

**ESTOM YUMEKA MAIDU TRIBE
ENTERPRISE RANCHERIA**

FEE TO TRUST APPLICATION

(TRIBAL REQUEST)

The Estom Yumeka Maidu Tribe - Enterprise Rancheria ("Tribe") hereby requests the Secretary to accept into trust forty (40) acres of land situated in the County of Yuba, California. The Tribe has signed a purchase and sale agreement for this property, which is now in escrow. Escrow is to close when this application is approved and other specified government approvals are received, as described more fully below. The taking of this parcel into trust for the Tribe would right a historic wrong suffered by Enterprise Rancheria in 1965, when an equivalent amount of tribal land was sold by the United States to the State of California to permit the construction of the Oroville Dam. The loss of the Tribe's forty-acre parcel in 1965 has deprived the Tribe of any meaningful opportunity for social or economic development for nearly four decades. Taking the subject parcel into trust for tribal economic development purposes would cure the Tribe's current, effectively landless status and strongly promote tribal economic and social development at no cost to the public or the federal government.

This fee-to-trust application is structured according to the most recent guidelines set by the Pacific Region Office and addresses each of the issues listed under 25 CFR 151.11 (off-reservation acquisitions), including all references to criteria listed in 25 CFR 151.10 (a) through (c) and (e) through (h). *See* 25 CFR 151.11(a). The Tribe requests that the reviewing office inform the Tribe of any additional materials the Bureau of Indian Affairs ("Bureau") may need to process its request. We further request that you process this application as soon as possible. Otherwise, the documents which are now current may no longer be if this process is unnecessarily delayed and the Tribe will not have the opportunity to develop its planned economic activities.

1. All applications must be in writing and accompanied by a duly enacted tribal resolution which requests Secretarial action.

See the original Enterprise Rancheria Resolution No. 02-08 attached hereto as Exhibit A. The legal description of the land is attached to the resolution and incorporated therein.

2. Applications must cite the statutory authority for the land acquisition.

25 U.S.C. § 465, the Indian Reorganization Act, and 25 U.S.C. § 2202, the Indian Land Consolidation Act of 1983, provide the authority for this acquisition. The process for securing this off-reservation land acquisition is governed generally by 25 CFR Part 151, and specifically 25 CFR 151.11.

3. Land acquisitions must be consistent with policy set forth in 25 CFR 151.3. If application is not consistent with the policy, the application must state that a waiver of the regulations is being requested, and a justification for approval of the waiver should be contained within the application and/or supporting documents.

The land acquisition is consistent with the policy set forth in 25 CFR 151.3(a). Section 151.3(a) provides:

Subject to the provisions contained in the acts of Congress which authorize land acquisitions, land may be acquired for a tribe in trust status . . . (3) when the Secretary determines that the acquisition of the land is necessary to facilitate tribal self-determination, economic development, or Indian housing.

25 C.F.R. § 151.3(a). The Tribe has executed a land purchase agreement (attached hereto as Exhibit B and incorporated herein by reference) with the current owner of the land, Yuba County Entertainment, LLC (hereinafter referred to as "YCE"), a Delaware limited liability company, in order to develop a resort hotel and tribal gaming facility, as more fully described below. Thus the land is being acquired in order "to facilitate tribal self-determination [and] economic development" as specified under 25 CFR 151.3(a). The Tribe's request to place the land in trust will further these twin objectives by providing a land base for the tribe to conduct lawful Indian gaming in a rural area of California already zoned for sports and entertainment.

4. The applicant must state why the tribe needs additional land.

Enterprise Rancheria has been an effectively, if not technically, landless tribe since the 1965 sale of Enterprise Parcel No. 2 to the State of California to permit the construction of the Oroville Dam. To understand the Tribe's land status, it is necessary to review its history.

In 1915 and 1916, the United States purchased two 40-acre parcels of land for the Enterprise Indians. These purchases were made pursuant to appropriations of the Act of August 1, 1914 (38 Stat. 582-589) as supplemented by Joint Resolution of March 4, 1915 (38 Stat. 1228). Enterprise 1, as the first parcel became known, was settled by the Walters family, who had already been in residence there at the time of the purchase. Correspondence of the Department of the Interior from 1915 and 1916 indicates that this parcel had been the home of Emma and George Walters, but that it was explicitly laid out that it was their intention and that of the Department of the Interior that this land serve as a home for any of the 51 Enterprise Indians listed on the 1915 Census, the Base Roll for Enterprise Rancheria to this day. Emma Walters is listed on that Census. Other contemporaneous Interior correspondence documents a need for additional land for homesites for Enterprise members. The Enterprise 1 purchase was quickly followed by another 40-acre purchase for the Tribe. This second parcel came to be known as Enterprise 2. The Enterprise Tribe, as a whole, was the intended beneficiary of both

acquisitions, although it appears that no trust patents ever issued on either parcel. The deeds to both parcels simply show title as being taken by the United States.

Enterprise 1 has, for many years, served only as the private domain of descendants of the Walters family. Although the current residents of this parcel thus claim descent from one of the original persons listed on the 1915 Enterprise census and therefore have always been eligible for tribal enrollment, they have not participated for many years in tribal affairs and refuse to be enrolled in Enterprise Rancheria. And while the Bureau of Indian Affairs' records show that the parcel was intended to be for the use of *all* homeless Enterprise Indians, and is considered tribal land, the current residents have for many years threatened violence against anyone else who would attempt to set up a homestead within the land. As a result, this parcel of land has been inaccessible and lacking in any utility to the Tribe.

In point of fact, the forty-acre parcel known as Enterprise 1 was not sufficient for tribal needs even at the time of its purchase in 1915, when there were only 51 tribal members according to the Department of Interior Census. Enterprise 1 is located approximately 10 miles east of Oroville, accessed only by a dirt road, in a remote and sparsely populated area. Not all of its 40 acres are appropriate for housing or other buildings, as some of the land contains steep slopes. Currently the Tribe has over 500 enrolled members. Even if the Walters descendants were to welcome tribal members and their families onto Enterprise 1, this parcel would clearly not be sufficient for tribal housing needs, let alone for tribal government or economic development purposes.

In 1916 the United States purchased a second 40-acre parcel, known as Enterprise 2, for the Tribe. Several current tribal members, including Tribal Council members, were born or raised on this portion of the historic rancheria; other tribal members are descended from former residents of Enterprise 2. This federal land acquisition doubled Enterprise's land base and helped ensure the viability of the Tribe as a sovereign Native American nation. However, in 1964, Congress enacted Public Law 88-453, which permitted the Department of the Interior to sell Enterprise 2 to the State of California to be submerged under Lake Oroville, which was created by the construction of the Oroville Dam as part of the state water plan. The sale was completed in January, 1965. No alternative reservation land was acquired for the displaced Enterprise members or for other tribal members with a legal interest as beneficiaries to the land, but who were not in residence there.

Under P.L. 88-453, four tribal members received the proceeds of the sale of Enterprise 2. In the legislative history of P.L. 88-453, a letter from John A. Carver, Jr., Assistant Secretary of the Interior, indicates that the land and its improvements were appraised at a total of \$12,196, and that this money was to be disbursed to four tribal members. The remainder of the Tribe received no compensation whatsoever for the taking. Other Enterprise members had a legitimate expectation of continuing to be entitled to a share in their "permanent home," as promised by the

United States, trustee to the Tribe. See Declaration of Enterprise Tribal Chairman Harvey Angle, attached as Exhibit C. Not only were other tribal members never consulted in advance of the sale, but they were not compensated and the tribe has never been provided with any replacement land for that which was sold and inundated under Lake Oroville.

Enterprise Rancheria was not among the tribes terminated pursuant to the Rancheria Act of 1958. Since the sale of Enterprise 2, the United States has continued to recognize Enterprise Rancheria as a sovereign Indian tribe with a government to government relationship with the United States. The legislation enabling the United States to sell Enterprise 2 clearly did not terminate the trust relationship between the United States and either the tribe as a whole or any members of the tribe. What Enterprise shares with the terminated rancherias is the loss of some or all of their land base. However, unlike those rancherias which were terminated in the Rancheria Act, Enterprise has not benefitted from restoration legislation or court settlements, and no land has been acquired for the tribe to make up for the lost Enterprise 2 land. Thus Enterprise has been left in a worse position than the formerly terminated rancherias of northern California.

With Enterprise 2 sold and Enterprise 1 not in the Tribe's possession, Enterprise Rancheria has been unable to exercise many of its sovereign powers as an Indian Tribe these past 37 years, not least of which is the right to engage in Class II and Class III gaming, as permitted under the Tribe's inherent sovereignty and under the Indian Gaming Regulatory Act. The Tribe needs the subject parcel held in trust in order to better exercise its sovereign responsibility to provide economic development to Tribal citizens. It is well recognized that a secure land base is an essential component of tribal sovereignty. The Tribe's office is located on non-Indian fee land, and there is no usable land base for tribal housing or programs of any kind.

