ENVIRONMENTAL ASSESSMENT

PROPOSED TRUST CONVEYANCE
PORTERVILLE AIRPARK
APN 302-400-001 through 302-400-017,
Porterville, Tulare County, California

Lead Agency:

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ENVIRONMENTAL ASSESSMENT
CONVEYANCE OF 40 ACRES OF FEE PROPERTY TO FEDERAL TRUST

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1.0 INTRODUCTION, PURPOSE AND NEED

This Environmental Assessment (EA) has been prepared to comply with the National Environmental Policy Act (NEPA) (40 CFR § 1500-1508). This EA documents the environmental review of the proposed conveyance of 40 acres of fee land into Federal trust status for the Tule River Indian Tribe. The BIA is the principal federal agency with jurisdiction over Indian land conveyances and other trust matters. The BIA as Lead Agency will use this EA to determine if the approval of the conveyance of the 40 total acres of property from fee to trust land would result in significant effects to the human environment.

The purpose of this Environmental Assessment (EA) is to satisfy the environmental review process of NEPA (National Environmental Policy Act) as set forth under the Bureau of Indian Affairs Manual (59 IAM) as well as to document the need for the Tule River Tribe to annex land as federal trust for the benefit of the members of the Tribe. It provides a detailed description of the Proposed Action and an analysis of the potential consequences associated with development of the proposed project. This EA documents the potential environmental effects of the proposed conveyance of 40 acres of fee land owned by the Tribe since 1989 into federal trust status for the Tule River Indian Tribe. This document also includes a discussion and analysis of project alternatives, impact avoidance, and mitigation measures. These mitigation measures are incorporated into the Proposed Action.

The Federal trust conveyance process is designed to help tribes recoup some of the land they lost in the late 19th and early 20th centuries, when the government's allotment policy cost tribes two-thirds of their land. In Tule River's case, the acquisition is viewed by the Tribe, in part, as a replacement of the original 1,280-acre Tule River Indian Farm located in Porterville that was fraudulently obtained by the California Superintendent of Indian Affairs chief clerk Thomas Madden on May 15, 1860.

To obtain trust status, a federally recognized Indian tribe or community must petition the U.S. Secretary of the Interior to accept land owned by the tribe into trust. Once the subject property is accepted, it acquires "quasi-sovereign nation" status. The legal process of petitioning the U.S. Secretary of the Interior is found in 25 C.F.R. Part 151. Once accepted in "Trust", the property will be considered "Indian Country". Indian Country means: 1) land within the limits of an Indian Reservation; or 2) land that is either held in trust by the United States for the benefit of the tribe or individual or held by a tribe or individual subject to restriction by the United States against alienation and over which the tribe exercises governmental power. In this case, the property will be held in trust by the United States for the benefit of the Tule River Tribe.

Article I of the Constitution and Bylaws of the Tule River Indian Tribe of California provides as follows:

> *"The jurisdiction of the Tule River Indian Tribe shall extend to the territory within the confines of the Tule River Indian Reservation, situated in Tulare County, State of California, as established by Executive orders of January 9 and October 3, 1873, and of August 3, 1878, to all lands claimed by the tribe and to which title in the tribe may hereafter be established; and to such other lands as may hereafter be added thereto under any law of the United States, except as otherwise provided by law."*

This action is also consistent with Article VII – Tribal Lands, of Tule River Indian Tribe Constitution as amended in 1974 and approved by the Secretary of Interior granted by the Act

of June 18, 1934 (Indian Reorganization Act) which states:

> *"Section 1. The unallotted lands of the Tule River Reservation and all lands which may be acquired hereafter by the Tule River Tribe, or by the United States in trust for the Tule River Tribe, shall be held as tribal lands…"*

1.1 Project Description

Proposed is the conveyance of property owned by the Tribe for 21-years from "fee" to "Federal trust" status for the Tule River Indian Tribe. Seventeen properties are involved in this project. The properties totaling 40 acres are owned by the Tule River Indian Tribe and managed by the Tule River Economic Development Corporation (TRDEC). TREDC is an instrumentality of the Tribe that manages economic activities including the Tule River Aero Industries and serves as the property manager of the Tule River Air Park. Other tenants at the Airpark include Indian Health Services, which leases office space in one of the buildings on the site and the Central California Interagency Communications Center (CCICC) which coordinates fire protection and firefighting activities among a variety of federal, state and tribal agencies.

The original 40 acre parcel was also divided into 17 lots for industrial development through a parcel map approved by the City of Porterville in 1995. Since that time, industrial development has been gradual but ongoing on the subject site. To date, two large buildings have been constructed on two parcels out of the 17 total parcels at the Porterville Airpark. In 2000, the Tribe was recognized in an award for Excellence in Economic Development in Native Communities.

The parcel is located within the city limits of Porterville, California, near the Porterville Municipal Airport. The City of Porterville's General Plan designates the site for Light Industrial Uses and the site is within the M-1(AS) (Light Industrial – Airport Safety Overlay) Zone. Uses of the parcel have been approved by the City of Porterville since 1989 and are consistent with the City's General Plan. Future uses of the remaining vacant parcels will be for Light Industrial purposes.

1.2 Background and Applicability of Carcieri v. Salazar

The present Tule River Indian Reservation was established by a series of three (3) by Executive Orders between January 9, 1873 and August 3, 1878, near Porterville, Tulare County, California. The gross acreage of the Reservation is 55,356 acres. The Tule River Indian Reservation is California's second largest Reservation and is home to the Yokuts Tribes. Yokuts are comprised of over 50 tribelets that once ranged throughout California's San Joaquin Valley.

The Tule River Indian Tribe has an IRA Constitution and Bylaws approved in January 15, 1936, with amendments approved in 1940, 1956, and 1974. The Tule River Tribe voted to accept the IRA on November 17, 1934. The Tule River Tribal Council consists of nine members with six constituting a quorum. Annual elections are held on the third Saturday in January for two-year terms. Meetings are held the first Tuesday in February, May, August, and November.

Since the Tule River Tribe accepted the Indian Re-organization Act (IRA) of June 18, 1934 (48 Stat. 984) as amended by the Act of June 15, 1935 (49 Stat. 378) they are eligible to acquire lands pursuant to 25 U.S.C. Section 465 which states:

> *The Secretary of the Interior is 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 reservations, including trust or otherwise restricted allotments, whether the allottee be living or deceased, for the purpose of providing land for Indians*.

