# MONTEAU & PEEBLES, LLP

ATTORNEYS AT LAW

## *APPLICATION TO ACQUIRE LAND IN TH E NAME OF THE UNITED SATES IN TRUST FOR THE MECHOOPDA INDIAN TRIBE OF CHICO RANCHERIA AND EXHIBITS*

**TO:** U.S. DEPARTMENT OF THE INTERIOR, BIA

**FROM:** MECHOOPDA INDIAN TRIBE OF THE CHICO RANCHERIA

**DATE:** MARCH 19, 2004

**RE:** FEE – TO – TRUST APPLICATION

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# MEMORANDUM

**To:** **Secretary, U.S. Department of the Interior, Bureau of Indian Affairs**

**From:** **Mechoopda Indian Tribe of the Chico Rancheria**

**Date:** **March 19, 2004**

**Re:** **Application to Acquire Land in the Name of the United States in Trust for the Mechoopda Indian Tribe of Chico Rancheria**

## INTRODUCTION

By Tribal Resolution dated November 7, 2001, the Mechoopda Indian Tribe of Chico Rancheria (hereinafter the "Tribe") has requested that the Department of the Interior accept trust title to land located in Butte County, California. (*See* Exhibit A, Resolution No. 01-57 of the Mechoopda Indian Tribe of the Chico Rancheria). Given the Tribe's expanding population base and lack of reservation land, trust status for this property is requested to promote tribal economic development, self-sufficiency and a strong tribal government capable of providing Tribal members with sorely needed social and educational programs.

### I. Profile Of The Mechoopda Indian Tribe Of Chico Rancheria

The Mechoopda Indian Tribe of Chico Rancheria is a federally recognized Indian tribe whose membership consists of a variety of tribal groups from the Sacramento Valley and nearby regions, including the Valley Maidu, Konkow, Nisenan, Yuki, Nomlaki and Patwin (aka Wintun). The Mechoopda historically used and occupied lands in the present day California counties of Butte, Yuba, Sutter and Sacramento Counties. (*See* Exhibit B, Declaration of Craig Bates).

With the onset of the California gold rush in the mid 1800s, nearly all of the Indians that occupied the Sacramento Valley were relocated or killed. The Mechoopda were spared by becoming laborers on General John Bidwell's Rancho Del Arroyo Chico. For the latter half of

the 19th century and the first half of the 20th century, the Mechoopda lived on lands set aside for their use by General Bidwell.

In 1909 and 1918, Mrs. Bidwell deeded two parcels of land to the Board of Home Missions of the Presbyterian Church in trust for the Mechoopda Indians. On or about 1938, the Butte County Superior Court appointed a trustee for both parcels. In 1939, both parcels were conveyed to the United States in trust for the Indians of the Me-Choop-Da Indian Village. From this time until its purported termination, the Chico Rancheria was considered an Indian reservation under the Indian Reorganization Act and "Indian country" under 18 U.S.C. § 1151. The Chico Rancheria was located inside the city limits of Chico. Pursuant to the California Rancheria Act, the United States attempted to, *inter alia,* terminate the federally recognized status of the Mechoopda Indian Tribe and the status of the rancheria as "Indian lands." Act of August 18, 1958, P.L. 85-671, 72 Stat. 619, and amended by the Act of August 11, 1964, P.L. 88-419, 78 Stat. 390. Subsequently, a majority of the Chico Rancheria lands were sold pursuant to a distribution plan that was never validly adopted by the tribal members. Other trust lands were sold to satisfy tax liens as a result of the termination.

In 1986, the Tribe, along with three other Indian rancheria communities and several individuals, filed suit in federal court challenging the federal government's termination of Mechoopda Indian Tribe and the Chico Rancheria, and also challenging various inactions of the federal government surrounding the termination. *Scotts Valley Band of Pomo Indians, et al. v. United States*, Case No. C-86-3660-VRW.