The Tribe's economic need is great. According to its most recent Labor Force Report, over forty percent of the Tribe's potential labor force is either not employed or employed but earning less than \$9,048 per year. The Tribe hopes to use the subject property to generate not only jobs and training and educational opportunities for its citizens, but also to eventually finance the purchase of residential land to compensate for the loss of both parcels of the original rancheria and to finally create a tribal community in its historic territory.

Located outside the city limits of Marysville, in rural Yuba County, the land which the Tribe is acquiring is situated within the Tribe's aboriginal territory. The Constitution of the Enterprise Rancheria, adopted in May, 1996, specifically provides that the Tribe's membership is composed of Maidu Indians from the Feather River Drainage Area, which includes Yuba County. At the present time, some ten percent of enrolled Enterprise members reside in Yuba and Sutter Counties, and the Tribe considers these counties part of its service area. Together with two other Maidu rancherias, the Tribe provides medical services to its members in the Yuba/Sutter area through the Yuba City branch of the Feather River Tribal Health consortium.

5. The application must state the purposes for which the land will be used.

The Tribe intends to construct and operate a 170-room resort hotel and 1,700-machine gaming facility on the land. To this end, the Tribe has entered into a Memorandum of Agreement, encompassing a development agreement and a management agreement, with YCE, the current landowner. The management agreement is being submitted for approval to the National Indian Gaming Commission simultaneously with this land trust application. As laid out below, the Tribe's designated uses for the land are fully compatible with its current zoning and with neighboring uses.

6. The application must state what impacts on the State and its political subdivisions will result from removal of the property from the tax rolls.

There will be no negative fiscal impact on the state or the County of Yuba from placing the land into trust.

The Tribe has presented its plans to the Yuba County Board of Supervisors and received a letter of support on July 9, 2002, attached as Exhibit D. As indicated in that letter, tribal representatives have met with Yuba County officials to negotiate payments in lieu of property taxes to offset any fiscal loss to the county. The property tax for this parcel in its undeveloped state in 2001-2002 was approximately \$60.76 per acre, or \$2,430.40 total. The Tribe is committed to reaching an agreement with the County not only to offset the loss of the current, minimal property tax, but to compensate the County for all additional costs it will incur and services it will be required to provide as a result of the development of the Tribe's project. When the Tribe and County conclude a Memorandum of Understanding on payments in lieu of taxes, a copy will be provided to the Secretary for approval pursuant to 25 U.S.C. part 81.

The State of California will benefit from receipt of license fees for the gaming devices, pursuant to the Tribal-State Gaming Compact. The county and the state also stand to benefit from the Tribe's project due to expected increases in payroll and income taxes and from the reduction in reliance on state welfare and housing assistance which will result from the 800 or more jobs expected to be directly created by the resort hotel and gaming facility.

7. The application must fully describe the jurisdictional problems or conflicts which may arise as a result of the intended land use and removal from State or local jurisdiction.

The Tribe does not anticipate any significant problems or conflicts as a result of the intended land use and removal from State and local jurisdiction. Gaming regulation is subject to the requirements of the Tribal-State Gaming Compact and the IGRA. The Tribe recognizes that all Indian Country within California is subject to Public Law 280, and that the state will continue to have criminal jurisdiction within the parcel. The tribe will assert civil/regulatory jurisdiction.

There will be no housing on this land.

Once the land is taken into trust, current county zoning will no longer apply; however, the contemplated use is fully in sync with the sports/entertainment zone created by the voters of Yuba County in a referendum, Measure R, which was overwhelmingly approved and certified by the County of Yuba on January 30, 1998. A copy of Yuba County Raceway Measure, including Yuba County Ordinance Code Chapter 12.83, which was added by Measure R, is attached hereto as Exhibit E. The AutoWest Amphitheater is already operative within the zone, and a motocross racetrack and other retail and entertainment facilities are in the planning stages. The land is not near any residential areas and is located in proximity to, and with good access to, two state highways. Surrounding lands are used for agriculture. Thus, the proposed use of the subject property is compatible with neighboring uses, and would not introduce a new or conflicting element into the area. The land is not under a Williamson Act Agricultural Preserve Contract.

Once this application is approved and the land is taken into trust, it will be exempt from the zoning requirements of Measure R. However, the Tribe intends to adhere to those requirements, and has opened a dialogue with Yuba County for the purpose of ensuring that the entire development project will provide long-term benefits to the surrounding community and continue to receive broad support from the County and its residents. The Tribe's development plans dovetail precisely with the County's, as expressed in Measure R:

The people of Yuba County find that the development of a sports center, entertainment facility and related uses at the junction of 40 Mile Road and State Route 65 serves the public interest and the health, safety and welfare of Yuba County.... The combination of a quality motor vehicle racing facility, an entertainment facility for concerts and other events, a golf course, and an accompanying commercial area will create a flagship development with a nationally-recognized image that will function as a showcase for attracting businesses interested in locating in Northern California and Yuba County. This will generate and attract substantial jobs and revenue for the county.

Thus, this proposed acquisition for gaming is unique in that the Tribe wishes to site its facility in a zone which the county, by a popular vote with extremely high levels of support, has already designated for similar and compatible uses. The parcel is located between highway 65 and highway 70, with easy access from both. Thus, there is no potential for disturbing other, preexisting surrounding land uses, such as residential neighborhoods, churches or schools. The Tribe perceives great synergies with Yuba County's plans, and little if any potential for jurisdictional conflicts.

8. The application must state what mitigation actions are planned to reduce adverse impacts identified under items 6 and 7 above.

As stated in the response to item 6, the reduction in tax revenues from current actual property taxes on the undeveloped property is slight. The Tribe's payments in lieu of taxes to the County pursuant to the MOU now being negotiated will more than offset this loss – those payments will be designed to compensate the County for any increased services or expenses it incurs because of the development of the property. In addition, any negative impacts to the county will be offset by the increased economic self-sufficiency of Tribal members and other county residents who will work on the property. Any negative impacts to the State will be offset by the payment of license fees for the gaming devices pursuant to the Tribal-State Gaming Compact.

With regard to the adverse impacts identified in item 7, each of the various issues is addressed separately below:

Environmental review:

The Tribe has retained Analytical Environmental Services as its consultant to conduct an Environmental Assessment of the proposed project. The report will be submitted to the Bureau of Indian Affairs upon completion. Preliminary reviews, as well as studies conducted during the planning of the Sports/Entertainment Zone, indicate that there is little likelihood of any significant impacts from the acquisition or from the Tribe's development plans.

Sewer Units:

The Tribe's property is located within a larger property owned by the seller, YCE, which in turn purchased its 100 acre property from its parent company, Yuba County Motorplex ("YCM"), which retained much surrounding property within the Yuba County Sports/Entertainment Zone. All of the property within this Zone is served by a domestic wastewater treatment plant and related equipment and facilities, all of which is operated under a wastewater permit from the Regional Water Quality Control Board. Pursuant to the attached purchase and sale agreement for the Tribe's parcel, YCE will provide both conveyance to and treatment at the wastewater plant of all domestic wastewater generated on the Tribe's property.

Zoning:

As stated in response to item 7, above, the Tribe does not expect any adverse impacts requiring mitigation regarding zoning restrictions on the property. While county zoning will, technically, not apply, the Tribe's vision for the project fits precisely into the permitted uses described in Yuba County Ordinance Code Chapter 12.83. Furthermore, since all construction and health standards will be required to comply with those enunciated in the Tribal-State Gaming Compact, there remains little or no room for adverse impacts which might require mitigation. To

the extent that there are, the Tribe has already begun to develop a solid working relationship with Yuba County, and intends to maintain such a relationship by taking all steps necessary to work out such issues.

Community Services–Tax Offset:

The Tribe has entered negotiations with the County toward a cooperation agreement to cover payments in lieu of taxes to the county. When the agreement is completed, a copy will be forwarded to the Bureau of Indian Affairs. Given that property taxes on this forty acres amount to only about \$2,430.40 per year, actual losses to the county will be minimal, and the Tribe's in lieu payments will offset tax losses as well as the cost of services to be provided by the County, such as law enforcement and fire protection.

Jurisdictional Conflicts:

Until the land is taken into trust, state and local laws will continue to apply. However, the Tribe will not close escrow on the land until this application is approved, and therefore cannot conduct or authorize any construction activities on the site. As indicated in the Purchase and Sale Agreement between the Tribe and YCE (Exhibit B) at section 5(b), the sale is conditioned upon the approval of this fee-to-trust application; approval by the NIGC of the development and management agreement; and issuance of a Tribal-State Gaming Compact by the State of California. Once the approvals are received, jurisdiction will be pursuant to federal laws, including but not limited to Public Law 280 and the Indian Gaming Regulatory Act. As stated above, the County of Yuba has expressed its support for the Tribe's trust application, provided that the Tribe and County are able to conclude an agreement on payments in lieu of taxes to compensate for costs and expenses which will arise from the project. As a result, there should not be any adverse impacts to mitigate on this issue.