The process and procedures for acquiring land is found in 25 C.F.R. Part 151 - Land Acquisitions. This Environmental Assessment satisfies a portion of the fee-to-trust request of the Tribe as outlined under Title 25 § 151.9 which states;

> *An individual Indian or tribe desiring to acquire land in trust status shall file a written request for approval of such acquisition with the Secretary. The request need not be in any special form but shall set out the identity of the parties, a description of the land to be acquired, and other information which would show that the acquisition comes within the terms of this part.*

In *Carcieri v. Salazar* (No. 07-526), the U.S. Supreme Court limited the federal government's power to take land into trust for the benefit of the Narragansett Tribe of Rhode Island, concluding that the authority only applies to tribes that were under federal jurisdiction in 1934. The Court held

> *"Because the term "now under federal jurisdiction" in §479 (of the Indian Reorganization Act As Currently Amended and Codified in Title 25, Chapter 14, Subchapter V, Sections 461 to 479) unambiguously refers to those tribes that were under federal jurisdiction when the IRA was enacted in 1934, and because the Narragansett Tribe was not under federal jurisdiction in 1934, the Secretary does not have the authority to take the 31-acre parcel into trust."*

Although the parties and seven *amici* offered a handful of policy arguments in support of their positions, the majority viewed this case as one turning on a basic question of statutory construction. The Indian Reorganization Act, the Supreme Court noted, permits the Secretary of the Interior to take land into trust "for the purpose of providing land for Indians." The Supreme Court then ruled that the Act defines "Indian" to "include all persons of Indian descent who are members of any recognized Indian tribe now under Federal jurisdiction." All of the parties and the Court agreed that the outcome of the dispute turned on the proper interpretation of "now under federal jurisdiction."

When California was annexed by the United States, the San Joaquin Valley was overrun with settlers, and Indian land passed into Euro American hands. The United States Calvary forced the Indians in California into regional reservations. The closest regional reservation to the San Joaquin Valley was Ft. Tejon at the base of the Tehachapi Mountains. When the Ft. Tejon Reservation failed to prosper, the Indians were then settled in 1856 to an area east of the City of Porterville along the Tule River, which is referred to as the "Tule River Farm". The farm was established on 1,280 acres on the South Fork of Tule River.

The Tule River Tribe has been under federal jurisdiction since 1856 (the date of establishment of the Tule River Farm) or 1873 (the date of establishment of the present Tule River Indian Reservation); therefore the findings in *Carcieri* do not apply to the Tule River Tribe as the Tribe clearly meets the definition as "now under federal jurisdiction" in the June 18, 1934 enactment of the Indian Reorganization Act.

In 1986, the Bureau of Indian Affairs informed the Tribe that it had over $150,000 plus interest in

its Indian Monies Proceeds of Labor (IMPL) Account. The Tribe chose to invest the IMPL funds in economic development projects and ultimately acquired two (2) forty (40) acre parcels of real property off the reservation in 1989. One 40 acre parcel was located just west of the Porterville Airport and was later subdivided by the Tribe into a 17 lot industrial park (the "Porterville Airpark").

The Tribe and the City of Porterville entered into a purchase agreement dated May 9, 1989 which closed with a Corporation Grant Deed dated September 27, 1990 and recorded October 29, 1990.

To begin the industrial park, in 1992, the Tribe and the City of Porterville were joint applicants for a grant from the Economic Development Administration of the U.S. Department of Commerce to fund infrastructure development for an industrial park on the subject site. The EDA awarded $600,000 in support of a $750,000 construction program under the Economic Development Assistance Programs—under the Public Works and Economic Development Act of 1965, as amended (42 U.S.C. § 3121 *et seq*.), and the Trade Act of 1974, as amended (19 U.S.C. §§ 2341-2391). In 1994, this grant was amended to be an $800,000 grant in support of a one million dollar construction project.

In 1993, designs for sewer, water, storm drainage facilities, and road improvements including paving, curb, gutter and sidewalk, with connection to City of Porterville existing systems were started. These improvements were constructed and the Porterville Airpark has full access to municipal water and sewer services.

The buildings on the land currently house the Tule River Economic Development Corporation (TREDC) and a U.S. Department of Agriculture (USDA) warehouse for distributing food to low-income families. TREDC is an instrumentality of the Tribe that manages other economic development programs including Tule River Aero Industries, an FAA repair station that specializes in general aircraft aviation that serves the adjacent Porterville Municipal Airport. Other tenants on the site include Indian Health Services, which leases office space in one of the buildings on the site and the Sequoia National Forest Emergency Command Center, a Central California Interagency Communications Center (CCICC) which coordinates fire protection and firefighting activities among a variety of federal, state and tribal agencies. The Eagle Mountain Casino Warehouse Facility which stores non-gaming supplies for operation of the Tribe's casino round off the existing tenants at the facility. The Assessor's Parcel Numbers for properties are 302-400-001 through 302-400-017.

To continue this pattern of economic cooperation, the Tribe and the City have entered into the attached Cooperation Agreement effective April 1, 2010 (Appendix A). In that Agreement, the Tribe agrees to follow the City of Porterville General Plan and zoning in effect for the Porterville Airport and to obtain the written approval of the City before initiating any development project at the Porterville Airpark.

1.3 Purpose of the Proposed Action

The purpose of this action is to continue to expand the Tule River Tribe's land base to satisfy Tribal needs in the areas of Tribal self-determination, housing, economic self-sufficiency and alleviation of poverty.

In essence, it is the Tribe's desire to acquire the 40 acres proposed for conveyance from fee status to Federal trust land, as evaluated in this Environmental Assessment. Since the parcels are located approximately 13.6 miles from the Reservation community core which includes educational facilities, recreation opportunities at the gymnasium, and access to Tribal programs, the property is easily commutable (20 minutes) for residents of the Reservation for employment opportunities.

