

# COUNTY OF EL DORADO

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May 24, 2016

United States Department of the Interior  
Bureau of Indian Affairs, Pacific Regional Office  
2800 Cottage Way, Suite W2820  
Sacramento, California 95825

RE: Notice of Land Acquisition Application (Non-Gaming)

Dear Regional Director Amy Dutschke,

Thank you for the opportunity to comment on the two Notices of Land Acquisition Application (Non-Gaming), for two separate applications, both dated April 7, 2016, proposed for the Shingle Springs Rancheria Band of Miwok Indians, Shingle Springs Rancheria (Verona Tract), California. Both applications for land acquisition, as further identified below, include land located near the unincorporated town of Shingle Springs off U.S. Highway 50 within the geographic boundaries of the County of El Dorado. The subject parcels are east of, and adjacent and contiguous to, the Shingle Springs Rancheria. The proposed land use for parcels for the separate applications is described as follows:

- A. "Trust Application #1" - identified as Assessor's Parcel Numbers 319-100-29, 319-100-32 and 319-100-33, 319-100-38, and 319-100-39, consisting of approximately 25.00 acres, is for residential single family development;
- B. "Trust Application #2" - identified as Assessor's Parcel Numbers 319-100-020 and 319-100-21, consisting of approximately 10.18 acres, is for residential single family development.

The purpose of this letter is to assist the Bureau of Indian Affairs in its assessment of the impact of the removal of the subject parcels of land from the tax rolls and potential impacts to the County of El Dorado. Specifically, our comments are in response to question Number 4 of the above referenced Notice<sup>1</sup>.

The proposed use of Assessor's Parcel Numbers identified above as Application #1 is for single family residential development is consistent with the low density residential land use designation

<sup>1</sup> If subject to zoning, how the intended use is consistent, or inconsistent, with current zoning.

and RE-5 zoning. Existing conditions indicate that there is currently one single family dwelling unit on each identified parcel for Application #1, and the application has indicated that the residences will continue to be utilized for tribal member housing. The County does not oppose the application with the stated use of the parcels.

The proposed use of Assessor's Parcel Numbers identified above in Application #2 is for single family residential development. The subject parcels are vacant and undeveloped, and the application indicates that the intent is to develop the parcels for additional tribal housing. While the County does not oppose the proposed development of these parcels for single family development, it should be noted that the proposed density is not consistent with the current low density residential land use designation and RE-5 zoning.

- The Tribe has posted an Environmental Assessment on their webpage indicating their intent to subdivide the parcels of Application #2 into 10 parcels with one single family residence on each parcel. Development at this rate is considerably denser than allowed for at the current RE-5 level (one single family unit per five acres) and is inconsistent with surrounding parcels.
- Placement of the properties of either or both Applications into trust will result in a loss of revenue to the County and related Districts and agencies, as, if placed in trust, those properties would be removed from the tax roll. The total loss of revenue is estimated at \$23,551.94 (\$17,980.46 for the five parcels in Application #1, and \$5,571.48 for the two parcels in Application #2). The loss of current property tax revenue is just under \$8,000.
- Additionally, any development of the parcels identified in Application #2 would result in significant future revenue being lost by the County. For example: if the proposed 10 single family residential units are developed without being taken into trust, they would be subject to Traffic Impact Mitigation (TIM) fees that the County relies on to mitigate impacts of additional vehicle traffic on its roadway system. Total TIM fees owed for the proposed development on the parcels would be \$357,740 under the current TIM fee program (\$35,740 per unit), which the County would not realize if the subject parcels are taken into trust. Additionally, if taken into trust, the proposed development will not be responsible for the payment of other development impact mitigation fees to help offset the increased cost of providing public services to the development. Such development would no longer be subject to County rules and regulations.
- Development of the parcels identified in Application #2 to ten residential properties will increase service needs. Portions of the needs are met with existing tribal resources, including tribal public safety units and the tribal health clinic. However, increased development results in impacts to County services and roads.
- Specific to the proposed land use and planned subdivision for parcels identified in Application #2, the boundaries of three of the proposed 1-acre residential parcels extend across the seasonal creek, which runs along the eastern border of the application area. Plan maps indicate no use of the creek area, or that area which extends on the opposite side of the creek. This indication has been supported by representatives of the Tribe.

However, because those parcels border to existing residential properties, concern has been expressed that conflict could arise between existing and future property owners should the use of the identified Trust properties not respect the nature of the creek area. Environmental concerns could also arise should the creek area be used in a way that is different from known and expected uses.

In order to more fully explain the concerns of the County regarding the current applications to take land into Trust, a brief description of a prior fee to trust application and the ultimate outcome of those applications is warranted. In April 2003, the County was notified of the request by the Shingle Springs Rancheria Band of Miwok Indians, Shingle Springs Rancheria (Verona Tract) to have the United States of America take two Parcels of land, Parcel 9 (Assessor's Parcel Numbers 319-210-18, 319-230-49, and 319-230-48) and Parcel 13 (Assessor's Parcel Number 319-220-18) into trust.