9. The application must identify any potential impact upon services currently provided by BIA, or what BIA services will be requested or required if the application is approved.

The Tribe does not anticipate any increase in its requests for services from the BIA as a result of a trust conveyance. The Tribe is a mature contracting tribe and presently contracts to manage and administer the vast majority of BIA's services itself, through Self-determination Act grants. The Tribe does not anticipate that the monies it presently receives via these grants will increase or decrease as a result of this trust transfer. The Tribe's ability to optimize its use of these various funds will improve once it begins to realize an income from its proposed gaming operation.

The Tribe does not expect to request any significant services from the BIA relative to the property itself once the trust acquisition is completed, such as technical and engineering

assistance, road construction and maintenance, or any other services to which the Tribe would be entitled as a beneficiary of the trust relationship, in that the Tribe will be developing the property in partnership with Yuba County Entertainment, as described in the attached development and management agreements.

10. An original (or certified copy) of the proposed deed to the United States of America in trust for [tribe name]. The notary acknowledgment on the deed must conform to California notary law. The deed must be executed by the legal landowner(s) as evidenced by a current title report or a recent title insurance policy. For conveyances of tribal "fee" lands, the deed must be signed by a representative of the tribe as evidenced by a duly enacted tribal resolution.

A notarized original of the proposed deed will follow. The signatory on the deed will be the Tribe's chairman, Harvey Angle. Resolution 02-08, attached hereto as Exhibit A, referenced above, authorizes Chairman Angle to sign this deed. Under the terms of the purchase agreement, the purchase will be complete upon approval of this fee to trust application and receipt of other necessary approvals.

11. Any agreement(s) for purchase or exchange of the subject property (escrow instructions should also be included).

A copy of the Purchase and Sale Agreement with Seller, YCE, is attached hereto as Exhibit B, as referenced above.

12. A current title report or title policy (see item 10 above). As required in the Standards of the U.S. Department of Justice (see 25 CFR 151.12), a title company must be willing to issue a final title policy on the approved U.S. form -- ALTA U.S. Policy 9/28/91, and subject only to those exceptions acceptable to the U.S. and with liability in an amount equal to the value [most commonly, the purchase price] of the subject property.

A preliminary report issued by the First American Title Insurance Company, California, dated July 1, 2002, is attached hereto as Exhibit F. The company will issue a final title policy on ALTA U.S. Policy 9/28/91 subject only to those exceptions acceptable to the U.S. and with liability in an amount equal to the purchase price of the subject property. The Tribe understands that a current, final title report will be required for this application to be approved. The final title policy will be forwarded at the appropriate time following this application.

13. THE LAND DESCRIPTION ON THE DEED AND TITLE EVIDENCE MUST BE IDENTICAL. Metes and bounds land descriptions must be supported by a legible copy of a survey plat (maps will be microfilmed by BIA).

The land description on the proposed grant deed to the United States and on the Title

Insurance Policy will be identical. The Tribe will cause a survey to be conducted in accordance with the requirements of Federal regulations and will forward all necessary documentation to the Bureau.

14. For any exception listed on the title evidence, a copy of the referenced document must be included - e.g., rights of way of record; all information relevant to any existing special assessment districts; legible copies of all maps or plats referenced; deeds or judgments that might be referenced. (If monetary liens exist, tribe must state plan for their elimination at close of escrow and/or prior to acceptance of title by the U.S.)

Copies of all documents referenced in exceptions in the final Title Report will be forwarded at the appropriate time, along with all additional required information. There are no monetary liens on the property at present. The seller must come current with all tax payments due in order for escrow to close on the property.

15. For rights of way of record, tribe must state whether or not such right will interfere with the intended use of the subject property - e.g., describe how location of electrical lines prohibit or limit land use within right of way area or if line is proposed for relocation (copies of any negotiated agreements should also be included).

There are no rights of way which will interfere with the intended use of the property. Documentation regarding specific encumbrances will be forwarded.

16. Application should include a copy of any appraisal report, if an appraisal is already available.

Not applicable: the Tribe is not requesting that the federal government purchase or assist in the purchase of this land.

17. Application must include an environmental assessment. (BIA may request additional documentation, investigations, or reports in order to be able to evaluate the impact of the trust acquisition as required by the National Environmental Policy Act).

As discussed above, the Tribe has retained Analytical Environmental Services as its environmental consultant and will forward its environmental assessment to the Bureau as soon as it is completed.

18. Application should include descriptions of existing terrain, existing improvements and/or occupants, statement as to whether or not there is LEGAL ACCESS to the subject property (plot maps showing existing roads, etc., and any proposed roads, structure sites, etc., are useful).

The subject property is located just outside of Marysville, in rural Yuba County, California. The site lies entirely within the State of California. The closest state border, Nevada, is located at least 75 miles east of the site.

The subject property is comprised of one forty-acre undeveloped parcel. No occupants live on the site. The land is relatively flat and was previously used for agriculture. There are no buildings or other improvements on the parcel.

The western side of this rectangular property is bounded by Forty-Mile Road, a public road; there is legal access to the property from Forty-Mile Road.

19. Land acquisitions for economic development must include a detailed explanation of the proposed development and how it will benefit the tribe, e.g., tribal employment, anticipated revenues to the tribe and projections for increased tribal programs or services.

This land is sought by the Tribe for economic development purposes. To that end, the Tribe has entered into a development and management agreement with YCE. The agreement is being submitted to NIGC for approval. A copy of this agreement is attached as Exhibit G. A copy of the market study of the project, conducted by The Innovation Group, is attached as Exhibit H. Anticipated revenue pro formas are found on pages 61-62.

20. The applicant must pay all taxes due and payable until such time as the applicant has been advised that the property has been accepted into trust. The applicant must also make sure that all financial obligations are met in order to avoid attachment of any liens against the property proposed for trust acquisition (e.g., tribes are responsible for contributions to the Internal Revenue Service for tribal employees.)

By the terms of the purchase agreement and the escrow agreement with the seller of the property, the sale will not close until approval of this application and other relevant government approvals are received. Until that time, the current landowner, YCE, is responsible for payment of taxes. Furthermore, the property must be cleared as free of any liens for the escrow to close. Therefore, the Tribe will have no liability for fees or taxes relating to the subject property. The seller will continue to be responsible for all taxes due until the close of escrow.

The Tribe is current on all of its financial obligations that do not relate to the property.

REQUEST FOR ACTION:

The above text and aforementioned attachments (including attachments referenced herein which are to be forwarded at a later date) complete this application. On behalf of the Estom Yumeka Maidu Tribe of the Enterprise Rancheria, I request that you promptly review these

materials, inform us of any additional documentation or information you require, and accomplish the fee-to-trust transfer at the earliest possible date.

Dated: August 13, 2002

CALIFORNIA INDIAN LEGAL SERVICES

By: 

James E. Cohen

ATTORNEYS FOR THE ESTOM YUMEKA
MAIDU TRIBE, ENTERPRISE RANCHERIA



Enterprise Rancheria

Estom Yumeka Maidu Tribe

TRIBAL PROGRAMS

NOTED BY

9-12-02

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ESTOM YUMEKA MAIDU TRIBE ENTERPRISE RANCHERIA

RESOLUTION NO. 02-08

RESOLUTION TO REQUEST THE BUREAU OF INDIAN AFFAIRS TO HAVE FORTY ACRES OF LAND IN YUBA COUNTY BEING ACQUIRED FOR ECONOMIC DEVELOPMENT BY THE TRIBE CONVEYED TO TRUST STATUS, TO BE HELD BY THE UNITED STATES FOR THE COLLECTIVE BENEFIT OF THE TRIBE.

WHEREAS: The Estom Yumeka Maidu Tribe of the Enterprise Rancheria (the "Tribe") is a federally recognized Indian tribe, eligible to have land held in trust for its benefit by the United States government;

WHEREAS: It is the policy of the Tribal government to support tribal economic development in order to provide jobs for tribal members and revenue for the Tribe in order to fund needed social, educational and cultural programs;

WHEREAS: The Tribe lacks a land base on which it can engage in economic development activities;

WHEREAS: Forty acres of tribal trust land was taken from the Tribe by Act of Congress in 1964, and the Tribe has never received any new land in trust in compensation for that loss;

WHEREAS: The Tribe has entered into a purchase agreement with Yuba County Entertainment for the purchase of forty acres of land within the Yuba County sports and entertainment zone for the purpose of tribal economic development;

WHEREAS: Pursuant to the purchase agreement, escrow on the land will close upon approval by the United States of the trust acquisition of the parcel, as well as the approval by the National Indian Gaming Commission of the development and management agreement between the Tribe and Yuba County Entertainment and the signing of a Tribal-State Gaming Compact between the Tribe and the State of California;

WHEREAS: The Tribe desires that this land be conveyed to trust status, to be held by the United States for the collective benefit of the Tribe.

