of these ventures will fit on the multitude of small (approximately 2-acre) parcels found in this area. All require several, and often quite a few, such small parcels.

4. *Section 14 Master Plan.* By the late 1990's the Tribal Council determined that piecemeal development in Section 14 was detrimental to Tribal and allottee interests in maximizing the utility and benefit from allotted trust land in Section 14. It also realized that consolidation of both parcels and development would benefit both the Tribe as a government and a landowner, while also promoting the development of allotted trust land to its highest and best use.

Therefore, the Tribe began to develop and implement a master plan for the development of Section 14. At its own expense the Tribe engaged the renowned land planning firm of Gruen & Associates to develop this master plan in the form of a parallel package of land use measures to apply to Section 14 as a matter of Tribal law, while simultaneously moving the same measures through the City of Palm Springs planning process as an amendment to the General Plan, a specific plan pertaining only to Section 14, and a set of zone changes. Because these new development standards and land uses would be incorporated by the Bureau of Indian Affairs into its lease approval process for new leases in Section 14, as well as amendments to existing leases, the project was also handled as a major federal action, triggering full federal environmental review under the National Environmental Policy Act.

Full review under NEPA was performed simultaneously with full environmental review under the California Environmental Quality Act by the City of Palm Springs, producing a consolidated EIS/EIR for the project. [6] The EIS/EIR was performed as a programmatic document, rather than project-specific, so that each specific development project requiring BIA approval, such as under a lease, will require its own focused environmental review. However, such review will be narrowed and expedited by the prior programmatic EIS for the master plan. The full EIS/EIR [7] is separately provided.

The project description of the Section 14 Master Plan (the selected preferred alternative) was as follows:

The Specific Plan alternative proposes development within Section 14 as an integrated urban parcel, with commercial uses concentrated in a wide area both north and south of Tahquitz Canyon Way and east of Indian Canyon Drive, and residential uses in the northeastern and southeastern areas. The amount of commercial square footage permitted by this alternative is greater than any of the other alternatives. Existing land use designations and zoning would be replaced with new designations to allow greater flexibility and ease of development. *Consolidation of smaller parcels would be encouraged to provide opportunities for larger, cohesive developments.* Specific development regulations would be similar to what currently exists but would allow greater design flexibility. Residential development would be permitted at eight, 15 and 30 units/acre, with densities up to 96 units if certain conditions are met. Commercial floor area ratios would be allowed at 0.38. However, under certain conditions higher ratios may be permitted. ([6], P. 1-1, italics added)

The rationale for the project was stated to be as follows:

The primary purpose of the proposed action is to provide a framework for future development of Section 14 that will promote economic self-sufficiency for the members of the Tribe, while supporting development of tribal government and infrastructure. The existing land ownership pattern in Section 14 is unusually complex, and has resulted in a partially developed and patchy land use pattern, with development separated by vacant lots. The proposed action is intended to achieve the highest and best use of Indian lands, to maximize and coordinate development of the section, to ensure compatibility with existing development, to provide for a flexible development framework, and to plan for infrastructure. ([6], p. 1-1)

The upshot of this effort, requiring several years, was the approval and adoption of the Section 14 Master Plan in November 2002. Simultaneously, the City of Palm Springs conducted its review process under CEQA, and the City Council gave its final approval to the package of City measures on March 31, 2004. In a Record of Decision dated October 10, 2002 [8], the Regional Director of the BIA approved the project, basing his NEPA environmental compliance on the combined EIS/EIR and the review and public input accompanying it. This Master Plan, and the conditions of approval of the Regional Director, will be the BIA's starting point in assessing the environmental impact of any specific development project in Section 14. Since that master plan is now the basic planning document for the section, consistency of any project with the design, development, and use standards of the master plan will be the primary non-economic standard for approval of that project.

The value of the Section 14 Master Plan to the Tribe's efforts at land consolidation is that it facilitates and provides incentives for the consolidation of smaller parcels with good development potential, limited largely by size, into larger parcels with unitized leases and much greater development potential. A small hotel or neighborhood strip retail center on a 2-acre parcel will yield a smaller return to the allottee-owner, and contribute much less to the Tribe and its overall economy, than several such parcels developed as a consolidated unit as a resort hotel, regional shopping center, or master-planned residential community.

While Section 14 has not suffered from fractionation in the more traditional sense (i.e., multiple ownership over succeeding generations by many owners with very small interests in often larger parcels), it has suffered from fractionation in the sense of many relatively small parcels owned by small numbers of owners in relatively non-economic units that depress the development potential of those and all other adjacent parcels. Whether it is the ownership of the parcels, or the parcels themselves, that need to be consolidated, both forms of fractionation result in valuable trust assets being artificially hindered in their development and utility to their Tribal and allottee owners. Consolidation into economically viable units is the solution in both cases.

To achieve this goal of consolidating smaller parcels into larger blocks with greater development potential is a hallmark of the Section 14 Master Plan. For example, the Master Plan notes that

Figure 2-4 illustrates areas in Section 14 where the potential for change exists. Vacant parcels, underutilized sites, older or poorly maintained structures, and buildings experiencing high vacancies present key opportunities for investment and revitalization. Much of Indian Canyon Drive and portions of Tahquitz Canyon Drive fall into a category of sites that would benefit from rehabilitation, infill development, or redevelopment. [7, p. 2-13]

The Section 14 Master Plan identifies three primary largely-undeveloped areas of Section 14 where parcel consolidation would support much larger and far superior development than the current medley of smaller parcels being developed, if at all, on a piecemeal basis. See Figure 3 on p. 6 of the Master Plan. [7] Two are located in the northeast and southeast quadrants of Section 14, while the third is located in the northwest quadrant. While the Tribe may eventually to be the catalyst and provide the financing for high-quality and large-scale development in the first two sites, it prefers that private developers do so, and is actively working with the BIA to attract such potential developers and their capital. For the third likely parcel consolidation area, largely along the northwest edge of the section, the Tribe itself is the most likely developer. In that area the Tribe already has purchased much allotted trust land, and has had its title taken into trust for the Tribe. (See Land Status Map of Section 14 [5])

5. *Summary.* By its efforts since 1971, the Tribe has already done much to consolidate the many small parcels in Section 14 into economically much more developable units than the typically 2-acre parcels that resulted from allotment. By establishing the Indian Planning Commission, entering into comprehensive land use contracts with local non-Indian governments, purchasing many parcels itself, both in Section 14 and elsewhere on the Reservation, and establishing the parameters for parcel consolidation, as well as their more economic development and use in Section 14, the Tribe has already begun to turn the tide of parcel fractionation. Adoption of the current Interim Land Consolidation Plan is the next step in that process.

Terms of Interim Land Consolidation Plan

1. *Goals.* Consistent with its prior actions, as described above, the Tribe is pursuing two overall land-related goals. **First**, to the extent feasible (financially and otherwise), the Tribe ultimately wishes to move toward re-establishing the original Tribal land base of 31,000+ acres of unallotted Tribal trust land. **Second**, the Tribe wishes to promote the highest and best use of the existing trust land base of the Reservation, both unallotted and allotted, through sound planning, including consolidation of small parcels into larger, more economically-viable units, that can be developed through leasing or directly by the Tribe or allotted landowners themselves to achieve the highest economic return for those owners, while still meeting other Tribal goals, such as cultural preservation, etc.

2. *Building on Prior Actions.* A major element of both goals is preventing further erosion of the Tribe's trust land base and, if possible, increasing it. The Tribe already has an aggressive, but focused, program of purchasing select parcels throughout the Reservation, but especially in Section 14. See the Land Status Maps of Section 14 [5] and the whole Reservation [4], showing the current unallotted trust land holdings of the Tribe in blue. When the allotment process was completed in 1959, the *only* parcels of unallotted Tribal trust land in Section 14 were:

- a. The 8-acre Spa Hotel site, including the natural hot mineral spring (parcels T1012)

- b. The 5-acre site of the Jane Augustine Patencio Cemetery (parcel T1015)
- c. The 0.82-acre parking lot of the Catholic church (T1015)

The Tribe's holdings of unallotted Tribal trust land in Section 14 now total over 65 acres. The additional 51+ acres were purchased, either as a parcel of allotted trust land was about to go out of trust, or as a parcel of former allotted trust land that had already passed into fee was offered for sale.