The conveyance of this property is an important opportunity for the Tule River Tribe to "reclaim" some of its historical territory and incorporate the land back into its Tribal land holdings. If the fee to trust transfer occurs, the Tribe will be able to utilize its historical territory for economic development and prosperity that is not reliant on the gaming industry; the fee to trust transfer allows the Tribal Government to exert civil jurisdiction; and make all future land use and zoning decisions in collaboration with the City of Porterville, and to obtain funding opportunities that are restrictive to federal trust lands.

1.4 Need for the Proposed Action

Approval of the fee to trust application allows the Tribe to explore expanded job creation efforts consistent with the City's growth strategy. The realization of the project would increase the standard of living and provide employment opportunities for both Tribal members and citizens of the City of Porterville. Profits from the project will be allocated by the Tule River Tribal Council for community development, land purchases, business development, support for law enforcement and the judicial system, Tribal services, and contributions to the Tribal fund.

Another need for the proposed action is to address the Tribe's desires for cultural and social preservation, expression and identity, political self-determination, self-sufficiency, and economic growth and diversification by providing a tribal land base within the City of Porterville and on the floor of the Central Valley.

1.5 General Setting

The 40-acre parcel is located in a portion of Southwest ¼ Quarter of the Northeast ¼ Quarter of Section 8, Township 22 South, and Range 27 East, of the Mt. Diablo Base and Meridian, Tulare County, California. The parcel is comprised of 40-acres and is located within the city limits of Porterville, California, adjacent to the Porterville Municipal Airport. The parcel lies within the city's Enterprise Zone, which is zoned for recreational-oriented uses. The City of Porterville's General Plan designated the site for Light Industrial Uses and the site is within the M-1(AS) (Light Industrial – Airport Safety Overlay) Zone. The Assessor's Parcel Numbers for these 17 properties are 302-400-001 through 302-400-017 (See Figures 1 and 2).

1.6 Overview of the Environmental Review Process

This EA has been prepared to analyze and document the environmental consequences associated with the proposed transfer of the 40-acres into federal trust status for the Tule River Tribe. The Bureau of Indian Affairs will use this document to determine if the proposed project would result in adverse effects to the environment. If trust status is approved, the U.S. will hold legal title and the Tribe will hold beneficial title and exercise tribal sovereignty over the lands.

After receipt of the Tribe's application to acquire land in trust, the BIA is required to notify the State of California and local governments having regulatory jurisdiction over the land. The State of California and local governments were provided an opportunity to present comments on the acquisition's potential impacts on regulatory jurisdiction, real property taxes, and special

assessments during their review of the 25 CFR Part 151 process.

If approved by the Bureau of Indian Affairs, a notice published in a newspaper of general circulation will invite public comments on the Environmental Assessment for the proposed action. The comment period, as well as information regarding access to the Environmental Assessment, will be disclosed in the notice. The Lead Agency will determine that either a Finding of No Significant Impact (FONSI) is appropriate or an Environmental Impact Statement (EIS) is required.

1.7 Environmental Issues Addressed

Regulations promulgated by a variety of government agencies at the federal, state, and local level are cited and discussed in different portions of this document. These regulations result in the identification of environmental effects and their mitigation. Compliance with these regulations will be discussed in the Environmental Consequences section as the rationale for determining that an adverse effect would be avoided. All potential environmental impacts that have been identified can be mitigated to less than significant levels with incorporation of the measures that are proposed herein. The following laws, statutes, executive orders, and regulations have been evaluated in this EA:

1.7.1 Environmental Protection Agency (EPA)

EPA has taken the position in the Tribal Authority Rule under the Clean Air Act (CAA) based on several provisions of the statute and legislative history - that the CAA constitutes a delegation of Congressional authority to eligible tribes to run air programs over their entire reservations, including fee lands. Under that regulation, tribes may also run programs on non-reservation lands over which they can demonstrate jurisdiction. However, EPA's Indian policy states that "*Until Tribal Governments are willing and able to assume full responsibility for delegable programs, the Agency will retain responsibility for managing programs for reservations unless the State has an express grant of jurisdiction from Congress sufficient to support delegation to the State Government.*" Thus, EPA maintains jurisdiction on the Tule River Trust lands over air quality until such time that the Tribe chooses to assume jurisdiction. Once the property is conveyed to federal trust, the National Ambient Air Quality Standards and not the State of California standards currently in place and overseen by the San Joaquin County Air Pollution Control District.

The National Pollution Discharge Elimination System (NPDES) is a national program for regulating and administering permits for all discharges to receiving waters. Discharges to receiving waters on Indian lands in California are regulated by the EPA. All construction projects encompassing one acre or more on Federal Land, including Indian lands/reservations, must be covered by the EPA's NPDES General Storm Water Discharge Permit for Construction Activities. Since any future development of the parcel could involve the construction of additional buildings, the requirements of a NPDES permit will apply. If any new construction occurs before the property is conveyed to federal trust status, a Storm Water Pollution Prevention Plan (SWPPP) would need to be submitted to Central Valley Regional Water Quality Control Board (CVRWQCB) as well.

Other Federal regulations under the jurisdiction of EPA that have been analyzed in this EA include, but are not limited to, the following:

- The Clean Water Act

- The Resource Conservation and Recovery Act
- The Safe Drinking Water Act

1.7.2 Federal Emergency Management Agency (FEMA)

Any development in floodplains and floodways is regulated by the Federal Emergency Management Administration (FEMA). The subject properties are a "Mapped Community" and FEMA has jurisdiction on the subject. However, the entire subject parcel is located outside of the 100-year flood zone (FIRM Panel No. 060407 0001 0015 October 15, 1985).

1.7.3 Endangered Species Act

No evidence of San Joaquin kit fox habitation on the subject site was identified in the prior environmental reviews for the approval of development of the industrial park. Adjacent properties have been identified as potential foraging sites in a Biological Opinion issued by the U.S. Fish and Wildlife Service. That Biological Opinion was amended to permit the mitigation of potential incidental take of foraging areas through the purchase of conservation credits in an established conservation bank. Those credits have been purchased, and development on the adjacent site has begun. As the subject site has not been identified as potential habitat of endangered or threatened species, and the potential habitat on adjacent properties has been removed in conformance with the Endangered Species Act, the proposed project will not affect either the San Joaquin Kit Fox. The valley elderberry longhorn beetle (VELB) is native to the area but requires elderberry bushes as a critical component of their habitat. As the site is graded and maintained and does not contain elderberry bushes, it does not provide suitable habitat for VELB.