NOW THEREFORE BE IT RESOLVED: That the Enterprise Rancheria Tribal Council hereby requests that the following described land located in Yuba County, California, be conveyed to trust status for the tribe:

That parcel of land lying within the northeast quarter of Section 22, T. 14 N., R. 4 E., M.D.B.&M. in Yuba County, California and being described as follows:

Commence at the quarter section corner common to said Section 22 and Section 15, T. 14 N., R. 4 E., M.D.B.&M. and being marked by a brass monument stamped LS3341 in a monument well as shown on Record of Survey No. 2000-15, filed in Book 72 of Maps, page 34, Yuba County Records; thence South 0E 28' 11" East, along the line dividing said Section 22 into east and west halves, 2650.73 feet to a brass monument stamped LS3341 in a monument well as shown on said Record of Survey No. 2000-15 and marking the center of said Section 22; thence North 89E 31' 24" East, 65.00 feet to a point on the east right-of-way line of Forty Mile Road; thence North 0E 28' 11" West, along said east right-of-way line of Forty Mile Road, 45.53 feet to the POINT OF BEGINNING; thence from said point of beginning continue along said east right-of-way line of Forty Mile Road the following courses and distances: North 0E 28' 11" West, 1133.70 feet; thence North 5E 14' 27" East, 50.25 feet; thence North 0E 28' 11" West, 136.91 feet; thence leaving said east right-of-way line of Forty Mile Road run North 87E 59' 10" East, 1315.48 feet; thence South 0E 28' 11" East, 1320.48 feet; thence South 87E 59' 10" West, 1320.48 feet to the point of beginning and containing 40.00 acres more or less.

BE IT FURTHER RESOLVED: that the Tribal Chairman of Enterprise Rancheria, Harvey Angle, is hereby authorized to sign all documents necessary to effectuate the conveyance of said land into trust status.

BE IT FURTHER RESOLVED: that the Enterprise Rancheria Tribal Council requests that the Secretary of the Interior take action to accomplish this fee-to-trust transfer.

BE IT FURTHER RESOLVED: that the Tribal Council hereby asks that every effort be made to expedite this request.

C E R T I F I C A T I O N

The Tribal Council of the Estom Yumeka Maidu tribe of the Enterprise Rancheria does hereby certify that a meeting was duly called, noticed and convened on the 26th day of June, 2002 where a quorum was present and this resolution was adopted by a vote of 5 for, 0 against, 1 abstaining.



Enterprise Rancheria

Estom Yumeka Maidu Tribe

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DECLARATION OF HARVEY R. ANGLE

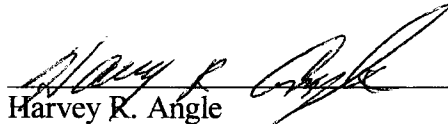
I, HARVEY R. ANGLE, declare as follows:

1. I am an enrolled member of the Estom Yumeka Maidu Tribe, Enterprise Rancheria, and serve as the duly elected Tribal Chairman of its Tribal Council.
2. I was born in Oroville, California in 1939.
3. My siblings and I spent our early childhood years in my parents' home on the Enterprise Rancheria reservation parcel known as "Enterprise 2."
4. My grandmother, Sadie Martin, whose name appears on the original 1915 Census of Enterprise Indians, maintained a home on Enterprise 2 for her entire life. I lived in my grandmother's home for several years as a child after my mother, Rena Martin Angle, passed away.
5. During my childhood, many members of my extended family, including my grandmother, my parents, several uncles and cousins, lived on Enterprise 2.
6. In 1956 I entered the United States Navy for three years of service on the aircraft carrier USS Midway. When I finished my tour of duty, I found there were no jobs available for me in the Enterprise/Oroville area, and I went to work in Point Reyes, and later in other parts of California. I lived on Enterprise 2 in the home of an uncle for a short period of time, but left because of the need to seek work outside the area.
7. During the entire time of my military service and later employment off the reservation, I always considered Enterprise 2 my permanent home, and planned to settle there when circumstances would permit.

8. To my personal knowledge, my sister Rosalie and other family members maintained homes on Enterprise 2 during this period (1956 to 1964), but left at times depending on the local employment situation.
9. I was never contacted by any representatives of the federal government regarding the sale of Enterprise 2 and only learned of the sale of the reservation after the fact.
10. Neither I nor any of my siblings were offered any monetary compensation for the sale of Enterprise 2.
11. The four individuals named in Public Law 88-453 as recipients of compensation for the sale of Enterprise 2, Henry, Stanley and Ralph Martin, and Vera Martin Kiras, were my uncles and aunt. My mother, Rena Martin Angle, had passed away prior to 1964. My uncles and aunt did not share whatever proceeds from the sale that they received with me or, to my knowledge, with any other family or tribal members.
12. To this day, neither I nor the Tribe have ever been offered any monetary compensation or replacement land for the loss of our reservation.

Signed this 7th day of August, 2002 under penalty of perjury

at Oroville, Butte County, California.


Harvey R. Angle

The County of Yuba

OFFICE OF THE BOARD OF SUPERVISORS



(530) 749-7510
FAX (530) 749-7353



**Millennium
Community**

July 9, 2002

Mr. Harvey Angle, Chairman
Enterprise Rancheria
1940 Feather River Boulevard, Suite B
Oroville, Ca 95965

Re: Tribal Gaming Development in Yuba County, CA

Dear Chairman Angle:

Thank you for inviting us to collaborate with Enterprise Rancheria in establishing a gaming operation and hotel in Yuba County. The Yuba County Board of Supervisors would be supportive of the Enterprise Rancheria's effort to develop a gaming operation and hotel on land within the Sports and Entertainment (SE) Zone in Yuba County provided we can reach an agreement on several issues which would impact the cost of County services and infrastructure, as well as the safety and welfare of both the workforce and clientele.

The Board believes this development is a compatible and appropriate sport and entertainment use in the SE Zone established by passage of a County Measure by over 86% of the ballots cast on January 27, 1998. Further, it is consistent with State Proposition 1A (Gambling on Tribal Lands) approved by more than 64% statewide, (61% in Yuba County) on March 7, 2000.

However, please understand the County cannot afford to lose property tax revenues nor absorb additional costs for services and new infrastructure in support of your project. A mutually beneficial agreement to mitigate loss of property tax revenues and compensate for future additional costs for services and infrastructure is paramount.

To that end, please schedule a meeting with the Board's Native American Tribal Relations Ad Hoc (Advisory) Committee (Supervisors Schrader & Simmons) at your earliest convenience to develop an agreement on how to best make your proposed project a true win-win for both Enterprise Rancheria and the County of Yuba. Once your Tribal members have approved the agreement, the Board will consider the proposed agreement no earlier than at its meeting of July 23, 2002. At that time the Board will strongly consider full support for your project as all parties deem appropriate.

Yours truly,

A handwritten signature in cursive script that reads "Al Amaro".

Al Amaro, Chairman

YUBA COUNTY RACEWAY MEASURE

The People of Yuba County Do Hereby Ordain as Follows:

Section 1. Title.

The title of this ordinance is the "Yuba County Raceway Measure".

Section 2. Findings and Purpose.

- A. The people of Yuba County find that the development of a sports center, entertainment facility and related uses at the junction of 40 Mile Road and State Route 65 serves the public interest and the health, safety and welfare of Yuba County, for the following reasons.
1. The combination of a quality motor vehicle racing facility, an entertainment facility for concerts and other events, a golf course, and an accompanying commercial area will create a flagship development with a nationally-recognized image that will function as a showcase for attracting businesses interested in locating in Northern California into the project vicinity and Yuba County. This will generate and attract substantial jobs and revenue for the county.
 2. Locating the raceway and related facilities at the junction of 40 Mile Road and State Route 65 serves the public interest because that site is located close to the intersection of two highways with a connecting crossroad and an existing highway interchange.
 3. Although the site is located adjacent to a state highway, it is also located in an agricultural area, which minimizes the potential for conflict between surrounding land uses and the sports center, entertainment facility, golf course, and accompanying commercial area.
 4. The site does not contain prime agricultural soils, and thus provides economic benefits without reducing the amount of prime agricultural soil in Yuba County.
 5. This measure establishes development standards and requirements to provide for adequate services, including but not limited to, right of way and traffic circulation.
- B. The purpose of this initiative is to amend the Yuba County General Plan and the Yuba County Zoning Ordinance to authorize the development and operation of a raceway and other uses on a site of approximately 1,000 acres near the intersection of State Route 65 and Forty Mile Road. This site is referred to in this measure as the "Yuba County

Raceway Site” or “the site.” The authorized development includes the following permitted land uses:

1. A major motor vehicle racing facility capable of accommodating premier racing events such as Indy car races, NASCAR races, road races, and drag racing.
2. Development of a commercial area accompanying the racing facility, to allow for related industrial and service uses, including uses which may make use of the raceway facilities for research, development, testing and similar activities.
3. Development of an amphitheatre for concerts and other events.
4. Development of a golf course.
5. Development of uses accessory to these primary uses.