Although the Tribe has also purchased a few other strategically-located parcels scattered throughout Section 14, the great bulk of its purchases have been concentrated in a single contiguous block in the northwest quadrant. It is within this block that much of the Tribe's own direct economic development efforts have occurred and are planned to occur. The original Spa Hotel, with its natural hot mineral spring is there. The Tribe's current Spa Resort Casino is there, as is the site currently being considered for a new Tribal Government Center. The Section 14 Master Plan identifies this area as one of the three prime areas for land consolidation for the purpose of large-scale enterprises, such as perhaps a much larger spa Resort Hotel, entertainment complex, expanded casino, and mixed use complex (retail, office, and residential).

3. *Need to Set Priorities.* Due to the extremely high cost of land acquisition in Section 14, the Tribe must prioritize its land acquisitions. Most of those acquisitions have been and will continue to be by direct purchase. However, opportunities for exchanges also exist and may be either more advantageous in some situations, or may be the only way to make transactions occur in others. Fortunately, 25 U.S.C. §2203(a) permits both the sale and exchange of unallotted Tribal trust land, as well as its acquisition, "for the purpose of . . . consolidating [a tribe's] tribal landholdings."

4. *Priorities.* With these financial and other constraints in mind, as well as the Tribe's historic efforts on this subject and the Tribe's above two goals, the Tribe's priority schedule for acquisitions of both current and former trust lands within Section 14, by purchase and/or exchange, under the current Indian Land Consolidation Plan will be:

CATEGORY 1: Highest Priority: Acquisition of parcels contiguous to existing parcels of unallotted Tribal trust land when such acquisitions can be used in the near future, preferably together with existing parcels of unallotted Tribal trust land, for projects designated by the Tribal Council as of immediate importance to the Tribe

CATEGORY 2: High Priority: Acquisition of parcels contiguous to existing parcels of unallotted Tribal Trust land that have the potential of being used, preferably together with existing parcels of unallotted Tribal trust land, for projects designated by the Tribal Council as of likely importance to the Tribe

CATEGORY 3: Medium Priority: Acquisition of parcels not contiguous to existing parcels of unallotted Tribal Trust land but designated by the Tribal Council as having particular development potential under the Section 14 Master Plan or other strategic importance to the Tribe

CATEGORY 4: Low Priority: Acquisition of other parcels not contiguous to existing parcels of unallotted Tribal trust land without other particular value to the Tribe beyond increasing the Tribal trust land base

5. *Procedure.* As a matter of policy, the Tribal Council will review each potential land acquisition (either by purchase or exchange) and determine into which category it falls. Depending on that categorization, and subject to the availability of funds, if needed, the Tribe will then determine whether it wishes to acquire the parcel or not. No sale or exchange will occur without compliance with applicable federal law, including 25 U.S.C. §465, or the Indian Land Consolidation Act (25 U.S.C. §2201, et seq.), regarding equalization of appraised values in exchanges, deposit of equalization funds into a special account, etc., and applicable federal regulations.

Environmental Review

No separate or additional environmental review is needed for the approval of this Interim Land Consolidation Plan by the authorized representative of the Secretary beyond that already performed for the approval of the Section 14 Master Plan in 2002. This Plan contemplates no change in land use, or development standards, beyond those already approved, after full compliance with the National Environmental Policy Act, as part of the Section 14 Master Plan. This Interim Land Consolidation Plan will only change the owner and priority of acquisition of particular parcels, not their previously authorized use and development. The environmental review for the Section 14 Master Plan specifically considered the effects of the kinds of parcel consolidation that this Interim Tribal Land Consolidation Plan provides for, and the authorized representative of the Secretary has already approved the Plan I, intended to facilitate such development based on such consolidation. In short, the environmental baseline will not change from that previously approved, whether it is the Tribe or a developer who consolidates and develops the same parcels.

Possible Future Expansion of Interim Land Consolidation Plan

This Interim Land Consolidation Plan is only an interim plan, subject to change and/or expansion to include other portions of the Agua Caliente Indian Reservation in addition to Section 14. The Tribal Council seeks approval of only this interim plan, and may seek approval of another different or expanded plan in the future.

However, for present purposes, the Tribal Council seeks approval of this Interim Land Consolidation Plan at this time to facilitate land consolidation by purchase and exchange, until any such amended or replacement plan is submitted for similar approval.

Index to Exhibits

1. Executive Order of May 15, 1876
2. Executive Order of September 29, 1877
3. Patent of May 14, 1896
4. Land Status Map of Agua Caliente Indian Reservation
5. Land Status Map of Section 14
6. Environmental Impact Statement/Environmental Impact Report on Section 14 Master Plan (separately provided)
7. Section 14 Master Plan (separately provided)
8. Record of Decision of Bureau of Indian Affairs on Section 14 Master Plan

Agua Caliente.—Township 10 south, range 3 east, southeast quarter of section 23, southwest quarter of 24, west half of 25, and east half of 26;

Sycuan.—Township 16 south, range 1 east, section 13;

Inaja.—Township 13 south, range 3 east, northeast quarter of section 35;

Cosmit.—Township 13 south, range 3 east, north half of northeast quarter of section 25, be, and the same are hereby, withdrawn from sale and set apart as reservations for the permanent use and occupancy of the Mission Indians in Lower California.

U. S. GRANT.

EXECUTIVE MANSION, *May 15, 1876.*

It is hereby ordered that the following-described lands in San Bernardino County, Cal., viz:

Portrero.—Township 2 south, range 1 east, section 36;

Mission.—Township 2 south, range 3 east, sections 12, 13, and 14;

Agua Caliente.—Township 4 south, range 4 east, section 14, and east half of southeast quarter and northeast quarter of section 22;

Torros.—Township 7 south, range 7 east, section 2;

Village.—Township 7 south, range 8 east, section 16;

Cabezons.—Township 7 south, range 9 east, section 6;

Village.—Township 5 south, range 8 east, section 19;

Village.—Township 5 south, range 7 east, section 24,

be, and the same hereby are, withdrawn from sale and set apart as reservations for the permanent use and occupancy of the Mission Indians in Southern California, in addition the selections noted and reserved under Executive order dated 27th December last.

U. S. GRANT.

EXECUTIVE MANSION, *May 3, 1877.*

It is hereby ordered that the following lands, situate in California, viz, township 10 south, range 1 east, sections 16 and 36, San Bernardino; township 7 south, range 2 east, section 36; township 14 south, range 2 east, section 36; township 11 south, range 3 east, section 36; township 9 south, range 2 west, north half of northeast quarter, section 33, being lands withdrawn from the public domain for the Mission Indians by President's order of December 27, 1875; also the following: township 2 south, range 1 east, section 36; township 7 south, range 8 east, section 16, being lands withdrawn by President's order of May 15, 1876, for the same purposes, be, and the same are hereby, restored to the public domain.

R. B. HAYES.

EXECUTIVE MANSION, *August 25, 1877.*

It is hereby ordered that the following lands in California, to wit, all the even-numbered sections and all the unsurveyed portions of township 2 south, range 1 east, township 2 south, range 2 east; township 3 south, range 1 east; and township 3 south, range 2 east, San Bernardino meridian, excepting sections 16 and 36, and excepting also all tract or tracts the title to which has passed out of the United States Government, be, and the same hereby are, withdrawn from sale and settlement, and set apart as a reservation for Indian purposes.