In 1992, the Mechoopda Indian Tribe, the United States and the City of Chico, entered into a Stipulation for Entry of Judgment settling the Tribe's claims against the United States. (Exhibit C, Stipulation for Entry of Judgment, *Scotts Valley Band of Pomo Indians, et al. v. United States* (Jan. 2, 1992)). In the Stipulation, the United States agreed that the Chico Rancheria was not terminated, and the Chico Rancheria assets were not distributed in accordance with the Rancheria Act. The United States further agreed that the Indian status of the distributees of the Chico Rancheria assets also was not lawfully terminated in accordance with the Rancheria Act. Moreover, the United States agreed that the Mechoopda Indian Tribe and its members were eligible for all of the rights and benefits extended to other federally recognized Indian tribes and their members, including tribes organized under the Indian Reorganization Act ("IRA"), 25 U.S.C. § 461, *et seq*. The United States District Court entered an Order for Entry of Judgment in accordance with the Stipulation on April 17, 1992. On May 4, 1992, the Assistant Secretary--Indian Affairs published notice in the Federal Register that the Indians of the Mechoopda Indian Tribe of Chico Rancheria were reinstated to their status that existed prior to the attempted termination. 57 Fed. Reg. 19133 (May 4, 1992).

The Stipulated Judgment also contained provisions relating to the restoration of the Tribe's lands. During the period of the Tribe's unlawful termination, all but 12 acres of its rancheria lands were sold to Chico State University and made part of its main campus. Realizing the legal and practical difficulties that would be involved in attempting to wrest these lands back, the parties decided that the tribe would re-establish the bulk of its rancheria on lands located outside of the boundaries of its former Chico Rancheria. Thus, the Stipulated Judgment provides that the Tribe will not re-establish the boundaries of its former rancheria, but also provided that the Secretary of the Interior may acquire lands in trust on behalf of the Tribe outside of former

rancheria boundaries. The Stipulated Judgment also expressly anticipates that these newly acquired lands may be declared a reservation by the Secretary.[1]

In conjunction with settling the *Scotts Valley* litigation, the Mechoopda Indian Tribe prepared and submitted to the Department of Justice and the Bureau of Indian Affairs a "Five Year Plan of Objectives" which set forth, *inter alia*, an objective of acquiring lands and transferring said lands to the United States to be held in trust as the Tribe's "new Rancheria." (*See* Exhibit D, Five Year Plan of Objectives, attached to Nov. 3, 1989 letter from S. Quisenberry to S. Goodsell and S. Keep). Mechoopda first submitted an application to acquire lands in Sutter County in trust, but after 5 years of inaction on the application, it was returned to the Tribe by the BIA. The present land site is located in Butte County, and was selected primarily for its historic and cultural significance to Mechoopda.

### II. Identification of Proposed Trust Land.

The land sought to be acquired in trust consists of two adjacent parcels: APN #038-150-026 (46.68 acres) and, #041-190-020 (598.52 acres) comprising approximately 645.20 acres to be used for gaming and other tribal governmental purposes. The full legal descriptions of the parcels are attached as exhibit to Tribal Resolution No. 01-57, attached as Exhibit A.

The proposed acquisition site, also known as the Lucky Seven Ranch, is located within lands controlled and occupied by the Northwestern Valley Maidu, of whom the Mechoopda are the sole surviving group. (*See* Exhibit B, Declaration of Craig Bates). The land is located just to the southeast of the buttes that play a prominent role in the cultural history of the Mechoopda Indian Tribe. Among other things, the lands are located in an area traditionally used by the Mechoopda for gathering plants for food, for collecting materials for spiritual use, and for hunting, among other purposes. *Id.*

## STATUTORY AND REGULATORY REQUIREMENTS (25 C.F.R. PART 151)

25 C.F.R. Part 151 provides a list of factors, which the Secretary shall consider in evaluating a request for the acquisition of land into trust status.