C. This initiative achieves these purposes by amending the Yuba County General Plan and the Yuba County Zoning Ordinance in the following ways:

1. The Yuba County General Plan is amended to establish a new “Sports and Entertainment” designation to allow a motor vehicle raceway, amphitheatre, and golf course, together with a range of commercial and light industrial uses on properties within that classification.
2. The Yuba County General Plan is amended to specify which zoning designations are consistent with the new “Sports and Entertainment” classification in the Plan. The consistent zoning designations are a new “S/E” (sports/entertainment) designation and a new “I/C” (industrial/commercial) designation.
3. The land use map that is part of the Yuba County General Plan is amended to designate the Yuba County Raceway Site as shown on Exhibit “A” with the new “Sports and Entertainment” designation.
4. The Yuba County Zoning Ordinance is amended to establish a new sports/entertainment designation (“S/E”), specifying in detail the permitted uses in the zone and the requirements that must be fulfilled in connection with the development of the racing facility, the amphitheatre, and other permitted uses.
5. The Yuba County Zoning Ordinance is amended to establish a new industrial/commercial designation (“I/C”), specifying a mix of permitted uses.
6. The County zoning map is amended to designate the Yuba County Raceway Site, as identified on the map attached as Exhibit “A”, to allow for the development of

the raceway, golf course, amphitheatre, and associated uses. The northern part of the site is designated as "I/C" industrial/commercial. The larger southern part of the site, including the site of the raceway, golf course, and amphitheatre, is designated as "S/E" Sports/Entertainment.

7. This initiative establishes as the policy of Yuba County to take such actions as are reasonably necessary to provide for the implementation of the Yuba County raceway and other land uses authorized by this initiative.

Section 3. General Plan Amendment.

A. Plan Text to Establish New Sports and Entertainment Designation

1. To set forth the Sports and Entertainment land classification in the Yuba County General Plan, Section 5.1.16 is hereby added to the General Plan, immediately following existing section 5.1.9, to read as follows:

5.1.16 Sports and Entertainment

Definition and Purpose. The purpose of the sports and entertainment classification is to provide for sports facilities, including a motor vehicle raceway, a golf course, and an amphitheatre, as primary uses, with a range of related land uses. The related land uses may include a range of both commercial and light industrial land uses, including localized retail, commercial retail and service establishments which serve more than a single area, as well as research and development and light industrial operations related to the raceway use. The intent is to encourage an appropriate mix of uses that will be compatible with a raceway, golf course, and amphitheatre as primary land uses. Permitted Uses: Examples of uses which are considered appropriate under this classification include, but are not limited to a motor vehicle raceway; a golf course; an amphitheatre for use as an open air entertainment facility; eating and drinking establishments; food and beverage sales; vehicle repair services; gasoline service stations; public buildings; hotels and motels; offices; light manufacturing uses; and research and development uses related to the raceway.

2. Table 5-1 of the Yuba County General Plan, appearing on page 5-5 and entitled "Population and Building Intensity Standards" is hereby amended to add population and building intensity standards for the "Sports and Entertainment" classification. For the new "Sports and Entertainment" designation, the minimum parcel size is 10,000 square feet, the maximum site coverage is 70% exclusive of parking, the maximum floor area ratio is 1.4, and the maximum height is 75 feet,

except for raceway grandstand structures, for which the maximum height shall be 150 feet.

3. Table 5-2 of the Yuba County General Plan, appearing on page 5-7 and entitled "Land Use Classifications Zoning Consistency Matrix," is hereby amended to add the Sports and Entertainment" land use classification and consistent zoning designations to the chart. The zoning designations which are consistent with the Sports and Entertainment designation are "S/E" (Sports/Entertainment) and "I/C" (Industrial/Commercial). In addition, footnote 2 to Table 5-2 which appears on page 5.8 of the General Plan, is hereby amended to specify that the new zoning designations in Table 5-2 include "S/E" (which is "sports/entertainment") and "I/C" (which is industrial/commercial).

B. Map Change to Reclassify Project Site as "Sports and Entertainment"

The Yuba County General Plan land use diagram, figure 5-1 of the General Plan, is hereby amended to establish new land use designations for the land shown as the "Yuba County Raceway Site" on the map attached hereto as Exhibit A. As indicated in Exhibit A, the site shall be designated "Sports and Entertainment."

Section 4. Zoning Ordinance Amendment.

A. Map Change to Rezone Project Site

The Zoning Ordinance Map is hereby amended to establish new zoning designations for the Yuba County Raceway Site, as identified on the map attached hereto as Exhibit A. As indicated on Exhibit A, the zoning designation for a portion of the site shall be industrial/commercial, and the zoning designation for the remainder of the site shall be sports/entertainment.

B. New Sports/Entertainment Zone

In order to establish the Sports/Entertainment Zone, to specify the permitted uses in that zone, and to specify the requirements for the development of a raceway, amphitheatre, and other permitted uses, Chapter 12.83 is hereby added to the Yuba County Ordinance Code, to read as follows:

CHAPTER 12.83

"S/E" SPORTS/ENTERTAINMENT ZONE

12.83.010 PURPOSE

This Zone Classification is intended to be applied to property designated as Sports/Entertainment pursuant to the Yuba County Raceway Initiative which can be used for, or proposed to be used for, a sports facility including a motor vehicle raceway, a golf course, an amphitheatre, commercial uses (including but not limited to commercial uses related to a raceway or amphitheatre), and accessory uses.

12.83.020 PERMITTED USES

The following uses and structures shall be permitted in the "S/E" Zone

- (1) A motor vehicle racing facility, which may include such structures as an oval track for motor vehicle racing, a road course, a dragstrip, infield service or spectator areas, spectator grandstands and related visitor-serving uses, garages and parking, service facilities for race vehicles, and restroom and meeting facilities.
- (2) An amphitheatre or entertainment facility for the performance of concerts or other entertainment events, including such structures and uses as restaurants and food service, parking, and concessions.
- (3) Equestrian and rodeo events.
- (4) Restaurants, food service, and hotel and lodging facilities.
- (5) Facilities which may be required or desirable to provide services to a sports center and amphitheatre, including water supply, water treatment, and wastewater treatment and disposal.
- (6) Uses and structures which are incidental or accessory to the permitted uses.
- (7) Uses and structures which the Community Development Director determines by written findings are similar to the above.

12.83.030 DEVELOPMENT STANDARDS AND REQUIREMENTS

The following development standards and requirements shall be fulfilled in connection with the construction of a raceway and amphitheatre in the "S/E" Zone:

- (1) All facilities and uses on the site shall be required to comply with all applicable federal, state, and local laws, ordinances and regulations.
- (2) To provide adequate access to the site, the following easements and rights of way shall be dedicated to Yuba County:
 - (a) Sufficient right-of-way easement to provide an ultimate 55-foot wide roadway for the portion of Forty Mile Road lying adjacent to the bounds of Yuba County Raceway Site.
 - (b) An ultimate 110 foot right-of-way easement for road purposes for that portion of Forty Mile Road from State Highway 65 southerly to Plumas Arboga Road.
 - (c) An ultimate 84 foot right-of-way easement for road purposes for that portion of Plumas Arboga Road and Algodon Road from Forty Mile Road westerly to the westerly right-of-way line of State Highway 70.
 - (d) An ultimate 60 foot right-of-way easement for road purposes for that portion of Morrison Road from State Highway 65 westerly to the end of the current County maintained portion of Morrison Road.
- (3) To provide adequate access to the site, funding shall be provided to Yuba County to complete the construction of the following road improvements in compliance with any applicable standards of the California Department of Transportation (Caltrans) and Yuba County, and to acquire any additional right-of-way required for such construction consistent with Caltrans and Yuba County requirements:
 - (a) An off-ramp from State Highway 70 to Algodon Road. An auxiliary freeway lane shall be constructed in conjunction with, and at the time of, the planned widening of State Highway 70.
 - (b) An on-ramp from Algodon Road onto State Highway 70. An auxiliary freeway lane shall be constructed in conjunction with, and at the time of, the planned widening of State Highway 70.
 - (c) A 3-lane roadway from the westerly right-of-way line of State Highway 70 easterly along Algodon Road and Plumas Arboga Road to Forty Mile Road.
 - (d) A southbound off-ramp from State Highway 65 to Forty Mile Road including an auxiliary freeway lane.