1.7.4 American Indian Religious Freedom Act

The Tule River Tribal Council, based upon a cultural resource survey conducted on the subject properties, personal knowledge of the site, and elder recollections, confirmed that the proposed change in land title does not impact upon or interfere with any known sacred or religious sites or geographic sites, artifacts, burial grounds or religious practices. Consequently, the proposed project will not violate the American Indian Religious Freedom Act of 1978.

1.7.5 National Historic Preservation Act

Advanced Archaeological Research, Inc. of Portland, Oregon, conducted a cultural resource survey of the proposed site in February 2008. The survey included a Class I previous research and site files check, and Class III pedestrian survey for the proposed project. To ensure all possible effects to historical and cultural resources were considered, the entire proposed site was surveyed.

No historic properties were identified during the inventory of the project area. On February 23, 2010, the SHPO was provided a letter from the Pacific Region of the Bureau of Indian Affairs which stated that the "BIA is proposing a finding of No Historic Properties Affected". Concurrence from SHPO is pending. See Appendix B.

1.7.6 State and Local Agencies

As a result of the Cooperation Agreement between the City of Porterville and the Tule River Indian Tribe, the property would require the Tule River Tribe to comply with the relevant Porterville City regulations while the property is in fee status and after trust acquisition including following provisions:

- After the Federal Government takes title to the property in trust for the Tribe, the Tribe agrees that it will not engage in any new development, construction or new operation of any land use on the Tribal Property prior to execution or a written agreement between the Tribe and the City which agreement shall assure that:
- 1) any intended land use of the Tribal property shall be consistent with the City's General Plan, and all applicable City regulations and policies, including its zoning ordinance and site development standards for the Tribal Property, in effect at the time of the proposed development, construction or commencement of operation, and
- 2) any and all appropriate monetary and community contributions shall be committed to the City to account for the City's share of lost revenues in the form of taxes, licenses, development impact fees and to mitigate various impacts that may arise in connection with any proposed developments in the City that are consistent with the City's land use regulations.

1.8 Document Contact Information

The following contact information is provided to to all interested agencies, groups and persons:

Lead Agency: United States Department of Interior, Bureau of Indian Affairs, Pacific Region Office, 2800 Cottage Way, Sacramento, CA 95825, (916) 978-6044. Pat O'Mallan, Environmental Specialist.

Cooperating Agency: Tule River Tribe, Tule River Tribal Council, P.O. Box 589, Porterville, CA 93258 (559) 781-4271. Ryan Garfield, Tribal Chairman.

Document Preparer: LACO Associates Consulting Engineers, 21 W. 4th Street, Eureka, CA 95501 (707) 443-8329. L. Robert Ulibarri, AICP, Registered Environmental Assessor (REA #02616)

2.0 PROPOSED ACTION AND ALTERNATIVES

The 59 IAM format, as prescribed by the Bureau of Indian Affairs and utilized herein, requires the Lead Agency to consider alternatives to the proposed action. For the proposed action, two alternatives are presented: 1) Proposed Action (Preferred Alternative), and 2) the "No action" alternative. The following issues and concerns are typically identified as criteria to evaluate an alternative action under 59 IAM:

1. Topography, Soil Types and Geological Setting.
2. Water Quality.
3. Air Quality.
4. Wildlife and Vegetation.
5. Historical, Cultural and Archaeological Resources.
6. Community Infrastructure.
7. Transportation Networks.
8. Land Use Plans;
9. Sound and Noise.
10. Aesthetic Values.
11. Employment and Income.
12. Attitudes, Expectations and Cultural Values.

Based on the application of the above, the proposed action and alternative actions are presented below:

2.1 Proposed Action

2.1.1 Land Trust Action and Secretarial Determination

The proposed action includes the conveyance of property that is composed of approximately 40-acres of land within the limits of the City of Porterville west of the Porterville Municipal Airport off of West Street, Tulare County, California from fee simple to federal trust status. The affected parcels include APN's 302-400-001 through 302-400-017. Under CEQ Regulations, this action is considered a direct effect (caused by this action and occurs at the same time and place).

2.1.2 Future Developments

Construction of future developments are not known at this time due to a combination of external issues including the state of the global economy, leasing opportunities that are based on market conditions which are currently depressed, and "build to suit" financing whereby lower interest rates and borrowing opportunities are limited. The Tribe has opportunities for financing future developments however, in most cases, financing is limited to projects on Reservation lands.

Any future development is considered an indirect effect (caused by the action and are later in time or farther removed in distance, but are still reasonably foreseeable).

Therefore, the specific nature of future developments is speculative at this time as the financing options available are dependent in part on the trust conveyance of the property. In essence, final determinations regarding development type cannot be made until a financing mechanism is identified and its limitations understood. Financing mechanisms cannot be determined until the property is acquired in trust. Based on the

Cooperative Agreement between the Tribe and the City of Porterville, it may reasonably be assumed that development will be consistent with the City's M-1(AS) Zone.

NEPA requires that in alternative analysis consideration be given to reasonable alternatives not within the jurisdiction of the Lead Agency. For the purposes of future developments, the Cooperation Agreement between the City of Porterville and the Tule River Indian Tribe (City/Tribal Agreement) specifies the manner in which future actions will be handled and is a process not totally within the jurisdiction of the Bureau of Indian Affairs.

Although there are no new or future changes in land use for the project parcels contemplated for the reasons outlined above, the City/Tribal Agreement which was adopted by both parties on April 1, 2010 creates a legally binding process in which future actions will be subject to the City's general plan and land use regulations and policies. For a copy of the executed agreement, please refer to Appendix A.