The use proposed for APN 319-210-18 was the construction and development of a health clinic. The use proposed for Assessor's Parcel numbers 319-210-18 and 319-230-49 was for those parcels to remain undeveloped. The use proposed for Assessor's Parcel number 319-220-181 was for Tribal housing consisting of six 3-bedroom single family residences. On April 22, 2003, the County through its Planning Department submitted comments to the BIA, including that the parcels could be developed without being put into trust. The comments from the El Dorado Irrigation District expressed the concern that once the land was placed into trust it would "immunize it from local land-use authority, however, another scenario exists in which the Tribe could devise new and different proposed uses for the property after it attains trust status." This comment turned out to be rather prescient.

Several years after the Department of the Interior accepted the parcels into trust, the Tribe proposed new and decidedly different uses for the parcels. Instead of a health clinic and tribal housing, the Tribe proposed to use the parcels for a public shooting range consisting of twenty nine lanes and a gas station/convenience store. The proposal for a shooting range in close proximity to residences in the surrounding community caused considerable public outcry. In response to the community concerns, the Tribe downsized the shooting range and limited the use to Tribal members and guests. However, the concerns regarding a shooting range being so close to residences still exists. Because the land was held in trust the County had no ability to impose conditions upon or to deny the use of the land as a shooting range. Additionally, the Tribe has conducted motocross events on the land that was once designated to be a Health Clinic causing concerns of the public regarding noise and particulate matter being created by the motocross activities again in close proximity to residences.

Ultimately, the County's interest is in ensuring, to the degree possible, that the use of the subject parcels remains as single family residential, for the use of tribal members. The County understands that there exists a need for tribal housing, and therefore also has an interest in securing a pathway to tribal housing. To that end, the County is seeking an understanding and agreement with the Shingle Springs Rancheria Band of Miwok Indians surrounding future land use decisions, such that should the identified parcels be identified for a use other than that which is currently proposed, a process would be followed by the parties, addressing the potential revised use. It is important to note that the Tribe has adopted local building and fire codes.

Should the use of the parcels in question change land use designations or result in new buildings being constructed that trigger permit or application needs, the impact to the County could be substantial. In such cases, the impact of acquisition would result in loss of discretionary application and mitigation fee revenues to the Community Development Agency, Planning Services Division, and application fees collected by other development services departments. Under all scenarios, the County would experience a decline in other direct and indirect economic activities that produce income to the County that fund vital public services. Acquisition would also impact the ability of the County to ensure that the future land use is compatible with surrounding land uses and is consistent with the intent of low density residential land use category policy statements. Increased or alternate development could also generate impacts to County services in excess of what would be expected with the number of proposed residences currently contemplated.

Due to previously expressed concerns, the County also has an interest in assurance and confirmation that the primary access to the subject parcels will be via existing tribal lands. The County would also seek assurances that proper access is provided into the future. The County also requests that the current allowed emergency access for nearby Grassy Run Homeowners' Association (GRHA) properties, via Rancheria land, continue to be allowed for emergency use should the Grassy Run roads become temporarily or permanently closed due to any reason beyond the control of Grassy Run homeowners. This use is currently provided for in a Judgment recorded on September 16, 2008, in settlement of litigation between the Shingle Springs Band of Indians and the GRHA.

Specifically stated, the impacts of the acquisition of said parcels will vary based upon potential alternative use of said parcels. While minor commercial use of the residential zoned parcels, and/or mixed use of the planned development parcels, would not specifically change the immediate financial impact to the County (i.e., due to removal of the parcels from the tax roll); all other land uses would vary significantly in their impacts to the County and the surrounding existing parcels. By way of example, development of the parcels to major commercial uses would generate significant impacts to adjacent residential parcels and to the road system.


In order to avoid future impacts, the County requests that subject parcels be developed as proposed but not acquired to include in tribal trust. If the parcels are accepted into trust, such acceptance could be conditioned upon the parcels being used for residential purposes only as depicted in the Environmental Assessment for a period of at least 20 years and if the use is to be changed the Tribe must comply with County land use regulations for the development of the parcels.

An additional request of El Dorado County is to require the payment of any and all fees related to development of the subject parcels to help defray the revenues lost by the County through removal of the parcels from within the County's jurisdiction.

Separately, we are including comments from the El Dorado County Air Quality Management District as an attachment to the County's letter.

We look forward to the Bureau of Indian Affairs response to our requests and comments concerning the proposed acquisitions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ron Mikulaco', written over a horizontal line.

Ron Mikulaco, Chairman, Board of Supervisors

Attachments