### I. Statutory Authority for Acquisition of the Property (25 C.F.R. § 151.10(a))

The statutory authority for the acquisition of land in trust for Indian tribes by the Secretary of Interior is found at 25 U.S.C. § 465. Section 465 provides, in relevant part:

> The Secretary of the Interior is hereby authorized, in his discretion, to acquire, through purchase, relinquishment, gift, exchange, or assignment, any interest in lands, water rights, or surface rights to lands, within or without existing

[1] Paragraph 11 of the Stipulated Judgment provides:
Should lands be acquired in the future on behalf of the Mechoopda Tribe, if organized under the IRA, the Secretary shall, within 180 days of acquisition, consider and respond to a request to issue a proclamation in accordance with 25 U.S.C. § 467 that such newly acquired lands constitute an Indian reservation.

reservations, including trust or otherwise restricted allotments, whether the allottee be living or deceased, for the purpose of providing land for Indians.

For the acquisition of such lands, interests in lands, water rights, and surface rights, and for expenses incident to such acquisition, there is authorized to be appropriated, out of any funds in the Treasury not otherwise appropriated, a sum not to exceed $2,000,000 in any one fiscal year:

. . .

Title to any lands or rights acquired pursuant to sections 461, 462, 463, 464, 465, 466 to 470, 471 to 473, 474, 475, 476 to 478, and 479 of this title shall be taken in the name of the United States in trust for the Indian tribe or individual Indian for which the land is acquired, and such lands or rights shall be exempt from State and local taxation.

In addition, the Secretary of the Interior has promulgated regulations which set forth the authorities, policy and procedures governing the acquisition of land by the United States in trust status for individual Indians and tribes at 25 C.F.R. Part 151. 25 C.F.R. Part 151.3 (a) provides:

(a) Subject to the provisions contained in the acts of Congress which authorize land acquisitions, land may be acquired for a tribe in trust status (1) when the property is located within the exterior boundaries of the Tribe's reservation or adjacent thereto, or within a tribal consolidation area; or, (2) when the tribe already owns an interest in the land or, (3) when the Secretary determines that the acquisition of the land is necessary to facilitate tribal self-determination, economic development, or Indian housing.

Section 5 of the IRA authorizes the Secretary to acquire land in trust for Indians and Indian tribes for purposes of facilitating tribal self determination, economic development or Indian housing. It cannot be questioned that the subject land is necessary to facilitate tribal self-determination and economic development, and tribal housing.

Moreover, the stipulated judgment entered into in *Scott's Valley Band of Pomo Indians, et al v. United States*, (Case No. C-86-3660-VRW, attached as Exhibit C) anticipates that the United States will acquire lands in trust for the benefit of the Tribe as part of the Mechoopda Indian Tribe's restoration to federal recognition and sets forth in paragraph 11 that "the secretary shall, within 180 days of acquisition, consider and respond to a request to issue a proclamation in accordance with 25 U.S.C. § 467 that such newly acquired lands constitute an Indian reservation."

## II. The Tribe's Need for Additional Land (25 C.F.R. § 151.10(b))

### A. General Need for Land

The Department of the Interior's policy with respect to the acquisition of land for Indians is set out in 25 C.F.R. § 151.3, which provides in pertinent part, "land may be acquired for a Tribe in trust status . . . when the Secretary determines that the acquisition of the land is necessary to facilitate tribal self-determination, economic development, or Indian housing." In the present case, the acquisition of the subject properties will unquestionably enhance tribal self-determination and economic development.

As noted, above, Mechoopda's lands that constituted their former rancheria were sold as the result of unlawful termination of the Tribe's status. While the Stipulated Judgment in the *Scotts Valley* litigation and associated documents surrounding the Tribe's restoration anticipate that the Mechoopda would acquire other lands in trust as a new rancheria or reservation. At the present time, the Tribe remains landless. The federal government has a strong policy against leaving federally recognized Tribes without a land base,[2] and the present application presents an opportunity for the federal government to fulfill its fiduciary obligation to the Mechoopda Indian Tribe by carrying out that policy. Moreover, by placing the lands in trust it will further tribal self-determination by allowing the Tribe to have concurrent jurisdiction over the land pursuant to Public Law 280.