2.2 No Action Alternative

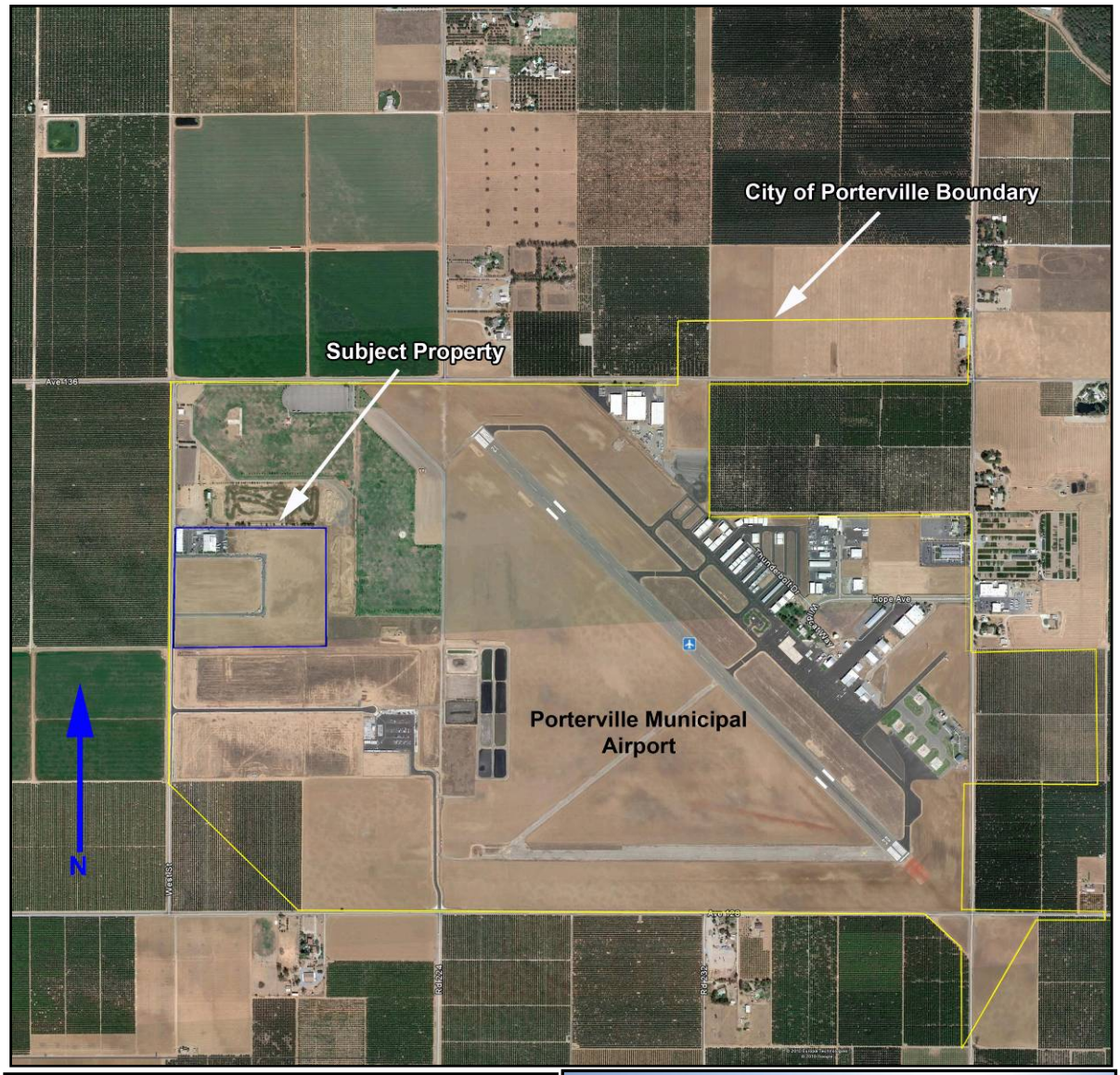
The "No Action" alternative would maintain the status quo of the site as "fee land". It would not be conveyed to Federal trust.

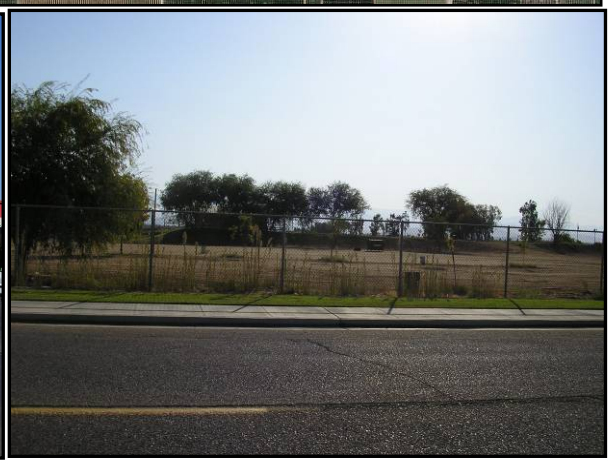
If the no action alternative were selected, the project area would still be available for development. It will remain under the jurisdiction of the City of Porterville. Accordingly, none of the potential impacts to environmental resources as discussed in Section 5.0 would occur. However, the no action alternative would have adverse impacts of its own. Primarily, the proposed project's contribution to the economy of the Tribe and the City of Porterville may not be sustained unless an infusion of cash is obtained through trust status designation, both in terms of short-term and long-term benefits.

The No Action Alternative is considered unacceptable by the Tribe since it fails to meet the goal of self-sufficiency of the Tule River Indian Reservation and is inconsistent with several articles in the Constitution and Bylaws of the Tule River Tribe.

Figure 2-1 Regional Site Location

Figure 2-2 Aerial Map and Photos of Site





3.0 DESCRIPTION OF AFFECTED ENVIRONMENT

3.1 Land Resources

3.1.1 Topography

The topography of the area is relatively flat. The area outside the site in all directions is generally flat, but to the east and north, some gently rolling hills and hillsides are present. Elevations within the subject area range from 375 to 425 feet above mean sea level. The topographic relief is highest at the northeast corner of the site and lowest at the southwest corner of the site. The elevation difference is less than five feet over a distance of 1,000 feet.

3.1.2 Soil Types and Characteristics

The Natural Resources Conservation Service (NRCS – formerly the Soil Conservation Service) Soil Survey of Tulare County, California (1985) describes the near-surface soils at the Site and vicinity. The NRCS soil survey identifies the soil associations, describes soil conditions in the upper five feet, and classifies land capability in terms of potential agricultural productivity. The entire subject site is classified by the NRCS as being Exeter loam, occurring in 0 to 2 percent slopes. This type of soil is considered to be farmland of statewide importance, given the agricultural setting of the surrounding areas. Appendix C of this document contains a greater description of the soil unit as well as a soil unit map for the project area.