- (e) A 4-lane roadway from State Highway 65 southerly along Forty Mile Road to Plumas Arboga Road.
- (f) The northbound left turn pocket on State Highway 65 at Morrison Road shall be lengthened to provide a deceleration lane.
- (g) A 3-lane roadway from State Highway 65 westerly along Morrison Road to the southerly boundary line of the project.
- (h) If requested by Caltrans prior to commencement of operations of the raceway, complete funding shall be provided for a traffic signal at the intersection of State Route 65 and Main Street within the City of Wheatland.
- (4) A water system for public use and a sewage treatment and disposal system shall be constructed in compliance with applicable standards.
- (5) At least 30 days prior to operating a raceway or amphitheatre facility, a traffic control and security plan shall be prepared in coordination with the Yuba County Sheriff, the Yuba County Office of Emergency Services, the California Highway Patrol, the Yuba County Agricultural Commissioner, and the Plumas-Brophy Fire Protection District. This plan shall address such elements as satellite parking facilities, shuttle bus usage and routes, information brochures, emergency services access, employee rideshare during major events, avoidance of conflicts with agricultural operations, and the security and safety for spectators, visitors and employees. The plan shall be updated at least annually in coordination with the same agencies.
- (6) Race events shall be scheduled so as to disperse arrivals and departures from the site over several hours of the day to reduce peak hour demand on the adjacent transportation system. This shall include scheduling of other races and attractions both before and after the main event.
- (7) Fire protection and emergency response shall be provided at race events in compliance with all applicable laws and regulations. At least 30 days prior to operating a raceway, a fire protection and emergency response plan shall be prepared in coordination with the Yuba County Office of Emergency Services and Plumas-Brophy Fire Protection District.
- (8) A preconstruction survey shall be conducted to determine whether Swainson's Hawk nesting is occurring on the site during the raptor nesting season. If Swainson's Hawk nesting is observed, a construction buffer of not less than 150 feet shall be maintained during the nesting season from March to July.

- (9) If evidence of subsurface archaeological resources is found during construction, excavation in the vicinity of the find shall cease, a professional archaeologist shall conduct an evaluation in accordance with state and federal laws and regulations, and the find shall be documented or preserved to the extent required by applicable laws and regulations.
- (10) A six foot high chain link fence shall be erected along the project boundary where it abuts the main South Yuba Water District canal. The fence shall be set back far enough from the canal to allow access for maintenance of the canal. Fence-line security along the South Yuba Water District canal shall be provided during racing events.
- (11) No overnight camping or recreational vehicle parking shall be permitted within 150 feet of the South Yuba Water District main canal.

C. New Industrial/Commercial Zone

In order to establish the Industrial/Commercial Zone, and to specify the permitted and conditionally permitted uses in that zone, Chapter 12.84 is hereby added to the Yuba County Ordinance Code, to read as follows:

CHAPTER 12.84

"I/C" INDUSTRIAL/COMMERCIAL ZONE

12.84.010 PURPOSE

This Zone Classification is intended to be applied to property designated as Industrial/Commercial pursuant to the Yuba County Raceway Initiative which can be used for, or proposed to be used for, a mix of light industrial and commercial uses which are compatible with the raceway and other uses to be developed in the Sports/Entertainment Zone.

12.84.020 PERMITTED USES

The following uses and structures shall be permitted in the "I/C" Zone

- (1) Research and development and light industrial uses and facilities, including motor vehicle testing and other research and development related to motor vehicle technology.
- (2) Hotels, motels, restaurants, food service, parking and concessions.

- (3) Retail and commercial service uses relating to equestrian and rodeo events.
- (4) Motor vehicle dealers, repair and service stations, repair garages, tire sales, body shops and vehicle paint shops, providing any repair, bodywork or painting is conducted inside a building.
- (5) Retail trade and wholesale trade establishments.
- (6) Uses and structures which are incidental or accessory to the permitted uses.
- (7) Uses and structures which the Planning and Building Services Director determines by written findings are similar to the above.

12.84.030

USES PERMITTED WITH A CONDITIONAL USE PERMIT

The following uses and structures may be permitted in the "I/C" Zone only if a Conditional Use Permit has been secured:

- (1) All permitted uses in the "C" General Commercial Zone, and all uses permitted with a conditional use permit in the "C" General Commercial Zone, except to the extent such uses are specifically permitted pursuant to Section 12.84.020 above.
- (2) All permitted uses in the "RC" Rural Commercial Zone, and all uses permitted with a conditional use permit in the "RC" Rural Commercial Zone, except to the extent such uses are specifically permitted pursuant to Section 12.84.020 above.

Section 5. Implementation.

- A. Upon the effective date of this initiative, this initiative shall be deemed to have amended the Yuba County General Plan in accordance with its terms, except that if the four amendments of the mandatory elements of the Yuba County General Plan permitted by state law for any calendar year have already been utilized in the year of this initiative's use and prior to such effective date, then the Yuba County General Plan amendment herein specified shall be deemed effective on January 1 of the following year.
- B. Upon the effective date of this initiative, this initiative shall be deemed to have amended the Yuba County Zoning Ordinance Code in accordance with its terms, except that if the effective date of the General Plan amendment contained in this initiative is delayed until January 1 of the following year pursuant to paragraph 5.A, above, then the effective date

of the Zoning Ordinance amendments contained in this initiative shall be the same January 1 date that the General Plan amendment takes effect.

- C. If another ballot measure is placed on the same ballot as this initiative, and if such other ballot measure governs raceway facilities for Yuba County or otherwise purports to deal with the same subject matter as this initiative, and if both measures should pass, the voters expressly declare their intent that this conflicts with such other measure, and that the measure which obtains the most votes shall control.
- D. Unless a different statute of limitations applies under applicable state or federal law, no action or proceeding challenging all or any part of this initiative shall be maintained unless commenced and service made upon the County within 90 days from the date that the vote on this initiative is declared.

Section 6. Interpretation and Severability.

- A. This measure shall be interpreted so as to be consistent with all federal and state laws, rules and regulations. If any section, sub-section, sentence, clause, phrase, part or portion of this measure is held to be invalid or unconstitutional by a final judgment of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this measure. The voters hereby declare that this measure, and each section, sub-section, sentence, clause, phrase, part or portion thereof would have been adopted or passed irrespective of the fact that any one or more sections, sub-sections, sentences, clauses, phrases, part or portion.
- B. This initiative shall be broadly construed in order to achieve the purpose of developing a sports and entertainment center at the Yuba County Raceway Site. It is the intent of the voters that the provisions of this measure, including the development standards and requirements for the Sports and Entertainment Zone, shall be interpreted by the County in a manner that facilitates the development and operation of the permitted uses described in this measure. Such interpretation may include the refinement and minor adjustment of the provisions of this measure, and determinations that substantial compliance with development standards has been achieved, provided that any such refinement, adjustment or determination is consistent with the overall intent and purpose of this measure.

Section 7. Amendment and Repeal.

- A. This measure may be amended or repealed only by a majority of the voters voting in an election thereon, except as provided below.
- B. The Yuba County Board of Supervisors may adopt refinements and minor adjustments of the provisions of this measure pursuant to paragraph 6.B, above, may add additional permitted or conditionally permitted land uses to the General Plan classifications and

Zoning designations set forth in this measure, and may add development standards for the "I/C" industrial/commercial zone, provided such standards are consistent with the purposes of this measure.

C. The Yuba County Board of Supervisors may amend the General Plan or the Zoning Ordinance to change or delete the permitted uses set forth in this measure if the Board makes the following findings and those findings are supported by substantial evidence:

- (1) At least five years have elapsed following the effective date of this measure; and
- (2) Construction work for the raceway or amphitheatre has not yet commenced.

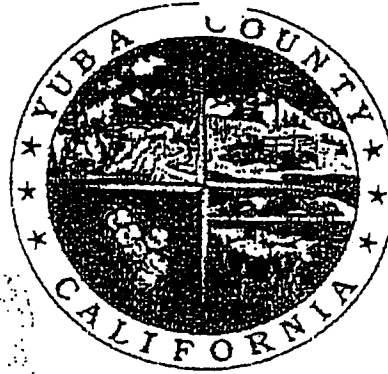
D. In addition, the Yuba County Board of Supervisors may amend the General Plan or the Zoning Ordinance to change or delete the permitted uses set forth in this measure if the Board makes the following findings and those findings are supported by substantial evidence:

- (1) At least eight years have elapsed following the effective date of this measure; and
- (2) Operation of the raceway or amphitheatre has not yet commenced.