R. B. HAYES.

EXECUTIVE MANSION, *September 29, 1877.*

It is hereby ordered that the following-described lands in California, to wit, all the even-numbered sections, and all the unsurveyed portions of township 4 south, range 4 east; township 4 south, range 5 east; and township 5 south, range 4 east, San Bernardino meridian, excepting sections 16 and 36, and excepting also any tract or tracts the title to which has passed out of the United States Government, be, and the same hereby are, withdrawn from sale and settlement, and set apart as a reservation for Indian purposes for certain of the Mission Indians.

R. B. HAYES.

EXECUTIVE MANSION, *January 17, 1880.*

It is hereby ordered that so much of the order of December 27, 1875, as relates to the Agua Caliente Indian Reservation in California be, and the same is hereby, canceled.

It is also hereby ordered that said order of December 27, 1875, so far as the same relates to the Santa Ysabel Reservation be, and the same is hereby, canceled to the following extent, viz:

All that portion of sections numbered 25, 26, and 27, township 11 south, range 3 east, lying north of the following line, viz: beginning on the north boundary line of section 25, township 11 south, range 3 east, of San Bernardino meridian; at a point 51.59 chains west of the northeast corner of said section 25; thence according to the true meridian south $25\frac{1}{2}$ degrees west, 56.50 chains, to a granite stone marked "P," at the north side of a granite bowlder 8 feet high; thence south 74 degrees west, 34.60 chains to a black oak marked "PXXI"; thence north 56 degrees west, 52 chains to a granite stone marked "P" in stone mound; thence north 39 degrees west, 40.46 chains to a point on the north boundary of section 27; thence cast along the north boundaries of sections 27, 26, and 25, of township 11 south, range 3 east, to the place of beginning.

R. B. HAYES.

EXECUTIVE MANSION, *March 2, 1881.*

It is hereby ordered that the following-described lands in California, viz:

Sections 26 and 35 in township 10 south, of range 1 west, and sections 2 and 3, in township 11 south, of range 1 west of the San Bernardino meridian be, and the same are hereby, withdrawn from sale and set apart as a reservation for the permanent use and occupancy of the Mission Indians in California: *Provided*, That this withdrawal shall not affect any existing valid adverse rights of any party.

R. B. HAYES.

EXECUTIVE MANSION, *March 9, 1881.*

It is hereby ordered that all the unsurveyed portions of township 2 south, range 1 east, San Bernardino meridian, California, excepting any tract or tracts the title to which has passed out of the United States Government, be, and the same are hereby, withdrawn from sale and settlement, and set apart as a reservation for Indian purposes.

JAMES A. GARFIELD.

EXECUTIVE MANSION, *June 27, 1882.*

It is hereby ordered that the following-described lands, situated and lying in the State of California, viz, sections numbered 26, 27, 28,

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The United States of America

To all to whom these presents shall come, Greeting:

Whereas it is provided by an Act of Congress entitled "An Act for the relief of the Mission Indians in the State of California," Approved January Twelfth Anno Domini one thousand eight hundred and ninety one (26 Stat., 712) that the Secretary of the Interior shall appoint three disinterested persons as Commissioners to arrange a just and satisfactory settlement of the Mission Indians residing in the State of California upon reservations which shall be secured to them.

"Section 2." That it shall be the duty of said Commissioners to select a reservation for each band or village of the Mission Indians residing within said State, which reservation shall include as far as practicable the land and villages which have been in the actual occupation and possession of said Indians and which shall be sufficient in extent to meet their just requirements, which selection shall be valid when approved by the Secretary of the Interior."

"Section 3." That the Commissioners upon the completion of their duties shall report the result to the Secretary of the Interior, who, if no valid objection exists, shall cause a patent to issue for each of the reservations selected by the Commissioners and approved by him in favor of each band or village of Indians occupying any such reservation, which patent shall be of the legal effect and declare that the United States does and will hold the land thus patented subject to the provisions of Section 4 of this Act, for the period of twenty five years in trust for the sole use and benefit of the band or village to which it is issued, and that at the expiration of such period the United States will convey the same to the

remaining portion not previously patented in severalty by patent to said band or village discharged of said trust and free of all charges or incumbrances whatsoever.

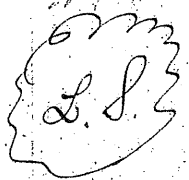
And Whereas it appears by a title dated Doves Trust, six eighteen hundred and ninety-two from the Commissioner of Indian Affairs, and an Order dated October twenty-eight, eighteen hundred and ninety-five from the Secretary, ^{in the name of the} that a selection has been made by the Commissioners appointed and acting under said Act of Congress of January twelfth eighteen hundred and ninety-one for the Agua Caliente Band or Village of Mission Indians covering sections three, fourteen, twenty-two, twenty-four, twenty-six and thirty-four of Township four South of Range four East of the San Bernardino Meridian in the State of California, containing three thousand eight hundred and forty-four acres and eighty hundredths of an acre.

Now Know Ye, that the United States of America in consideration of the premises and in accordance with the provisions of the third section of the said Act of Congress approved January twelfth eighteen hundred and ninety-one, hereby declares that it does and will hold the said tracts of land selected as aforesaid (subject to all the restrictions and conditions contained in the said Act of Congress of January 12, 1891) for the period of twenty-five years in trust for the sole use and benefit of the said Agua Caliente Band or Village of Mission Indians according to the laws of said State of California and at the expiration of said period the United States will convey the same, or the remaining portion not patented to individuals, by patent to said Agua Caliente Band or Village of Mission Indians as aforesaid, in fee simple discharged of said trust and free of all charge or incumbrance whatsoever. Provided that when patents are issued under the fifth section of said Act of January twelfth eighteen hundred and ninety-one in favor of individual Indians for lands covered by this patent they

80-22

will run side (to the extent of the land covered thereby) this patent and will separate the water-irrigated allotment from the lands left in common, and there is reserved from the lands hereby sold on trust for said Agua Caliente Band of Pillege of Mission Indians a right of way thereon, for ditches or canals, constructed by the authority of the United States.

In testimony whereof, I, Grover Cleveland, President of the United States of America have caused these letters to be made Patent and the Seal of the General Land Office to be hereunto Affixed



Given under my hand at the city of Washington this fifteenth day of May in the Year of our Lord one thousand eight hundred and ninety six and of the Independence of the United States the one hundred and twentieth.

By the President Grover Cleveland

Wm. McKean Secretary

L. C. Lamar
Recorder of the General Land Office

Recorded Vol. 21 - pp. 231 to 233 inclusive.