3.1.3 Geologic Setting

The San Joaquin Valley is part of the Central Valley, which is a large, northwest-trending, asymmetric structural trough, filled with marine and continental sediments. To the east of the valley, the Sierra Nevada's are composed primarily of pre-Tertiary granitic rocks, which are separated from the Central Valley by a foothill belt of marine and metavolcanic rocks. The Coast Ranges west of the valley are a complex assemblage of rocks; including marine and continental sediments of Cretaceous to Quaternary age (Bartow 1991).

Geologic hazards consist of the geologic conditions that could affect the stability of the ground and engineered structures associated with the action alternative, including earthquakes, soil liquefaction, slope stability (rockfalls and landslides), and surface subsidence.

3.1.4 Seismic Hazards

The U.S. Geological Survey (USGS), under its Earthquake Hazards Program, publishes earthquake information for all states, including the State of California. The USGS Earthquake Hazard Map shows the distribution of earthquake shaking levels that have a certain probability of occurring. Colors on the map show levels of horizontal shaking that have a 1-in-10 chance of being exceeded in a 50-year period. Shaking is expressed as a percentage of g (where g is the acceleration of a falling object due to gravity).

The San Joaquin Valley, including the city of Porterville, lies within a seismic zone designated as 8–16% g - Peak Acceleration. By comparison, a Peak Acceleration of 10-

12% g indicates the approximate threshold of damage to older (pre-1965) dwellings or dwellings not made to resist earthquakes (USGS 2001).

Liquefaction damage resulting from ground shaking is a serious threat within the San Joaquin Valley region. Liquefaction occurs when the ground shakes and causes shallow, unconsolidated, water saturated deposits of silt and sand to temporarily lose strength and flow. Structures built on those deposits commonly experience major damage when liquefaction takes place. Groundwater at the subject site is at a depth that is not likely to be subject to liquefaction.

The project area is generally too flat to be affected by mass movements such as rockfalls and landslides. Earthquake or rainfall induced landslides or rockfalls generally occur along steeper slopes comprised of relatively weak soil deposits. The site and surrounding area is relatively flat and therefore such geologic hazards are unlikely events.

3.1.5 Mineral Resources

There are no known mineral or energy resources of local, regional, or national importance on the proposed project site according to the California Geological Survey.

3.2 Water Resources

The San Joaquin Valley comprises the San Joaquin, Kings, and Kern River Basins in central California. The 12,000-square-mile valley is bordered on the west by the Coast Range, where elevations exceed 4,000 feet, and on the east by the Cascade Range, with several peaks higher than 10,000 feet. The San Joaquin Valley itself ranges in elevations from near sea level to 585 feet above mean sea level.

The nearest surface water body is the Fraint-Kern Canal, which lies approximately one mile due west of the Tule River Airpark. The canal originates approximately 75 miles to the north at Fraint Dam and Millerton Lake northeast of Fresno, California.

The Porterville area lies within the Tulare Lake Watershed, which comprises the drainage area of the San Joaquin Valley south of the San Joaquin River. The watershed is a closed basin since the surface water drains north into the San Joaquin River only in years of extreme rainfall. The watershed includes six groundwater basins, including the Tule Lake Basin. Although most of the Tulare watershed is classified by EPA as seriously impaired, the area underlying Porterville is classified as “Less Serious Water Quality Problems – Low Vulnerability.” Large amounts of ground water are held in storage in the alluvial materials of the San Joaquin Valley and in proximity to the proposed project site. No comprehensive groundwater monitoring program exists for the basin due to the lack of resources to conduct watershed wide assessments.

The California Department of Water Resources (2002) reports that due to the closed basin, semi-arid climate and highly productive agriculturally areas, vast quantities of supply water are imported. Most of the imported water is of excellent quality, but its sheer magnitude equates to millions of tons of salt imported each year. Although regulation of discharges has reduced the salt discharge, disposing of salts has become problematic. Fertilizers, soil amendments, and leachate from affected soils are additional sources of salt. Thus, elevated levels of salinity impact more than 1,800 square miles of valley floor groundwater aquifers (San Joaquin District 2002). The Water Quality Control Plan for the Tulare Lake Basin specifies that groundwater

monitoring should be undertaken to detect long-term trends and to identify problem areas for further study.

Executive Order 11990 (Protection of Wetlands) requires an examination of impacts to wetlands. A review of the California Wetlands Information System, available on the internet at: http://ceres.ca.gov/wetlands/introduction.html, shows that no State or Federal managed wetlands occur within a 50 mile radius of the Site, although small patches of wetlands (as defined by the Clean Water Act) are located in the Porterville area, particularly in the vicinity of the Tule River.

3.2.1 Surface Water

The proposed project site is located in the Tulare Lake Drainage Basin. This watershed has an area of 392 square miles, and is drained by the north, middle, and south forks of the Tule River. The annual and monthly flows of the river are extremely sporadic, with dry periods of no recorded flows. The flow of the Tule River onto the valley floor is regulated by Success Dam, which is located approximately 5 miles northwest of the project site. Success Dam has a storage capacity of approximately 80,000 acre feet. Lake Success provides storage for irrigation water, flood control, and recreational purposes.

3.2.2 Groundwater

The subject properties are within the San Joaquin Valley Groundwater Basin, Tule Sub basin. The Tule Groundwater Sub basin is generally bounded on the west by the Tulare County line, excluding those portions of the Tulare Lake Sub basin Water Storage District and Sections 29 and 30 of Township 23 South, Range 23 East, that area west of the Homeland Canal. This boundary is shared with the Tulare Lake Groundwater Sub basin. The northern boundary of the sub basin follows the northern boundaries of Lower Tule Irrigation District and Porterville Irrigation District and is shared with the Kaweah Groundwater Sub basin. The eastern boundary is at the edge of the alluvium and crystalline bedrock of the Sierra Nevada foothills, and the southern boundary is the Tulare-Kern County line and is shared with the Kern County Groundwater Basin. Although the number of private water wells utilizing the Tule Groundwater Sub basin is not known, the City of Porterville supplies the project vicinity with municipal water. Therefore, it is unlikely that a large drawdown on the Sub basin would occur due to private water wells near the project area. According to Geotracker database, the project area does not include monitoring wells.