### B. Trust Status is a Prerequisite to Eligibility for Federal Economic Incentives and Programs

Trust status will make the Tribe's proposed economic development eligible for several federal economic incentives and programs which would not be available if the activities were to occur on land owned by the Tribe in fee status. As described in further detail below, such economic incentives and programs include accelerated depreciation, Indian employment tax credits, tax exempt private activity bonds, and grants and services made available under the Indian Business Development Program.

#### 1. Accelerated Depreciation (26 U.S.C. § 168(j))

26 U.S.C. § 168(j) permits an accelerated depreciation deduction from federal income taxes for property used in a trade or business located on trust land. *See* 26 U.S.C. § 168(j)(6)(B)(incorporating the definition of "Indian Reservation" from 25 U.S.C. § 1903(10), which includes "lands held by the United States in trust for the benefit of any Indian tribe . . . "). For example, property that ordinarily would be deducted over a 20-year period can be deducted over a 12 year period if the business is located on trust land. Congress intended that this provision stimulate tribal economic development by making it advantageous to locate business activities on trust lands. By placing the property in trust, the Secretary will be furthering the Congressional policy.

#### 2. Indian Employment Credit (26 U.S.C. § 45A)

26 U.S.C. § 45A provides a federal income tax credit for wages and health insurance paid by an employer to a member of an Indian tribe. The credit is only available if the services performed by such tribal member/employee are performed on an "Indian reservation." For purposes of section 45A, the term "Indian reservation" includes land held in trust by the United States for the benefit of an Indian tribe. *See* 26 U.S.C. §45A(c)(7). This provision was intended to promote tribal economic development and self-sufficiency by providing an incentive to both tribal and non-tribal employers to gainfully employ tribal members. Thus, by approving the present Trust Application, the Secretary will be furthering the Congressional policy of promoting tribal economic development and self-sufficiency.

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[2] "Federal policy for many decades has viewed the existence of a tribal land base as integral to the cultural, political, and economic well-being of a tribe. For example, most federal programs for Indians are in one way or another tied to the tribal land base. [There is an] overwhelming importance of [a] tribal land base, . . .." 64 Fed. Reg. 17574 (April 12, 1999).

### 3. Interest Exemption for Private Activity Bonds (26 U.S.C. § 7871(c)(3))

26 U.S.C. §7871(c)(3) provides that interest on bonds issued for certain facilities located on qualified Indian lands is not considered income for federal tax purposes. In order to qualify under this section, the facility must be located "on land held in trust by the United States for the benefit of an Indian Tribe." 26 U.S.C. § 7871(c)(3)(E). Again, Congress enacted this provision in order to encourage and facilitate tribal economic development and self-sufficiency; by approving the present Application, the Secretary will be carrying out these Congressional policies.

### 4. Eligibility for Indian Business Development Program Grants (25 U.S.C. § 1521)

Congress has made grants available to Indian tribes under the Indian Business Development Program, 25 U.S.C. § 1521, *et seq.*, "to stimulate and increase Indian entrepreneurship and employment by providing equity capital . . . to Indian tribes to establish and expand profit-making Indian-owned economic enterprises on or near reservations." While these grants are available for activities on fee lands near reservations, the regulations implementing the Program require the Secretary to assign lower priority to enterprises located on fee lands than to enterprises located on reservation or trust lands. *See* 25 C.F.R. § 286.8. Accordingly, if the present trust application is granted, the Tribe will have a greater chance of obtaining capital for economic development on the Property through the Indian Business Development Program.

## III. Purposes for Which the Land Will Be Used (25 C.F.R. § 151.10(c))

The subject property is located northeast of California State Highway 99 and the Oroville Chico Road, near Chico, California. The property consists of two contiguous parcels: APN #038-150-026 (46.68 acres) and APN #041-190-020 (598.52 acres) totaling approximately 645.20 acres. The Tribe intends to use the land as part of its initial reservation and plans to commercially develop the parcels and offer Class II and/or Class III gaming (as defined by the IGRA, 25 U.S.C. § 2701 *et seq.*) to the public at the proposed gaming facility. The Tribe's administrative headquarters will also be located at the facility.