20-2

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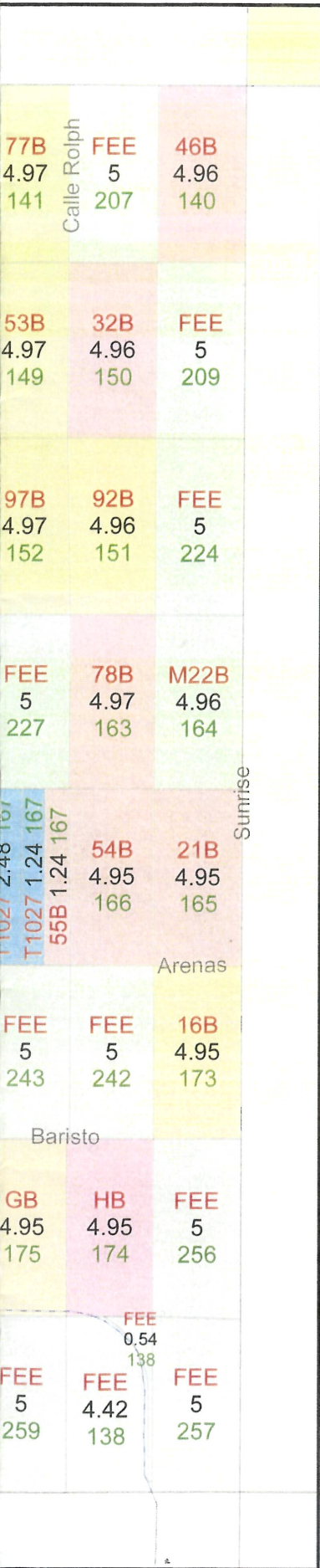
FEE 1022 0.54 3.11 79 79	0.14 FEE 0.73 0.14 80 0.15	64A 2.46	65A 2.5	71A 2.66	FEE 2.8	Alejo	FEE 5	FEE 5	FEE 5	66B 5	73B 4.98			
FEE 2 78 66A 2.09 77	TFEE 1.72 83	T106A 2.17 84	25A 2.67 91	79B 2.72 94	72A 2.89 102	74A 3.03 101	FEE 201	FEE 202	FEE 203	204	142			
T39A 2.09 76	T42A 2.19	T75A 2.19	26A 2.69	79B 2.72	FEE 2.91	88A 3.05				Casa Verde				
8A 2.09 75	82	85	90	95	103	104	86B 4.98	93B 4.98	25B 4.97	101B 4.97	83B 4.97			
24A 2.09 74	T59A 2.25	T73A 2.25	27A 2.77	31A 2.81	FEE 3	FEE 3.15	143	145	146	147	148			
45A 2.41 73	81	86	89	96	106	105								
34A 2.06 72	T54A 2.25 71	T1031 1.66 70	TFEE 1.71 69	28A 2.77 88	30A 2.81 97	86A 3 107	105A 3.15 108	75B 4.98	76B 4.98	88B 4.97	80B 4.97	95B 4.97		
FEE 1.82 2B	T56A 2.19 1B	T55A 2.19	T33A 2.19	41A 2.81	76A 2.85	78A 3.04	102A 3.19	157	155	156	154	153		
T1020 0.35 2B	67	68	87	98	110	109								
T1012 1.99 3A	T1012 2.33 4A	18A 2.29 5A	15A 2.29 6A	FEE 2.17 7	111 2.18 8	10A 2.82	11A 2.82	23A 2.82	85A 3.11	1BA 2.49	71B 4.97	72B 4.97	FEE 5	FEE 5
T1012 2.02 14	T1012 2.23 13	17A 2.19 12	16A 2.19 11	T5298 1.55 10	FEE 2.18 9	112 2.49	113 2.49	114 2.49	115 2.49	1B 2.49	159	160	229	228
FEE 2.09 15	22A 2.19 16	FEE 2.15	FEE 2.15	99A 2.52	97A 2.52	94A 2.52	96A 2.78	62B 4.41	T98B 4.97	T1015 4.71	99B 4.96	T1027 4.96		
117E 2.09 22	118E 2.19 21	FEE 17	FEE 18	119 2.35	118 2.39	117 2.35	116 2.39	137	170	T1015 4.3	169	168		
118E 2.09 23	118E 2.19 24	20	19	FEE 1.17	FEE 1.13	FEE 1.17	FEE 1.13	FEE 0.39 137						
2A 2.41 26	21A 2.52 25	FEE 2.09 30	FEE 2.09 31	93A 2.09 32	FEE 2.09 33	FEE 2.09 34	80A 2.79							
4A 2.41 27	19A 2.52 28	T1015 0.82 134	FEE 2.09 30	93A 2.09 32	FEE 2.09 33	FEE 2.09 34	120 2.6	FEE 5	FEE 5	104B 4.96	102B 4.96	FEE 5		
FEE 2.09 44	20A 2.19 43	61A 2.09 45	CA 2.19 46	49A 2.41 42	51A 2.09 41	1008 2.09 40	93A 2.09 39	95A 2.6	248	247	171	172	244	
53A 1.99 48	DAB 1.09 47	FEE 2.09 47	FEE 2.09 47	49A 2.41 42	51A 2.09 41	1008 2.09 40	32A 2.09 39	121						
43A 2.09 49	FEE 2.19 50	1A 2.41 52	FEE 2.52 51	49A 2.41 42	51A 2.09 41	1008 2.09 40	32A 2.09 39	104A 2.79	1019 4.23	81BA 1.25 179	Tiffany 94B 4.96	30B 4.96	31B 4.96	
6A 2.41 53	FEE 2.52 54	6A 2.41 53	FEE 2.52 54	49A 2.41 42	51A 2.09 41	1008 2.09 40	32A 2.09 39	104A 2.79	249	81B 3.72	178	177	176	
36A 0.97 60	36AB 0.45 60	FEE 0.67 60	FEE 2 59	T83A 2.41 55	T89A 2.09 56	T111A 2.09 57	100A 2.09 58	103B 4.06	FEE 0.67 249					
7A 2.09 61	FEE 2 62	5A 2.09 64	79A 2.19 63	T83A 2.41 55	T89A 2.09 56	T111A 2.09 57	100A 2.09 58	123						
35A 2.92 65	39B 2.97 66	5A 2.09 64	79A 2.19 63	T39B 2.87 127	82A 2.2	3A 2.19	67A 2.65	5	Village 264	84B 4.96	82B 4.96	FEE 5	3B 4.96	
FEE 1.87		35A 2.92 65	39B 2.97 66	T77A 2.15 132	84AB 1.11 128	84AA 1.11 128	129 130	131	Ramon					



AGUA CALIENTE INDIAN RESERVATION

TOWNSHIP 4 SOUTH RANGE 4 EAST

SECTION 14 LAND STATUS AS OF MAY 2006



Land Status Category	Acreage
Individual Allotment, Leased	293.36
Individual Allotment in Trust	92.45
Fee Simple	171.81
Mineral in Trust, Surface in Fee	4.96
Tribal Owned in Fee	5.07
Tribal Owned in Trust	63.02
Tribal Owned in Trust, Leased	2.25
TOTAL	632.92

- Tribal
- Allotted and Leased
- Allotted and Not Leased
- Fee
- 58A Allotment Number
- 0.00 Acreage
- 2 Lot Number

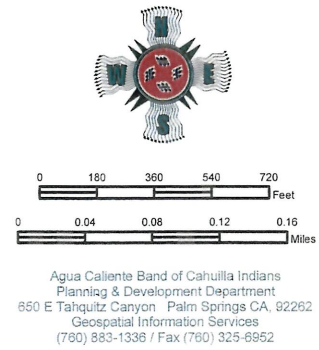
Projection: Lambert Conformal Conic
 Datum: North American 1983
 Coordinate System: State Plane California Zone VI
 Map Location: //trib05gis01/Project_Files/mxd/Land Status /Section 14/T4SR4E Sec 14 Land Status 11x17 Landscape.mxd
 Map Origination Date: 5/8/06

This map does not cover questions of location, boundary, or area to the accuracy of a survey map.

Data Source:

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- All other layers provided by ACBCI Planning & Development Department



**RECORD OF DECISION
AGUA CALIENTE BAND OF CAHUILLA INDIANS
SECTION 14 SPECIFIC PLAN**

This document records the decision reached by the Bureau of Indian Affairs ("BIA") for approval of a Master Development Plan/Specific Plan (Specific Plan) for Section 14 of the Reservation within the City of Palm Springs adjacent to the downtown area. The Specific Plan will guide the future development of vacant parcels and redevelopment of parcels already developed within the section. The Bureau of Indian Affairs will review the Specific Plan and approve lease agreements for individual development projects within Section 14. The City of Palm Springs must approve the Specific Plan, a General Plan amendment, and a rezone. The environmental effects of these actions are evaluated in this document, which combines the Environmental Impact Statement (EIS) required under the National Environmental Policy Act with the Environmental Impact Report (EIR) required by the California Environmental Quality Act.

