

BEAR RIVER BAND of ROHNERVILLE RANCHERIA

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LAND USE

March 4, 2005

Harless McKinley
Department of Public Works
County of Humboldt
3033 H Street
Eureka, CA 95501

Email: hmckinley@co.humboldt.ca.us

Re: Proposed MOU re: Singley Road improvements in connection with Bear River Casino

Dear Mr. McKinley:

Thank you for your response to the Bear River Band's proposed revisions to the MOU for improvements to and maintenance of Singley Road in connection with the construction and operation of the Bear River Casino on the Bear River Band's Indian lands. Attached is a newly revised draft that incorporates a number of the concerns expressed in your response. The new language is marked in bold italics.

The Bear River Band agrees that if the casino currently under construction is as successful as the Band hopes it will be, the best interests of all concerned would be served by widening and further improving Singley Road. However, unless and until the casino achieves that measure of success, the Bear River Band simply will not have the means with which to pay for the scope of initial improvements that the County is demanding. Moreover, the Bear River Band currently lacks either the financial resources or the legal power to acquire the additional rights of way that the County insists that the Bear River Band acquire.

As a responsible government, and in the long-term interest of its ability to maximize the benefits of gaming on its Indian lands, the Bear River Band desires to work with the County to improve Singley Road to the extent reasonably necessary to facilitate the movement of traffic between the casino and Highway 101. However, that desire must be tempered by what is financially realistic and legally feasible, and what the County is proposing is neither.

As a responsible government, the Bear River Band simply cannot agree to assume immediate financial and legal obligations that it lacks the financial means and/or legal ability to fulfill, or future obligations, whether financial or legal, that it will not be able to fulfill unless and until the Band begins receiving net gaming revenues in excess of

the Band's existing debt service obligations and critical current and future governmental needs.

It would be contrary to the Bear River Band's own interests to allow Singley Road to be or remain an obstacle to the success of the casino upon which so much of the future of the Bear River Band depends. Therefore, rather than attempting to impose upon the Bear River Band an unrealistic and crushing set of financial and legal obligations, we hope that the County will accept what the Bear River Band is offering as the first of a series of agreements to be negotiated in good faith over time, as needs can be more precisely quantified and resources to fulfill those needs can be accumulated.


Prominent among the purposes for which Congress enacted the Indian Gaming Regulatory Act were the use of gaming by tribal governments to provide the revenues needed to operate programs and provide services to Reservation residents and other tribal members, and the development of on-Reservation economies as sources of employment and income to tribal members. Nothing in IGRA conditions the Bear River Band's right to benefit from gaming on its Indian lands upon meeting the County's demand for road improvements that exceed the Bear River Band's ability to provide.

Similarly, while the Class III Gaming Compact between the Bear River Band and the State of California obligates the Bear River Band to assess the likely off-Reservation impacts of the construction and operation of a casino on the Band's Indian lands, to negotiate with the County concerning the mitigation of those impacts, and "... to make good faith efforts to mitigate any and all such significant adverse off-Reservation environmental impacts[,]" nothing in that Compact entitles the County to impose as a precondition to the operation of a gaming facility on the Bear River Band's Indian lands that the Bear River Band execute an agreement that imposes financial obligations to the County that the Bear River Band cannot afford, or obligates the Bear River Band to acquire interests in land that the Band has no legal power to acquire from unwilling sellers.

The Bear River Band respectfully suggests that the best way to satisfy the interests of both the Band and the County would be to enter into the limited agreement that the Bear River Band has proposed, and thereafter to monitor developments and negotiate additional agreements in response to changed conditions and the availability of additional resources.

We look forward to meeting with you to finalize an agreement in the immediate future.

Regards,



Leonard Bowman

Cc:

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