### A. The Indian Gaming Regulatory Act and The "Restored Lands Exception"

Section 20 of the Indian Gaming Regulatory Act ("IGRA") limits the ability of some tribes to conduct gaming on lands acquired by the Secretary of the Interior in trust for tribes after October 17, 1988. Section 2719 of 25 U.S.C. limits the ability of tribes to conduct gaming on lands acquired by the Secretary of the Interior in trust for the tribe after October 17, 1988. However, land that is taken into trust as part of "the restoration of lands for an Indian tribe that is restored to Federal recognition" is exempt from the prohibition against gaming on lands acquired after October 17, 1988. 25 U.S.C. § 2719(b)(1)(B)(iii). As the plain language of Section 20(b)(1)(B)(iii) indicates, lands that are taken into trust as part of the "restoration of lands for and Indian tribe that is restored to Federal recognition" are exempt from the prohibition against gaming on lands acquired in trust after October 17, 1988. In determining whether a tribe meets the restoration exception under section 20(b)(1)(B)(iii), there is a two-prong analysis. "First, the tribe must be "restored" within the meaning of IGRA. Second, the land to be acquired must be

'restored' within the meaning of the IGRA." *Grand Traverse Band of Ottawa & Chippewa Indians v. United States Attorney*, 46 F.Supp.2d 689 (W.D. Mich. 1999); *Confederated Tribes of the Coos, Lower Umpqua and Suislaw Indians v. Babbitt*, 116 F. Supp. 2d 155 (D.D.C. 2000).

Since the land on which the Mechoopda Tribe seeks to conduct gaming is not yet in trust, Mechoopda relies on an exception to the general prohibition on gaming for land acquired in trust after October 17, 1988. This exception, at 25 U.S.C. § 2719(b)(1)(B)(iii), allows gaming on land taken into trust after October 17, 1988 where the lands are taken into trust as part of the "restoration of lands for an Indian tribe that is restored to federal recognition."

The Mechoopda Indian Tribe of the Chico Rancheria submitted a development agreement and management contract to the National Indian Gaming Commission ("NIGC"). This management contract will ultimately be approved or disapproved by the Chairman of the NIGC. The NIGC regulations at 25 C.F.R. § 531.1(a) require that "all gaming covered by the contract be conducted in accordance with the Indian Gaming Regulatory Act ("IGRA") and governing tribal ordinance(s)." As part of this approval process, therefore, NIGC must make a determination whether the proposed gaming will take place on Indian lands as required by the IGRA.

On March 26, 2002, the Mechoopda Indian Tribe submitted a detailed memorandum and attachments to comprise the Mechoopda Tribe's formal request for an Indian lands determination under this exception. The Tribe put forth substantial evidence. There is no dispute that Mechoopda is a "restored" tribe. They were terminated and then restored to a federal recognized tribe. The pivotal issue was whether or not they have restored land. The Tribe demonstrated that the proposed gaming site is more than any aboriginal land that the Mechoopda ever occupied. The land is part of the 227 square miles that was previously promised to the Mechoopda by the United States. The land has historical and cultural significance to the tribe. Unlike other tribes, Mechoopda is prevented, from reestablishing the former boundaries of the Chico Rancheria. Mechoopda's stipulated judgment against the United States provides for the acquisition of land outside the former Rancheria boundaries and the land was intended to be part of a restoration of tribal lands. Mechoopda is currently a landless tribe. This land will be their initial reservation and the first land taken into trust since their restoration. For all these reasons, the land is properly considered "restored.

On March 14, 2003, the National Indian Gaming Commission issued a memorandum finding that the Mechoopda Tribe's proposed gaming site met the restored lands exception to the IGRA. Specifically, the NIGC stated as follows:

> After careful review and consideration, we conclude that the Tribe's land, should it be taken into trust, qualifies as Indian lands as defined by IGRA and NIGC regulations. A close examination of the documentation submitted shows that the Tribe had a historical and cultural connection to the land and that the land is therefore restored. The proposed gaming site therefore falls within the restored land exception to Section 2719. The Tribe may therefore lawfully conduct gaming on its proposed site pursuant to IGRA when it is acquired by the United States in trust for the Tribe, provided the Tribe complies with all other applicable requirements of IGRA.
>
> The Department of the Interior, Office of the Solicitor concurs with our conclusion. (Exhibit E).