The primary purpose of the proposed action is to provide a framework for future development of Section 14 that will promote economic self-sufficiency for the members of the Tribe, while supporting development of tribal government and infrastructure. The existing land ownership pattern in Section 14 is unusually complex and has resulted in a partially developed and patchy land use pattern, with development separated by vacant lots. The proposed action is intended to achieve the highest and best use of Indian lands, to maximize and coordinate development of the section, to ensure compatibility with existing development, to provide a flexible development framework, and to plan for infrastructure.

The Specific Plan Alternative analyzed in the EIS/EIS has been selected as the project alternative for approval. This Alternative proposes development within Section 14 as an integrated urban resort, with commercial uses concentrated in a wide area both north and south of Tahquitz Canyon Way and east of Indian Canyon Drive, and residential uses in the northeastern and southeastern areas. The amount of commercial square footage permitted by this alternative is greater than any of the other alternatives. Existing land use designations and zoning would be replaced with new designations to allow greater flexibility and ease of development. Consolidation of smaller parcels would be encouraged to provide opportunities for larger, cohesive developments. Specific development regulations would be similar to what currently exists but would allow greater design flexibility. Residential development would be permitted at eight, 15 and 30 units/acre, with densities up to 86 units if certain conditions are met. Commercial floor area ratios would be allowed at 0.38. However, under certain conditions higher ratios may be permitted.

BACKGROUND OF THE AGUA CALIENTE BAND OF CAHUILLA INDIANS

The Agua Caliente Band is a domestic sovereign nation under the laws of the United States of America and is operated under a democratic form of government. The Agua Caliente Band of Cahuilla Indians Constitution and Bylaws were adopted in 1952 by a majority vote of the Indian people. This document established the formation of the structure of the governing body of the Tribe, that is, the Tribal Council (formerly designated as the Tribal Committee). It establishes the jurisdictional boundaries of the Agua Caliente Indian Reservation that were set aside by President Hayes in 1877. It also regulates the membership, the powers of the Tribal Council, inherent powers, meetings, adoptions, amendments and the repeal process of the document.

The Reservation was established in 1876 by President Grant and was comprised of approximately one and one-half (1 1/2) sections of land. Later, in 1877, President Hayes extended it to cover the even numbered sections in three townships, which totaled some 30,000+ acres.

The Tribe has always maintained that only the highest and best use will be applied to Indian Trust Land. This will only occur through sound planning and fair and equal zoning. In 1977, the Agua Caliente Band of Cahuilla Indians and the City of Palm Springs entered into a Land Use Contract, the first ever recorded in the Country, in recognition of the Tribe's sole authority to regulate Indian Trust Lands. The basic process is fourfold:

1. The City acts as the Tribe's agent to enforce the Tribal Land Use Ordinance;
2. Consultation with the Tribe with regard to any action that may affect Indian Trust Lands;
3. Any party aggrieved by the decision of the City Council on Trust Lands may appeal to the Tribal Council. Joint discussions shall be held between the two governing bodies, which may result in upholding, modifying or reversing the decision of the City Council; and
4. Either party may cancel the contract upon thirty days notice.

PROCEDURAL BACKGROUND

The National Environmental Policy Act of 1969 ("NEPA") requires that a public environmental review process be accomplished prior to approval of any federal action. As the lead agency under NEPA and as Trustee of Indian lands, the BIA must ensure that it has analyzed and addressed the environmental impacts of a proposed project involving a lease of Indian lands adequately prior to determining whether the lease should be approved.

On May 26, 1997, BIA initiated the NEPA environmental review process for the proposed Section 14 Specific Plan with a Notice of Intent ("NOI") to prepare an Environmental Impact Statement/Environmental Impact Report (EIS/EIR) for the project announcing that public scoping meetings would be held. The scoping meetings were held on June 11 and June 12, 1997 at the Palm Springs City Council Chambers, 3200 East Tabquitz Canyon Way, and at the Palm Springs Public Library, 300 South Sunrise Way.

The BIA prepared a draft EIS/EIR and, on February 8, 2002, published in the Federal Register a Notice of Availability ("NOA") of the draft EIS/EIR. The BIA provided a comment period of sixty days on the draft EIS/EIR. During this comment period, on April 3, 2002, the BIA held a public hearing on the draft EIS/EIR. All written comments and comments received at the hearing were considered in preparation of the final version of the EIS/EIR.

The Final Environmental Impact Statement/Environmental Impact Report for the Section 14 Specific Plan (FEIS/EIR), which is incorporated herein by reference, was released in July 2002. The NOA of the FEIS/EIR was published in the Federal Register on August 30, 2002. The deadline for commenting on the FEIS was September 30, 2002.

A single comment letter dated September 24, 2002, was received on the Final EIS. This letter was from Region IX of the U.S. Environmental Protection Agency and listed two subject areas that Region IX felt responses in the Final EIS were insufficient. Region IX suggested that these areas should be further addressed in this Record of Decision.

One of these subject areas was extent to which the Final EIS included the most up to date water information, including the recent EIR produced by Coachella Valley Water District (CVWD) for the Coachella Valley Water Management Plan and State Water Project Entitlement Transfer.

This EIR was extensively reviewed and commented on during the formal review period by the BIA environmental staff tasked with issuing the Section 14 Final EIS. These comments noted that while model results were provided, access to actual data was not. These comments were provided to CVWD on August 2, 2002, and BPA Region IX was copied with these review comments. Unfortunately, the EIR was released after the Final EIS had been printed. Accordingly, it was not referenced in the Final EIS.

The BIA review focused on the reliability of the groundwater model used, quantification of the groundwater overdraft, and the adverse effects of the proposed replacement of high quality

groundwater with Colorado River water high in total dissolved solids and contaminants. The model was simultaneously reviewed for potential cumulative effects in conjunction with the Section 14 Master Development Plan and/or information on water availability or quality affecting project feasibility or environmental effects. The review disclosed no new significant information concerning potential environmental effects of the Master Development Plan. The conditions of approval incorporated into this Record of Decision are expected to be protective of groundwater resources.

EPA was also concerned that the Final EIS did not address the applicability of the Clean Air Act General Conformity Rule (40 CFR Part 93) to the proposed action. Additionally, Region IX feels and that if a conformity determination is required, it should be included in this Record of Decision. Basically, the BIA feels that while air quality impacts must be disclosed during the National Environmental Policy Act (NEPA) process, nothing in either the Clean Air Act (CAA) or NEPA compels the BIA to address the general conformity rule in the EIS or Record of Decision. That said, it should be noted that a General Conformity Determination is required for the scope of the project over which the federal agency retains practicable control and that all such "federal" emissions must be added together on a yearly basis (Region IX Guidance letter of January 25, 1996). The "yearly basis" consideration is the greatest reason that BIA is not required to complete General Conformity Determinations for "programmatic" environmental documents such as the Section 14 Master Development Plan/Specific Plan. Such decisions, as to whether particular leasing decisions require a Conformity Determination, will be made on an individual basis in connection with the proposed leasing decisions. The question will be whether construction emissions, over which BIA retains practicable control, during a particular calendar year, exceed de minimus thresholds for O₃ or PM₁₀. In the event that thresholds are exceeded, a full conformity determination will be required. The FEIS and the conditions section of this Record of Decision analyze the effects of the proposed action on regional efforts of the state to achieve timely attainment of the National Ambient Air Quality Standard.

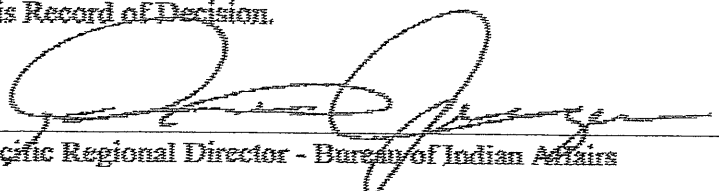
Three alternatives to the proposed Section 14 Specific Plan, including a No Action Alternative, are analyzed in the FEIS. The No-Action Alternative would retain the existing designations and zoning according to the General Plan for the City of Palm Springs. This alternative has greater residential acreage than other alternatives. The Reduced Intensity Alternative is similar to the Specific Plan but with reduced development intensities. There would be no multi-story structures under this alternative. The Increased Intensity Alternative would have approximately the commercial densities and intensities, but would be located on the western half of the section. BIA, along with the ACBCI, considered carefully all proposed alternatives and determined that the Specific Plan Alternative successfully meets the needs of the ACBCI and does not present significantly increased environmental impacts when compared with all identified alternatives. The no action alternative was dismissed because it did not meet the economic development needs of the Band. The Reduced Intensity Alternative and the Increased Intensity Alternative were dismissed for similar reasons.

