

**DEPARTMENT OF TRANSPORTATION**

DISTRICT 1, P. O. BOX 3700  
EUREKA, CA 95502-3700  
PHONE (707) 445-6385  
FAX (707) 445-6317  
TTY 711

**COPY**

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November 22, 2010

Lester J. Marston, Attorney at Law  
Law Offices of Rapport and Marston  
405 W. Perkins Street  
P.O. Box 488  
Ukiah, California 95842

RE: Robinson Rancheria Encroachment Permit Application for Gas Station Project

Dear Mr. Marston:

I am responding to your letter dated October 29, 2010, that we received in our office on November 3, 2010. Attached is an encroachment permit application. If it is the Tribe's intention to have you act for them to obtain the encroachment permit, please provide written authorization from the Tribe and include with application and plan submittal. We are also sending a copy of the encroachment permit application and this letter directly to the Tribe.

Following the encroachment permit process will address the safety and liability concerns of motorists who travel on the State highway and use the gas station. Information on the encroachment permit process can be found at <http://www.dot.ca.gov/hq/traffops/developserv/permits/>.

With regard to the site-map, the proposed transition from eastbound Highway 20 to the proposed Gas Station appears abrupt and may create challenges for large vehicles transitioning from the 55 mph highway to the gas station access. Please address this issue in the encroachment permit application.

I am not aware of any plans for improvements at the intersection of Reclamation Road and Highway 20 by the Department or by the County of Lake. Normally, identification of traffic impacts and potential mitigations due to Gas Station trip generation is part of the Environmental process. I have not seen any such documentation to suggest that intersection improvements might be needed.

Here is a summary of the Department's recent interaction with the tribe regarding the proposed gas station:

- The Department was contacted by the Engineer and Project Manager for this project in August of 2010. From that contact we learned that the tribe intended to place the proposed gas station not at the intersection with Reclamation Road but to the west of the intersection.

- We responded by telephone and by email on September 2, 2010 by supplying the design parameters needed for the then proposed road approach to the gas station. We also discussed concerns for pedestrians and for Environmental documentation.
- On October 6, 2010, eight members of the Department from various functional units met with the Engineer and Project Manager. We discussed Design details and Environmental process.
- On October 29, 2010, Tribe Attorney Lester Marston spoke with James Shupe and with John Carson of the Department. The discussions concerned a letter that he would be sending out to the Department regarding the proposed Gas Station.
- On November 1, 2010, James Shupe of the Department observed that off-highway grading work was underway for the Gas Station Project.
- On November, 3 2010, the Department received a letter from Tribe Attorney Lester Marston, which related that the State of California had no jurisdiction to compel the Tribe to comply with State Laws or regulations; nonetheless, the Tribe would obtain an encroachment permit to have their contractor create a new connection from the State Highway to the proposed Gas Station. A site map was attached to the letter. This site map suggested that the connection from the State Highway would be ingress from eastbound Highway 20 only.

Regarding the last issue, we are pleased that the Tribe has agreed to follow the encroachment permit process. The Department is responsible for the safe operation of the State Highway System (SHS) and the State does have sovereign jurisdiction as to what happens on its SHS, including the authority to approve encroachments. While tribal authority may extend over its own territory, it cannot extend over the state's territory or property. Any party wishing to encroach on a highway within that system is obligated to first obtain a permit, subject to such conditions as the Department may reasonably impose under S&H Code § 672 for the protection of the highway.

If I can answer any other questions, or if there is someone else that I should be working with, please let me know.

Sincerely,



JOHN P. CARSON  
District Permits Office Chief

c: Charles C. Fielder (Caltrans District 1 Director), Tracey Avila (Tribal Chair), Claude White (Project Coordinator), Larry Young (Contractor), James Shupe (Caltrans Encroachment Permits Inspector)

Attachment