3.2.3 Flooding

Porterville is in the Tulare County Flood Control District. Since the climate is relatively arid and development continues to increase the amount of impervious surfaces, surface run-off and storm drainage must be managed. The average annual precipitation in the Porterville area is approximately 11 inches. However, portions of the Tule River watershed, which could contribute to flooding in Porterville, has a mean annual precipitation of 40 inches. Eighty five percent of the annual precipitation occurs between November and April.

In Porterville, the storm flood hazard is considered to be low because the City does not permit development in the floodplain without adequate mitigation measures. Flood zone

mapping by the Federal Emergency Management Authority (FEMA) indicates that approximately six percent of the total Planning Area is located within the 100-year floodplain and another five percent is located within the 500-year floodplain. These two floodplains closely correspond to the watercourses that flow through the city.

The Tule River is located approximately 3.0 miles north-northeast of the Site. Its floodplain is approximately 0.25 miles wide, which places the 500-year floodplain approximately 2.5 miles north. FEMA's Flood Insurance Rate Map designates the Tule River Airpark and surrounding area as "Zone C".

FEMA describes Zone C as areas of moderate or minimal hazard subject to flooding from severe storm activity or local drainage problems. The Tule River Airpark is at approximately the same elevation as the Tule River (423 feet above mean sea level). Various streets and SR 190 lie between the Site and the Tule River.

3.2.4 Wetlands

Executive Order 11990 (Protection of Wetlands) requires an examination of impacts to wetlands. A review of the California Wetlands Information System, available on the internet at: http://ceres.ca.gov/wetlands/introduction.html, shows that no State or Federal managed wetlands occur within a 50 mile radius of the Site, although small patches of wetlands (as defined by the Clean Water Act) are located in the Porterville area, particularly in the vicinity of the Tule River.

3.2.5 Water Quality

According to the County of Tulare General Plan Background Report, surface water quality in the County has exhibited no significant problems do to agricultural use. Most cases of water quality degradation in the County have been isolated incidents or only affect certain areas. Groundwater quality in Tulare County is monitored by a number of agencies, mainly to insure safe drinking water standards. There are no known groundwater quality problems in the immediate vicinity of the proposed project site according to the Tulare County General Plan Background Report.

In general, urbanization has a direct impact on water resources and water quality. Urbanization introduces impervious surfaces to the landscape, including concrete, asphalt, and other building materials. This reduces the amount of permeable surfaces, which are vital for groundwater percolation and the recharge of water aquifers. In addition, urbanization reduces natural vegetation, which plays an important role in reducing erosion and sedimentation, and filtering pollutants from water as it percolates through the soil. Urbanization also decreases water quality by increasing the amount of pollutants that enter waterways. Pollutants, including silt, herbicides, pesticides, fertilizers, trash, grease, oil, hydrocarbons, and heavy metals are constantly introduced to the built environment. Stormwater often carries these pollutants from streets, parking lots, and landscaped areas to urban drainage systems that flow to natural streams, rivers, and lakes. These pollutants can pose a serious threat to the water quality of the streams, rivers, and lakes, and can have a negative impact on their ecology.

The NPDES program, established pursuant to the Clean Water Act, is a national program for regulating and administrating permits for discharges to receiving waters. The United Stated Environmental Protection Agency (EPA) is charged with regulating discharges to surface waters. Discharges to receiving waters on Indian lands in

California are regulated by the EPA. Any future construction projects encompassing one acre or more on Federal Land, including Indian lands/reservations, are regulated by the EPA's NPDES General Storm Water Discharge Permit for Construction Activities. Development in the foreseeable future will require a NPDES permit provided that the property is conveyed to trust prior to construction. If any new construction occurs before the property is conveyed to federal trust status, a Storm Water Pollution Prevention Plan (SWPPP) would need to be submitted to Central Valley Regional Water Quality Control Board (CVRWQCB)

3.3 Air Quality

The proposed project site is located in the San Joaquin Valley Air Basin, a basin that covers more than 25,000 square miles. The basin is bounded on the west by the Coastal Range, on the east by the Sierra Nevada Mountains, on the south by the Tehachapi Mountains, and on the north by the Sacramento Valley.

The meteorology and climate of the San Joaquin Valley are unusually favorable for the development of air pollution. The climate is mostly of the Mediterranean type with moist cool winters and warm dry summers. The general air circulation of the air basin is characterized by northerly winds in the summer and southerly winds in the winter. The wind circulation permits the transport of air pollutants over long distances in the Valley. Light winds and stable atmospheric pressure also provide frequent opportunities for pollutants to accumulate in the air basin. The warm summer temperatures of the San Joaquin Valley also contribute to the creation of high levels of ground-level ozone, commonly referred to as smog. Smog is created when heat and sunlight transform volatile organic compounds and nitrogen oxides from vehicle exhaust, industrial processes, and other operations into ground-level ozone. In addition to smog, dry weather conditions and topography allow small particles of man-made compounds, as well as soot, ash, and dust, to become suspended in the air. This creates another harmful air pollutant known as particulate matter (PM_{10}). The mountain ranges that surround the Valley trap these air pollutants and prevent them from easily dissipating. In winter temperatures, inversion layers typically form at the ground level, which creates "Tule fog" conditions. The inversion layer also hinders the dispersal of air pollutants.

3.3.1 Criteria Air Pollutants

Efforts to reduce air emissions are required by the Federal Clean Air Act and the California Clean Air Act. The federal government, primarily through the Environmental Protection Agency (EPA), sets federal health standards for air emissions. The EPA also oversees state and local actions and implements programs for toxic air pollutants, heavy-duty trucks, locomotives, ships, aircraft, off-road diesel equipment, and other types of industrial equipment. In California, the California Air Resources Board (CARB) sets state air quality standards and implements programs to improve air quality. The state air quality standards are equal to or more stringent than the federal air quality standards. Table 1 is a comparative analysis of the National and California air quality standards.

Regional air pollution control districts are responsible for monitoring air quality and implementing plans, programs, and air pollution control measures to meet federal and state air quality standards. The San Joaquin Valley Air Pollution Control District (SJVAPCD) is the regional air pollution control district for the San Joaquin Valley Air Basin. The SJVAPCD's mission is to improve the health and quality of life for all Valley

residents through cooperative and effective air quality programs.