DECISION

The BIA hereby announces its decision to approve the proposed Section 14 Master Development Plan/Specific Plan. This approval is made subject to the conditions found in Attachment A hereto. Such conditions are to be incorporated by reference into the Lease.

RECORD OF DECISION

After reviewing this Decision Document and the entire administrative record, including the Final Environmental Impact Statement/Environmental Impact Report, all comments received from federal, state, and local agencies, and the comments received from the public; I hereby approve this Record of Decision.



Pacific Regional Director - Bureau of Indian Affairs

10/10/04

Date

ATTACHMENT A

**RECORD OF DECISION
AGUA CALIENTE BAND OF CAHUILLA INDIANS
SECTION 14 SPECIFIC PLAN
CONDITIONS**

- o All conditions will be imposed by the ACBCI (and the BIA) on leases (sub-leases) for each project in Section 14, as appropriate for the type and description of each project. This will make the measures federally enforceable, with termination of the lease (sub-lease) on the property as the ultimate penalty for non-compliance.

Funding to meet the costs of the conditions will largely be provided by the lessees, either as a direct first cost under the lease, a continuing payment under the lease, or as an agreement within the lease to contribute their fair share of the cost of implementation of the mitigation measure when required.

Some conditions will be required at the beginning of a project. Certain of the conditions will be implemented when a defined threshold of development in Section 14 is reached, necessitating the measure.

EARTH RESOURCES

In the areas where groundwater levels are known to be high, a geotechnical investigation of liquefaction potential shall be conducted by the project applicant and submitted to the City in conjunction with the grading plan for the individual developments. Recommendations from the geotechnical investigation shall be implemented as required by the City (General Plan EIR, 1992).

- o Individual projects will submit a Geotechnical Report that includes mitigation measures as required. These measures will then be submitted to the City who will determine the Scope of Work during the initial application review process.

WATER RESOURCES

All of the alternatives would abide by the groundwater conservation policies required by the City's General Plan, as listed below. The City will review individual projects to ensure that water conservation measures are incorporated into the individual designs. This information

should be developed during the pre-application and application process. The measures will then be submitted with the application as follows:

- 5.28.6 Encourage the incorporation of water conservation measures in the design of all new construction and site development.
- 5.28.7 Care should be exercised in the positioning and selection of sprinklers so that they are correctly spaced and so as not to spray over or upon sidewalks, roads or other paved areas.
- 5.28.8 Large irrigation systems shall be equipped with a master valve which will automatically shut off the system if excessive flows (especially due to damaged sprinklers) occur. Catchment areas should be incorporated into landscape design to accommodate overflows from occasional irrigation system malfunctions.
- 5.28.9 Encourage the use of drip irrigation systems and/or flow-compensated stream bubblers where applicable.
- 5.28.10 Planter beds and lawns shall be recessed below adjoining sidewalks and other hardscape so as to contain irrigation water. Mounds shall be designed so as to prevent sheet-flow across hardscape areas.
- 5.28.11 Encourage the use of mulch and proper topsoil preparation in planter beds to increase the water absorption capacity of the soil.
- 5.28.12 Water pressure within irrigation systems shall be controlled so as to prevent drifting onto sidewalks, roads or bike paths during wind conditions.
- 5.28.13 Irrigation systems should be controlled to respect the irrigation zones (based on water use characteristics) they serve and to compensate for differences in exposure to sun and wind. Plantings should also be grouped according to their water use characteristics.
- 5.28.14 Landscape materials and irrigation system design shall consider the long term needs for maintenance, especially in regard to the design of small and irregularly-shaped areas.
- 5.28.15 Encourage the redesign of inefficient landscape and/or irrigation installations.
- 5.28.16 Encourage energy-efficient landscape lighting techniques.
- 5.28.17 Turf areas shall be located only in areas of maximum human contact, such as in recreation and sports areas or areas of heavy foot traffic, to conserve water used for irrigation and therefore groundwater supplies. Large, nonfunctional turf areas, such as those fronting roadways, should be discouraged.

Landscaped areas would be designed in accordance with the City of Palm Springs Municipal Code Chapter 3.0 relating to water efficiency landscaping.

The impact from flooded streets during events greater than a ten-year storm would be mitigated by the implementation of the measures listed in Section 5.7.11.3 (Mitigation for Storm Drain Impacts).

In addition, individual developments within Section 14 would need to prepare a drainage study to determine the specific location and size of on-site and off-site drainage facilities.

AIR QUALITY

The Specific Plan Alternative is expected to generate significant air emissions when compared to the No Project/General Plan Alternative that would exceed the significance thresholds recommended by the SCAQMD. Percentage increases range from ten percent greater NO_x emissions for the 2010 scenario to 78 percent greater CO emissions at full development. This is a significant impact requiring mitigation.

As indicated in the impact analysis, SCAQMD significance thresholds for NO_x and PM₁₀ would be exceeded during the construction phase. Long-term air pollutant emission levels would exceed the SCAQMD operational significance threshold criteria for all pollutants except SO_x.

Significant NO_x and PM₁₀ impacts cannot be mitigated to a level of insignificance. Implementation of the following mitigation measures would reduce the magnitude of the impacts substantially. Nevertheless, air quality impacts from implementation of the Specific Plan Alternative would remain significant.

The following Table includes a list of potential mitigation measures recommended by the SCAQMD for use as standard conditions of approval on all new projects within the Coachella Valley. The Tribe will consider these measures in developing the Mitigation Monitoring Plan to ensure that construction-related emissions of NO_x and PM₁₀ associated with the proposed project will be reduced to the maximum extent feasible. The Tribe must also comply with EPA Rules and Regulations.

Potential Air Quality Mitigation Measures

Minimize Construction Activity Emissions:

- * Water site and clean equipment morning and evening.
- * Re-establish ground cover on construction site through seeding and watering.
- * Employ construction activity management techniques, such as: extending the construction period; reducing the number of pieces of equipment used simultaneously; increasing the distance between the emission sources; reducing or changing the hours of construction; and scheduling activity during off-peak hours.
- * Pave construction roads, and sweep streets if silt is carried over to adjacent public thoroughfares.
- * Require a phased-schedule for construction activities to minimize emissions.
- * Suspend grading operations during first and second stage smog alerts.

- * Wash off trucks leaving the site.
 - * Maintain construction equipment engines by keeping them tuned.
 - * Use low-sulfur fuel for equipment.
 - * Utilize existing power sources (i.e., temporary power poles) and avoid on-site power generation.
- Reduce Construction-Related Traffic Congestion:**
- * Provide rideshare and transit incentives for construction personnel.
 - * Configure construction parking to minimize traffic interference.
 - * Minimize obstruction of through-traffic lanes.
 - * Provide a flag person to guide traffic properly and ensure safety at construction sites.
 - * Schedule operations affecting traffic for off-peak hours.
 - * Develop a traffic plan to minimize traffic flow interference from construction activities. Plan may include advance public notice of routing, use of public transportation, and satellite parking areas with a shuttle service.
- Minimize Potential Public Exposure to Toxic Air Emissions:**
- * Integrate additional mitigation measures into site design such as the creation of buffering areas between a potential sensitive receptor's boundary and potential pollution source.
 - * Require design features, operating procedures, preventive maintenance, operator training, and emergency response planning to prevent the release of toxic pollutants.
-

Source: SCAQMD, Cindy S. Greenwald, September 4, 1991.