County of Yuba

COUNTY CLERK RECORDER

935 14TH STREET - MARYSVILLE, CA 95901



FRANCES J. FAIREY

(916) 741-6341

January 30, 1998

A
MAY 1998
RECEIVED

TO: BOARD OF SUPERVISORS
FROM: FRANCES J. FAIREY, CLERK/RECORDER *F*
RE: SPECIAL ELECTION CERTIFICATION

Please find attached the Certification to the results of the canvass of the Election returns for Measure R.

The results will be on file at the Board of Supervisors office.

BOS:2/10/98/Certification to Racetrack File/JH

cc: FA

CERTIFICATE
TO RESULT OF THE CANVASS
OF ELECTION RETURNS

STATE OF CALIFORNIA)
) ss.
COUNTY OF YUBA)

I, FRANCES J. FAIREY, COUNTY CLERK-RECORDER, do hereby certify that, in
pursuance of the provisions of the Elections Code, I did canvass the
returns of the vote cast at the Special

Election held on January 27, 1998, for elective public
offices, and/or for and against each measure submitted to the vote of
the voters; and that the Statement of the Vote Cast, to which this
certificate is attached, shows the whole number of votes cast at
said election, and the whole number of votes cast for each candidate
and/or for and against each measure and in each of the respective
precincts therein, and that the totals of the respective columns
and the totals as shown for each candidate and/or for and against
each measure are full, true and correct.

WITNESS my hand and official seal this 30th day of
January, 1998.

Frances J. Fairey
(Clerk)

By _____ (Deputy)

(SEAL)

OK Name: Special Election Held January 27, 1998

SUMMARY REPORT

DATE/TIME COUNTED: 01/30 08:28

RPT #106 ELECTION RPT 108.05

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*****
OFF R (#/PC: 43)
COUNTY RACEWAY MEAS (#/RPT 43)
% To Vote For 1) (%/RP 100.0)
Over Votes 2 )
Under Votes 0 )
Blank Votes 23 )

Proposition 7052 85.3%
Cont Proposition 1115 11.7%
*****

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INDEXED

BEFORE THE BOARD OF SUPERVISORS
OF THE COUNTY OF YUBA

IN RE:)
)
 RESOLUTION CALLING A) RESOLUTION NO. 1997-118
 SPECIAL ELECTION TO BE)
 TO BE HELD TUESDAY,)
 JANUARY 27, 1998)
 _____)

WHEREAS, the initiative process is available to adopt changes to a county general plan, and enact zoning ordinances and take other legislative actions; and,

WHEREAS, the Yuba County Board of Supervisors wishes to provide an opportunity for the voters of the County of Yuba to express their desire concerning adoption of the Yuba County Raceway Initiative; and,

WHEREAS, the Yuba County Raceway Initiative provides by ordinance, for amendment to the Yuba County General Plan to establish a new "sports/entertainment" designation and to specify which zoning designations are consistent with the new "sports/entertainment" classification in the Plan and provides for consistent zoning designations identified as "S/E" (Sports/Entertainment) designation and "I/C" (Industrial/Commercial)

designation, and amends the land use map to designate approximately 1,000 acres located at the junction of Forty Mile Road and State Route 65 in Yuba County with the new "Sports/Entertainment" designation and makes like change in the Yuba County Zoning Map; and

WHEREAS, the Yuba County Board of Supervisors has concluded that adopting a resolution calling a special election to be held January 27, 1998 is the most appropriate manner in which to proceed.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of the County of Yuba, State of California, hereby orders and proclaims that the question of whether an ordinance should be adopted that establishes a new "Sports/Entertainment" use general plan designation and new sports/entertainment and industrial Commercial" zones, amends the Yuba County Land Use Map by placing approximately 1,000 acres within the "Sports/Entertainment" General Plan designation re-zones the approximate 1,000 acres to the new zones and provides development standards in the new zones, shall be submitted to the electors of the County of Yuba at a special election as County Measure "R", or as may be otherwise designated

PASSED AND ADOPTED at a regular meeting of the Board of Supervisors of the County of Yuba, State of California on the 20th day of October, 1997 by the following vote:

- AYES: Supervisors Amaro, Simmons, Mastey, Schrader and Stocker
- NOES: None
- ABSENT: None

Neil Stocker
CHAIRMAN

ATTEST: TERRY A. HANSEN
Clerk of the Board of Supervisors

By: Lanice Hamilton
Deputy Clerk

APPROVED AS TO FORM
Daniel G. Montgomery
DANIEL G. MONTGOMERY, COUNTY COUNSEL



First American Title Company

1610 Arden Way, Suite 190

Sacramento, CA 95815

Ph: (916) 920-3100

PRELIMINARY REPORT

Escrow Officer: Carolyn Hunt

Title Officer: Mike Hudson

Escrow No.: 909567

Loan No.:

Owner: Yuba County Entertainment LLC

Buyer:

Property Address: no site address

In response to the above referenced application for a policy of title insurance, this company hereby reports that it is prepared to issue, or cause to be issued, as of the date hereof, a policy or policies of title insurance describing the land and the estate or interest therein hereinafter set forth, insuring against loss which may be sustained by reason of any defect, lien or encumbrance not shown or referred to as an exception below or not excluded from coverage pursuant to the printed schedules, conditions and stipulations of the policy forms.

The printed exceptions and exclusions from the coverage of the policy or policies are set forth in Exhibit A attached. Copies of the policy forms should be read. They are available from the office which issued this report.

Please read the exceptions shown or referred to below and the exceptions and exclusions set forth in Exhibit A of this report carefully. The exceptions and exclusions are meant to provide you with notice of matters which are not covered under the terms of the title insurance policy and should be carefully considered.

It is important to note that this preliminary report is not a written representation as to the condition of title and may not list all liens, defects, and encumbrances affecting title to the land.

This report (and any supplements or amendments hereto) is issued solely for the purpose of facilitating the issuance of a policy of title insurance and no liability is assumed hereby. If it is desired that liability be assumed prior to the issuance of a policy of title insurance, a binder or commitment should be requested.

Dated as of **July 1, 2002** at 7:30 A.M.

The form of policy of title insurance contemplated by this report is:

ALTA Owner's Policy (10-17-92) with Regional Exceptions (Standard Coverage)

Title to the estate or interest at the date hereof is vested in:

Yuba County Entertainment, L.L.C., a Delaware limited liability company

The estate or interest in the land hereinafter described or referred to covered by this report is:

A fee

At the date hereof exceptions to coverage in addition to the printed Exceptions and Exclusions in the policy form would be as follows:

1. General and special taxes and assessments for the fiscal year 2002-2003, a lien not yet due, or payable.
2. Rights of the public and/or Reclamation District No. 784 in and to highways, roads, ditches, canals and levees embraced within the boundaries of said land.
3. An easement or lesser right, or claim thereof, for the purposes of taking and transporting water from the canal/ditch referenced above and for incidental purposes.
4. Rights of the public in and to that portion of the land lying within Forty Mile Road.
5. An easement for a perpetual right and easement without recourse to compensation for damage therefrom past, present or future, for the inundation, flooding, flowage, passing and backing up of all waters of that portion of the Sacramento River Flood Control Project from the Bear River, North Dry Creek, Reed's Creek, Hutchinson Creek, Western Pacific Intercepting Canal, Clark Slough Lateral, South Dry Creek, Plumas Lake and the drainage canal from said lake to the Bear River and the various creeks and tributaries of said streams and water course, which have and may hereafter, from time to time, inundate the lands and incidental purposes, recorded January 26, 1944 in book 88, page 240 of Official Records.
Granted to : Sacramento and San Joaquin Drainage District.
6. A lease dated June 25, 1991, executed by Hofman Ranch, A Partnership as lessor and Sacramento Valley Limited Partnership, A California Limited Partnership as lessee, recorded February 5, 1992 as instrument no. 92-1445 of Official Records.

Affects the therein described land

An unrecorded sublease dated January 31, 2000, executed by Sacramento-Valley Limited Partnership, A California Limited Partnership, as sub-lessor and Airtouch Cellular, A California Corporation, as sub-lessee, as disclosed by Memorandum of Sublease recorded February 14, 2000 as instrument no. 20001400 of Official Records.

7. The terms and provisions contained in the document entitled "Resolution of South Yuba Water District", recorded July 29, 1997 as instrument no. 97007515 of Official Records.

8. An easement for public utility purposes and incidental purposes, recorded January 8, 1999 as instrument no. 99000178 of Official Records.

Granted to : County of Yuba.

9. The terms and provisions contained in the document entitled "Declaration of Easements, Covenants and Restrictions" recorded January 8, 1999 as instrument no. 99000184 of Official Records.

10. The terms and provisions contained in the document entitled "Agreement to Dedicate, Operate and Maintain Wastewater Facilities" recorded July 20, 2000 as instrument no. 20007001 of Official Records.