Pursuant to the NIGC's memorandum of understanding with the Department of the Interior, Department of the Interior concurred with this decision.

## IV. The Impact on the State and its Political Subdivision Resulting from the Removal of the Land from the Tax Rolls (25 C.F.R. § 151.10(e))

The taxable value of parcel 038-150-026-000 is $45,900.00. According to the year 2004 tax statements, the assessed amount was $495.45. The land in Parcel 041-190-020-000 is valued at $601,800.00 with taxes assed at $6,125.96. The total tax amount for both parcels is $6,621.41 per year. *See* Exhibit F.

Accordingly, the impact on the State and its political subdivisions resulting from the removal of the property from the tax rolls is approximately $6,621.41 per year. If the land is developed it would ordinarily be re-assessed and the potential property tax could rise depending on the value of the improvements. While property tax may be lost when the parcel is taken into trust, that loss will be mitigated by the reduction or elimination of Tribal members' reliance on state welfare and housing assistance as a result of revenue from the economic enterprise and public revenues that the gaming facility will provide. Further, the development of gaming and related facilities would substantially increase payroll taxes deriving from an increase in employment and thus would garner Butte County substantial sales tax revenue. Moreover, the necessary infrastructure (roads, electricity, sewage disposal, etc.) necessary for the economic development of the property would inure to the benefit of additional developments by others; thus, the value of surrounding property would likely increase, giving Butte County increased property tax revenues.

## V. Jurisdictional Problems and Potential Conflicts of Land Use Which May Arise (25 C.F.R. § 151.10(f))

Tribal representatives intend to meet with Butte County officials to discuss the Tribe's proposed gaming facility and to explain their intent to request trust status for the property that is the subject of this application. The Tribe plans to offer demographic and environmental studies as to the impact of the acquisition in Butte County. Presently, the County of Butte provides emergency medical, police and fire protection to the subject property. Any additional impact on those services will be paid for by the Tribe. Further, the Tribe intends to discuss the substance of proposed cooperative agreements that the Tribe desires to enter into with Butte County. These cooperative agreements may address certain off-reservation environmental impacts attributable to the construction and operation of the gaming facility as well as payment for fire, police and other county services required to be provided to the Tribe by Public Law 280 (67 Stat. 588). Any written agreements that the Tribe may enter into with the county will be provided as a supplement to this application, as will any resolution of support from the Butte County Board of Supervisors and/or other governmental agencies.

Most of the subject property area consists of grazing land and irrigated farmland. According to the Butte County Planning Department, the parcels comprising the subject property are designated as grazing and open land with a 40-acre minimum parcel size. The zoning of the property is unclassified. Thus, commercial development of the property is not consistent with current county zoning. Once the subject property is brought into trust, however, local zoning laws will not apply.

The Thermalito Irrigation District provides waste water disposal, potable water and recycled water for irrigation to the City of Oroville and surrounding communities. The subject property is within this water district, however, service lines currently do not extend to the area. The subject property is located in an area that generally has an abundant supply of high quality ground water. It is anticipated that groundwater would be the primary source of potable water for any development on the property. Groundwater is also the primary source of drinking water for surrounding residents. Because the property is not readily accessible to the service line of the Thermalito Irrigation District, however, the Tribe may have to pay for the extension of service lines to the property or drill a well on the property to receive potable water and construct a waste water treatment plant for effluent disposal.

Access to the subject property is provided via county maintained Openshaw Road. The properties can be accessed by traveling along Openshaw Road in a northwesterly direction to the cul-de-sac at the end of the road. At the cul-de-sac, there is a 16 foot wide wire mesh gate. Openshaw Road and the gate provide access rights to APN no. 041-190-020 (approximately 598.52 acres). The subject property located at APN no. 038-150-026 (approximately 46.68 acres) can be accessed by the same means.