Measures To Minimize Construction Activity Emissions

- * Cut and fill quantities would be balanced on-site.
- * The Specific Plan would comply with the provisions of Chapter 8.50 of the Palm Springs Municipal Code which establishes minimum requirements for construction activities to reduce fugitive dust and PM₁₀ emissions. A plan to control fugitive dust through implementation of reasonably available dust control measures shall be prepared and submitted to the City of Palm Springs for approval prior to the issuance of any grading permits associated with the project. The plan shall specify the fugitive dust control measures to be employed.
- * SCAQMD Rule 403 shall be adhered to, insuring the clean up of construction-related dirt on approach routes to the site. Rule 403 prohibits the release of fugitive dust emissions from any active operation, open storage pile, or disturbed surface area beyond the property line of the emission source. Particulate matter deposits on public roadways are also prohibited.
- * A suitable dust control deposit will be required and made prior to issuance of grading permits.
- * Adequate watering techniques shall be employed to partially mitigate the impact of construction-generated dust particulates. Portions of the project site that are under-going earth moving operations shall be watered such that a crust will be formed on the ground surface and then watered again at the end of the day.
- * Any vegetative ground cover to be utilized on-site shall be planted as soon as possible to reduce the disturbed area subject to wind erosion. Irrigation systems needed to water these plants shall be installed as soon as possible to maintain the ground cover and minimize wind erosion of the soil.

- Any construction access roads (other than temporary access roads) shall be paved as soon as possible and cleaned after each work day. The maximum vehicle speed limit on unpaved roads shall be 15 mph.
- Grading operations shall be suspended during first and second stage ozone episodes or when winds exceed 25 mph, per the PM₁₀ SIP.
- Construction personnel shall be informed of ridesharing and transit opportunities.
- Construction parking shall be configured to minimize traffic interference.
- Construction operations affecting off-site roadways shall be scheduled for off-peak traffic hours and shall minimize obstruction of through-traffic lanes.
- If possible, activities should be scheduled to occur first on the upwind portion of each development site to reduce the potential for blowsand and fugitive dust impacts in the downwind areas. Construction activities which tend to create fugitive dust should be suspended under conditions of high wind velocity in the project area.
- Project developers shall comply with the City's PM₁₀ Ordinance.

Measures To Minimize Operational Emissions The proposed project shall reduce long-term operational emissions by incorporating facilities for alternative transportation modes, implementing energy conservation measures and by reducing VMT in the following manner.

- The project shall internalize trips and reduce dependency on the private automobile by providing non-motorized transportation facilities and alternative transportation modes (such as golf carts, bike taxis, bikeways, airport shuttles, etc.).
- The vehicular circulation system within Section 14 would be supplemented with a user friendly walking, bicycling and transit environment. Amenities along these paths would include landscaping, enhanced paving materials, benches, trash receptacles, street lights, bus and shuttle shelters, fountains, newspaper racks, drinking fountains, etc.
- The project would accommodate an airport-hotel-downtown shuttle.
- Most residential development within Section 14 would be connected to the enhanced walkway/bikeway network that leads to streets with commercial activity.
- The project proponent shall comply with Chapter 8.50 of the Palm Springs Municipal Code.
- The project will reduce vehicle miles traveled and internalize trips by offer recreational activities, family-oriented attractions, entertainment venues and large-scale entertainment retail shopping opportunities in the vicinity of a community where residents currently make off-site trips for recreation and shopping.
- Building construction shall comply with the energy use guidelines in Title 24 of the California Administrative Code.
- The project proponent shall comply with applicable SCAQMD Rules and Regulations.

BIOLOGICAL RESOURCES

Development of any of the four alternatives would result in the replacement of the 212 acres now vacant with structures, paved surfaces and ornamental landscaping. No rare, threatened or endangered plant or animal species are present within Section 14. The Sonoran creosote bush scrub habitat, which is the primary vegetative community on the site is not considered rare or endangered and does not provide habitat for any rare, threatened or endangered animals within the section. Sonoran creosote bush scrub occurs widely throughout the Colorado desert of California; the loss of 212-acres of this habitat would not substantially diminish habitat for wildlife or plants. Development would not interfere with the movement of any resident or migratory wildlife species.

CULTURAL RESOURCES

Development would result in the removal of the concrete slabs and foundations found within Section 14. However, the concrete slabs and foundations are not considered important or unique under CEQA definitions, and do not meet the criteria for listing in the National Register of Historic Places. They are not of cultural importance to Palm Springs or to the Tribe.

Should cultural resources be encountered during the construction, work shall immediately cease and a qualified archaeologist shall be contacted to evaluate the significance of the materials. Any significant findings shall be documented and presented to the State Historic Preservation Office (SHPO), BIA, the Tribe and the City, and resolved to their satisfaction.

SOCIOECONOMIC CONDITIONS

Since the project area is within a jobs-poor region as defined by the Regional Growth Management Plan, the expanded employment base provided by the added commercial development could serve to partially fulfill the need for more jobs in the Coachella Valley. The increase in jobs is considered a positive impact at a regional level. However, the project area is within the jobs-rich sub region of Palm Springs and an increase in jobs could increase the existing jobs-housing imbalance. This is offset by the addition of 1,210 residential units. In addition, it is not anticipated that there will be an increased demand for low/moderate housing since people will not generally move to an area for low-income jobs.

PUBLIC UTILITIES AND SERVICES

Police

No significant construction-related law enforcement impacts are anticipated to result from implementation of any of the alternatives. Each individual project developer is expected to ensure that, during construction, site access is restricted and adequate security is maintained to prevent unlawful trespass, vandalism, or theft of construction materials or equipment.

Fire Protection

The Fire Department has requested that the City relocate the existing fire station in Section 14 from its current location to a site near the convention center in Section 14. This is discussed in greater detail in Section 5.9, Land Use.

At such time as detailed individual site development plans are submitted, concerns such as road infrastructure, building access, water availability, and pressure shall be addressed by the City of Palm Springs Fire Department, which will review the project and recommend specific design measures to reduce potential fire protection impacts. Development in Section 14 shall comply with the objectives of the General Plan: 6.11, 6.12, 6.13, 6.14, and 6.15.

Water

The Aqua Caliente Band of Cahuilla Indians and the DWA will need to reach a mutual agreement on the future right-of-ways, prior to the expiration of the existing rights-of-ways in 2005. No individual development shall be approved unless adequate water supply is assured.

Wastewater Treatment

New collector lines required to serve future developments must be approved by the City of Palm Springs to assure compliance with their Sewer Master Plan as well as the following development standards:

- Sewer facilities shall be designed and constructed in accordance with the City of Palm Springs standards and specifications, American Waterworks Association (AWWA), American National Standards Institute (ANSI) and the Standard Specifications for Public Works Construction, 1994 Edition (Green Book).
- Sewer design shall be reviewed and approved by the Riverside County Health Department.

The capital costs of on-site and off-site facilities necessary to serve individual project sites shall be the responsibility of the applicant. Such facilities shall be dedicated to the City, after construction, for maintenance and operation. Where such facilities must extend beyond the project site to link into existing facilities, a reimbursement agreement can be formulated with the City of Palm Springs to reimburse the applicant for costs.

Schools

The City and the Tribe shall not approve residential projects within Section 14 unless assurance is received from the School District regarding provisions of school services to project residents.

Parks and Recreation

Developments under the Specific Plan would result in a minimum of 25 percent (53-acres of landscape/open space. This would be greater than the General Plan requirements of 33-acres. Therefore, there is no significant impact.

Storm Drains

In conformance with existing City policy, new development shall be required to submit hydrologic/hydraulic studies to the City Engineer. If said studies show downstream capacity does not exist, then on-site retention or the construction of adequate downstream facilities shall be required. All development shall comply with the City's Master Plan of Drainage.