NOTICE: This is a pro-forma report/commitment furnished to or on behalf of the party to be insured. It neither reflects the present status of title, nor is it intended to be a commitment to insure the status as shown. The inclusion of any endorsements as part of the pro-forma report/commitment in no way evidences the willingness of the Company to provide any affirmative coverage shown therein.

There are requirements which must be met before a policy of title insurance or commitment to insure in the same form as this pro-forma report/commitment can be issued.

*** * * END OF EXCEPTIONS * * ***

DESCRIPTION

That certain property situated in the State of California, County of yuba, Unincorporated Area, described as follows:

That parcel of land lying within the Northeast quarter of Section 22, T. 14 N., R. E., M.D.B. & M., in Yuba County, California and being described as follows:

Commence at the North quarter corner of said Section 22 and being marked by a brass monument stamped LS3341 in a monument well as shown on Record of Survey No. 2000-15, filed in Book 72 of Maps, page 34, Yuba County Records; thence South 0 deg. 28' 11" East, along the line dividing said Section 22 into East and West halves, 2650.73 feet to a brass monument stamped LS3341 in a monument well as shown on said Record of Survey No. 2000-15 and marking the center of said Section 22; thence North 89 deg. 31' 24" East, 65.00 feet to a point on the East right-of-way line of Forty Mile Road; thence North 0 deg. 28' 11" West, along said East right-of-way line of Forty Mile Road, 45.53 feet to a ½ in. rebar with LS3751 marking the POINT OF BEGINNING; thence from said point of beginning continue along said East right-of-way line of Forty Mile Road the following courses and distances: North 0 deg. 28' 11" West, 1133.70 feet; thence North 5 deg. 14' 27" East, 50.25 feet; thence North 0 deg. 28' 11" West, 136.91 feet; thence leaving said East right-of-way line of Forty Mile Road run North 87 deg. 59' 10" East, 1315.48 feet; thence South 0 deg. 28' 11" East, 1320.48 feet; thence South 87 deg. 59' 10" West, 1320.48 feet to the point of beginning.

Ptn. APN: 014-280-86

INFORMATIONAL NOTES

The following is supplied for informational purposes only:

1. Binder Rate (\$4,000,000.00)

2. The land may lie within the boundaries of the following district(s) or agency(ies). The policy of title insurance will provide NO coverage for billings or assessments made by said district(s) and/or agency(ies). However, you may wish to contact them for information regarding current tax account status:

County Service Area No. 64
Sacramento and San Joaquin Drainage District
South Yuba Water District

*** * * END OF NOTES * * ***

* * * * *

WARNING

The map or maps attached hereto may or may not be a survey of the land depicted thereon. You should not rely upon it for any purpose other than orientation to the general location of the parcel or parcels depicted. First American expressly disclaims any liability for loss or damage which may result from reliance upon these map(s) except to the extent coverage for such loss or damage is expressly provided by the terms and provisions of the title insurance policy, if any, to which the map(s) is attached.

* * * * *

July 11, 2002

NOTICE

In accordance with Sections 18662 and 18668 of the Revenue and Taxation Code, a buyer may be required to withhold an amount equal to three and one-third percent of the sales price in the case of the disposition of California real property interest by either:

1. A seller who is an individual with a last known street address outside of California or when the disbursement instructions authorize the proceeds be sent to a financial intermediary of the seller, OR
2. A corporate seller which has no permanent place of business in California.

The buyer may become subject to penalty for failure to withhold an amount equal to the greater of 10 percent of the amount required to be withheld or five hundred dollars (\$500).

However, notwithstanding any other provision included in the California statutes referenced above, no buyer will be required to withhold any amount or be subject to penalty for failure to withhold if:

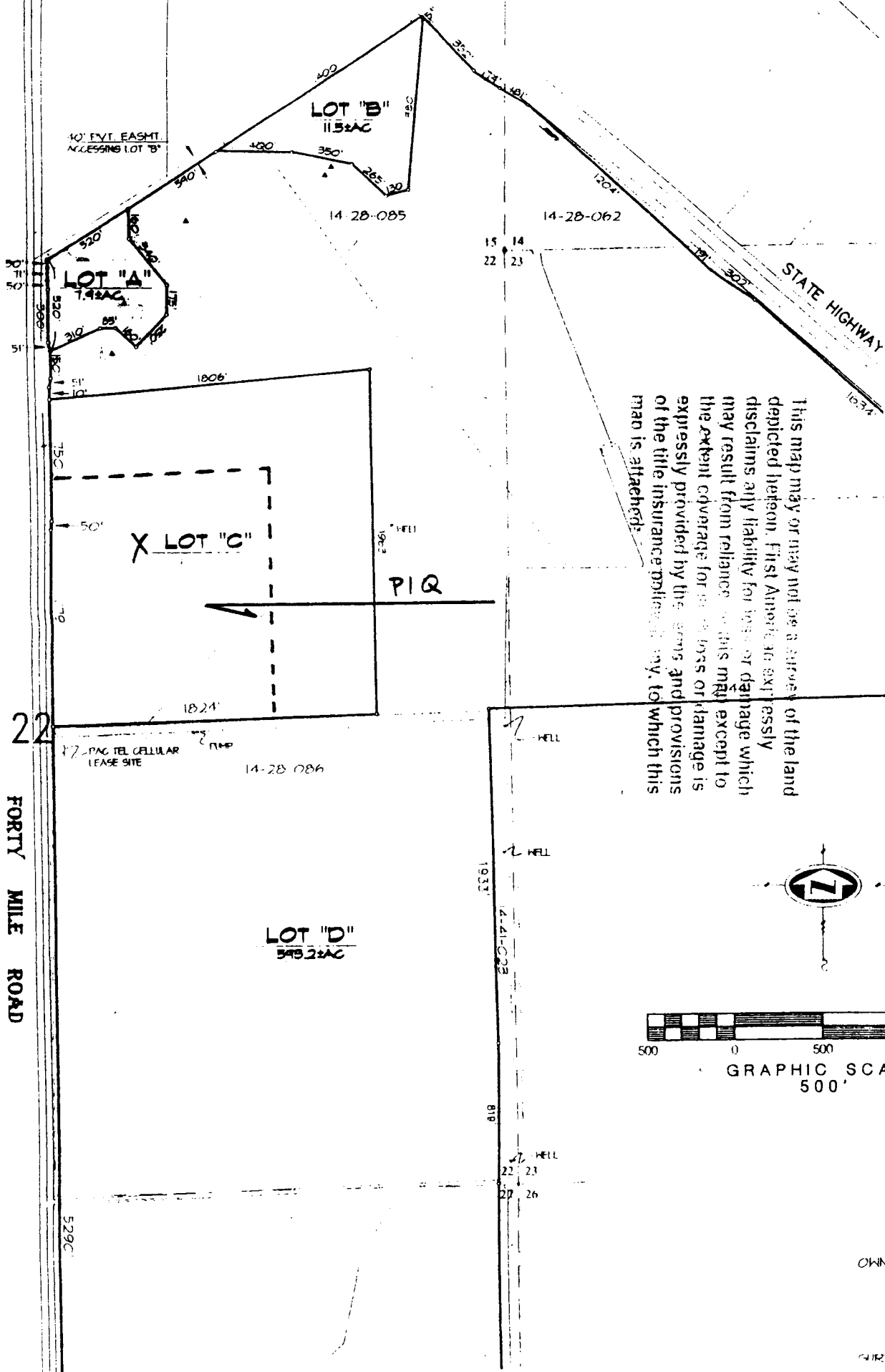
1. The sales price of the California real property conveyed does not exceed one hundred thousand dollars (\$100,000), OR
2. The seller executes a written certificate, under the penalty of perjury, certifying that the seller is a resident of California, or if a corporation, has a permanent place of business in California, OR
3. The seller, who is an individual, executes a written certificate, under the penalty of perjury, that the California real property being conveyed is the seller's principal residence (as defined in Section 1034 of the Internal Revenue Code).

The seller is subject to penalty for knowingly filing a fraudulent certificate for the purpose of avoiding the withholding requirement.

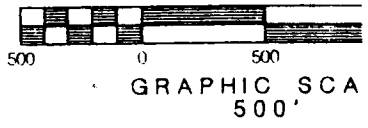
The California statutes referenced above include provisions which authorize the Franchise Tax Board to grant reduced withholding and waivers from withholding on a case-by-case basis.

The parties to this transaction should seek an attorney's, accountant's, or other tax specialist's opinion concerning the effect of this law on this transaction and should not act on any statements made or omitted by the escrow or closing officer.

Form No. 4001 (3/92)



This map may or may not be a survey of the land depicted hereon. First Amortgage expressly disclaims any liability for loss or damage which may result from reliance on this map except to the extent coverage for loss or damage is expressly provided by the terms and provisions of the title insurance policy to which this map is attached.



FORTY MILE ROAD

22

OWNE

QUER