## VI. Whether the Bureau of Indian Affairs is Equipped to Discharge the Additional Responsibilities Resulting from the Acquisition of the Land in Trust Status (25 C.F.R. § 151.10(g))

The Tribe submits the Bureau of Indian Affairs will not incur any additional responsibilities as a result of the conversion of the property to trust status. The Tribe intends to be responsible for all expenses and maintenance with regard to the property and to address all legal matters that may arise with regard to the property. As the Tribe becomes more self-sufficient, its dependence on assistance from the Bureau of Indian Affairs will diminish.

## VII. The Extent to Which the Applicant has Provided Information that Allows the Secretary to Comply with 516 DM6, Appendix 1B, and 602 DM 2 (25 C.F.R. § 151.10(h))

Environmental assessments have been provided to the BIA by Analytical Environmental Services of Sacramento, CA.

## VIII. Off-Reservation Acquisitions (25 C.F.R. § 151.11)

25 C.F.R. § 151.11 provides that "the Secretary shall consider the following requirements in evaluating tribal requests for the acquisition of lands in trust status, when the land is *located outside of and non-contiguous to the Tribe's reservation, and the acquisition is not mandated . . .*" The Tribe does not believe that this section is applicable to the initial acquisition of reservation land for a restored tribe that has no reservation. Because the requested acquisition is for economic development purposes, however, the Tribe will submit if requested to, a business plan as a supplement to this application, detailing the proposed development and how it will benefit the Tribe.

## IX. Title Examination (25 C.F.R. § 151.13)

Enclosed herewith, as Exhibit G, is a Preliminary Title Report for the Mechoopda Tribe of the Chico Rancheria and ALTA commitment prepared by Mid Valley Title & Escrow Company in support of the Tribe's fee-to-trust request. The title evidence submitted meets the Standards for the Preparation of Title Evidence and Land Acquisitions by the United States, issued by the United States Department of Justice (2001) (see accompany documentation to Exhibit G).

Also submitted with this application as Exhibit H are pertinent provisions of the Development Agreement between SC Butte Development, LLC and the Mechoopda Indian Tribe. Under the terms of that Development Agreement, SC Butte Development, LLC ('SC Butte") is required to transfer its title in the parcel of land on which the Mechoopda Indian Tribe of Chico Rancheria, California (the "Tribe") proposes to construct a Class II and Class III gaming facility (the "Gaming Facility") to the Department of Interior, to be held in trust on behalf of the Tribe.

Pursuant to the Development Agreement, dated January 12, 2004, the ("Development Agreement") by and between the Tribe and SC Butte, SC Butte agrees to assist the Tribe to finance, develop and construct the Gaming Facility on certain land held by SC Butte (the "Gaming Site"). The terms of the Development Agreement require that the Gaming Site be held by the United States government in trust for the Tribe for gaming purposes and must meet the requirements of the United States to be accepted in trust for the Tribe for the operation of Class II and Class III gaming. Section 2.1(a) of the Development Agreement states that the Tribe has designated SC Butte as the party acquiring the Gaming Site on behalf of the Tribe. Section 2.1(c), states that SC Butte is obligated to transfer directly to the Department of Interior its interest in the Gaming Site when required by the Secretary of Interior to be taken into trust under applicable federal law, for gaming purposes in connection with the operation of the Gaming Facility. In other words, once the Gaming Site has been approved to be taken into trust by the Secretary of Interior, SC Butte must transfer its interest in the Gaming Site directly to the United States government, as trustee for the Tribe. Furthermore, Section 2.7 states that the transfer of the Gaming Site to the United States government to be held in trust for the Tribe is a condition precedent for SC Butte to obtain financing for the construction and initial operation of the Gaming Facility.

Consequently, pursuant to the terms of the Development Agreement, title to the Gaming Site shall pass directly to the United States government upon approval from the Secretary of Interior and if the Gaming Site is not held by the United States government in trust for the Tribe, then SC Butte is not obligated to arrange for financing for the Tribe.