TRAFFIC CIRCULATION

The impact analysis has determined that the following traffic improvements would be required to provide acceptable traffic flow and avoid congestion within and adjacent to the project site, and in the site vicinity.

- The installation of traffic signals at the intersections of:
 - Tamarisk at Indian Canyon Drive
 - Tamarisk at Sunrise Way
 - Tahquitz Canyon Way at El Cielo Road
 - Sunny Dunes Road at Sunrise Way
 - Amado Road at Calle Encinia
 - Tahquitz Canyon Way at Hermosa Drive
 - Ramon Road at Calle El Segundo
- Improvements to the intersection of Ramon Road and Sunrise Way (adding a second northbound left-turn lane and a second southbound left-turn lane).
- Widening Ramon Road to six lanes westerly past Farrell Drive, which would add a third westbound through lane and a third eastbound through traffic lane to the intersections of Ramon Road and El Cielo Road and Ramon Road and Farrell Drive.
- Improvements to the intersection of Vista Chino and Sunrise Way would need an additional eastbound through lane and a westbound left-turn lane.

- Minimize off-site vehicle trips by encouraging non-motorized transportation facilities and alternative transportation modes (such as golf carts, bike taxis, bikeways, airport shuttles, etc.).
- The circulation system design standards within Section 14 are adequate to provide sufficient roadway capacity.
- Adequate off-street parking (including handicapped parking) shall be provided per the Specific Plan text.
- The elimination and/or consolidation of existing driveways shall be encouraged in all future site planning and adjacent new developments shall use shared parking and driveways, wherever possible.
- The project shall implement bike lane striping and signage improvements within and adjacent to Section 14 and shall provide parking/storage areas for bicycles and motorcycles on-site.

LAND USE

Development as envisioned in the Specific Plan would create pedestrian linkages to downtown and would provide uses, such as resort accommodations, that would economically support the downtown area. Furthermore, development as envisioned in the Specific Plan would create a cohesive identity for Section 14; visitors and residents would know that they are in that area of the City. The Plan contains standards to ensure that new development would be compatible with existing development in the area.

The Specific Plan does not allow any greater intensity, density or height than is currently allowed in the adopted General Plan at the maximum potential for any given land use designation. However, the distribution of uses and intensity would be shifted. With the densities and intensities proposed in the Specific Plan, full development of the vacant and redevelopable land in Section 14 would result in a reduction of the total number of residential units and hotel rooms and an increase in the commercial square footage as compared with the existing allowable land uses.

NOISE

Prior to issuance of any demolition, grading or building permits by the Tribe/City, specifications shall be prepared that identify contract requirements regarding attenuation of noise from construction vehicles and activities. The specifications shall include the following:

- A construction traffic routing plan shall be developed and submitted for approval that demonstrates, to the extent feasible, avoidance of congested routes and routes with adjacent noise sensitive receptors (particularly residential development).

- * Construction activities shall take place only between 7:00 a.m. and 8:00 p.m. to minimize the potential for noise impacts during more sensitive time periods, as specified in the Palm Springs Noise Ordinance (Municipal Code Section 11.74.041). Construction activities shall not be permitted between the hours of 5:00 p.m. and 8:00 a.m. if the noise produced by such work is of such intensity or quality that it disturbs the peace and quiet of any other person of normal sensitivity, per the Palm Springs Construction Site Regulations (Municipal Code Section 8.04.220).
- * All construction equipment, fixed or mobile, shall be equipped with properly operating and maintained mufflers.
- * Stationary equipment shall be placed such that emitted noise is directed away from noise sensitive receptors.
- * Stockpiling and vehicle staging areas shall be located as far as practical from noise sensitive receptors.
- * Every effort shall be made to create the greatest distance between noise sources and sensitive receptors during construction activities.
- * Project phasing shall include initial development adjacent to residential areas which then will shield them from noise generated during subsequent phases.
- * The noisiest construction operations shall be arranged to occur together in the construction program to avoid continuing periods of greater annoyance.
- * Any extension of construction hours shall require a permit to be issued by the City of Palm Springs as specified in the Palm Springs Noise Ordinance (Municipal Code Section 11.74.041).

AESTHETICS/VISUAL QUALITY/URBAN DESIGN

The project area is designated in the General Plan for urban development. The Specific Plan would comply with the urban design policies in the City's General Plan and would preserve existing scenic views of the mountains from the designated scenic corridors within Section 14.

The Specific Plan would provide a strong visual identity in the project area by making the area recognizable and memorable through street improvements and the creation of gateways. The Plan would not create a cluttered appearance and would not conflict with the City's codes. The provision of design guidelines for development would result in high quality development that is compatible with existing developments. Compliance with the proposed design guidelines would be important in the success of the Plan. As currently worded, the guidelines are more suggestive. A mitigation measure has been added to ensure that they are implemented.

The Specific Plan does not allow any greater height or bulk than that currently allowed in the City's General Plan and development standards. The maximum building height is 100 feet. Currently, this is allowed on Indian land. The Specific Plan limits the areas where the 100-foot buildings could be located and consolidates the greater height into specific locations to create activity centers identified as catalyst sites. Such sites are found throughout Section 14 and are designed as RA (Resort/Attraction).

The project would not require nor cause the loss or degradation of any designated community identification symbol or landmark. The Specific Plan includes development regulations to protect the existing cemetery, which is of community significance.

While the project area is highly visible (located just east of downtown and situated between the airport and downtown), the development proposed in the Specific Plan would not strongly contrast with the surrounding environment. The Specific Plan contains development regulations to limit the excessive bulk of buildings by requiring additional building setbacks as the height increases. In addition, any signage must comply with the City's existing sign ordinance.

Compliance with the City's lighting requirements would prevent adverse light and glare impacts from implementation of the Specific Plan.

ENERGY USE AND CONSERVATION

In an effort to decrease dependence on fossil fuels, the consumption of renewable energy resources would be encouraged, as would the exploration of alternate sources of energy. Conservation techniques that are as energy efficient as possible, including passive design concepts which would make use of, or consider, the natural climate (and not preclude the use of solar energy), would be recommended. The specific use of active solar collectors for domestic hot water and pool heating would be endorsed. Energy efficient design that would be greater than the minimum state requirement would be advocated, as would the installation of energy conservation devices in existing developments and the implementation of Title 24 building standards in substantially remodeled construction.

The impact of the Specific Plan would not be significant because facilities and future supply are adequate. In addition, this plan would not consume more energy than similar projects, with related characteristics, in a comparable location, and would abide by all required federal, state, or local laws.

HUMAN HEALTH AND SAFETY

Implementation of any of the alternatives would increase the amount of hazardous waste generated, used, and stored within the City. The increase in hazardous waste would be generated

by small scale retail operations (i.e., dry cleaners, photo labs, art supply stores) and cleaning supplies associated with office uses. However, the volume and type of materials associated with the individual projects in Section 14 would not result in a significant impact.

Procedures are in place to control hazardous waste spills on area roadways, although implementation of any of the alternatives would increase traffic, and hence, incrementally increase the possibility of hazardous spills. Provided that the City of Palm Springs maintains compliance with the County of Riverside's Hazardous Management Plan, including those provisions which address the transport of hazardous waste, the possibility of a hazardous waste spill represents a less than significant impact (General Plan EIR, 1992).

Buried natural gas lines are capable of being upset as a result of structural failure, unsupervised excavation or by seismic activity. Natural gas line ruptures and equipment failures have to be regarded as catastrophic events that are possible, but their probability is remote and cannot be directly anticipated. Most documented breaches of underground pipelines have resulted from excavation or seismic activity. Potential significant excavation hazards to pipelines could be avoided the SCG if notified when excavation within their easements occur (General Plan EIR, 1992).

There are no active faults within the immediate project area. Therefore, ruptures of natural gas lines related to earthquakes represent a less than significant impact.