As indicated on Table 1, the San Joaquin Valley Air Basin does not currently meet federal and state air quality standards for ozone and particulate matter. Long term exposure to these pollutants can cause or aggravate respiratory and cardiac conditions and can contribute to the premature death of people and animals. In addition, ozone can damage crops, ornamental vegetation, and man-made materials, which can negatively affect the agricultural economy of the Valley. Particulate matter also obscures visibility and degrades views of the Valley and surrounding mountain ranges.

Table 1
State and National Ambient Air Quality Standards

Pollutant	Averaging Time	National[b,c]	State of California[a,c]
Ozone[d]	1 hour	0.12 ppm (235 μg/m^3)	0.09 ppm (180 μg/m^3)
	8 hour	0.08 ppm (160 μg/m^3)	NA
Carbon Monoxide	1 hour	35 ppm (40,000 μg/m^3)	20 ppm (23,000 μg/m^3)
	8 hour	9 ppm (10,000 μg/m^3)	9.0 ppm (10,000 μg/m^3)
Nitrogen Dioxide	1 hour	NA	0.25 ppm (470 μg/m^3)
	Annual	0.053 ppm (100 μg/m^3)	NA
Sulfur Dioxide	1 hour	NA	0.25 ppm (655 μg/m^3)
	3 hour	0.5 ppm (1,300 μg/m^3)	NA
	24 hour	0.14 ppm (365 μg/m^3)	0.04 ppm (105 μg/m^3)
	Annual	0.03 ppm (80 μg/m^3)	NA
Particulate Matter (PM-10)	24 hour	150 μg/m^3	50 μg/m^3
	Annual	50 μg/m^3	30 μg/m^3
Sulfates	24 hour	NA	25 μg/m^3
Lead	30 day	NA	1.5 μg/m^3
	Calendar Quarter	1.5 μg/m^3	NA
Hydrogen Sulfide	1 hour	NA	0.03 ppm (42 μg/m^3)
Vinyl Chloride	24 hour	NA	0.010 ppm (26 μg/m^3)

a California standards for ozone, carbon monoxide, sulfur dioxide, nitrogen dioxide, particulate matter (PM-10) are values that are not to be exceeded. All other California standards shown are values not to be equaled or exceeded.

b National standards, other than for ozone and particulate matter and those based on annual averages, are not to be exceeded more than once per year. For the one-hour ozone standard, the ozone standard is attained when the expected number of days per calendar year with maximum hourly average concentrations above the standard is equal to or less than one. The eight-hour ozone standard is met at a monitoring site when the three-year average of the annual fourth-highest daily maximum eight-hour average ozone concentration is less than or equal to 0.08 ppm.

c ppm = parts per million by volume; μg/m^3 = micrograms per cubic meter.

d New standards effective September 16, 1997 (40 CFR 50.7 and 40 CFR 50.10).

NA: Not Applicable.

On the Tule River Indian Reservation, neither the U.S. Environmental Protection Agency nor the Tribe has performed air quality conformity determinations. As a Federal agency, the Bureau of Indian Affairs (Lead Agency) must complete conformity determinations for those project actions over which they exert continuing management responsibility and control. It should be noted that pursuant to the Clean Air Act as amended, air quality jurisdiction falls with the Tribe if programmatic jurisdiction is delegated by the U.S.

Environmental Protection Agency. The Tule River Tribal Council is a recipient of a General Assistance Program grant from EPA and operates several environmental programs but has not assumed air quality jurisdiction. Therefore, EPA maintains air quality jurisdiction for the Reservation and not the State. Instead of State standards the National Ambient Air Quality Standards (NAAQS) apply. This issue is not unique to the Tule River Indian Reservation as it is the same at most of the 114 Indian Reservations or Rancheria's in California.

The general project area (but not the Tule River Indian Reservation) falls under the jurisdiction of the San Joaquin Valley Air Pollution Control District (SJAPCD). Tulare County Rules and Regulations affect prescribed burns and related air quality issues. Tulare County is a designated "non-attainment" area for total suspended particulates and ozone. Non-attainment means that the County exceeds the National Ambient Air Quality Standards for these pollutants. The standard is based on human health criteria. For regulated pollutants that exist below the standard, the Prevention of Significant Deterioration (PSD) rule is the guiding legislation.

This rule simply provides that areas currently cleaner than Standard are allowed to deteriorate only a small increment in Class I designated areas, while slightly greater increments are allowed in areas with Class II designations. All National Forests near the Reservation lands are designated as Class II. The Tule River Indian Reservation and the private housing tracts of Rodgers Camp and Camp Nelson are all designated Class II areas.

The San Joaquin Valley Air Basin does not currently meet federal and state air quality standards for ozone and particulate matter. Long term exposure to these pollutants can cause or aggravate respiratory and cardiac conditions and can contribute to the premature death of people and animals. In addition, ozone can damage crops, ornamental vegetation, and man-made materials, which can negatively affect the agricultural economy of the Valley. Particulate matter also obscures visibility and degrades views of the valley and surrounding mountain ranges.

3.4 Biological Resources

This section describes the biological resources that exist on the proposed project site.

3.4.1 Wildlife

Wildlife habitat within the vicinity is generally poor due to the periodic tilling and harvesting of hay in the area, as well as agricultural practices in the surrounding area. Five bird species were observed or heard within the project site during a pedestrian survey: house finch (Carpodacus mexicanus), turkey vulture (*Cathartes aura*), white-crowned sparrow (*Zonotrichia leucophrys*), Anna's hummingbird (*Calypte anna*), horned lark (*Eremophila alpestris*), and crow (*Corvus brachyrhychos*). Four additional birds were noted outside the project site. Two bird species were either seen or heard within one-mile of the outer boundary of the project site: the marsh hawk (*Circus cyaneus*) and western meadow lark (*Sturnella neglecta*). Two other species, the golden eagle (*Aquila chrysaetos*) and red-tailed hawk (Buteo jamaicensis) were noted near the intersection of Scranton Avenue and California Highway 65, approximately 2 miles from the eastern boundary of the project site, and 0.75 mile beyond the project action area boundary. No live mammals were observed during the survey. However, tunnels and scat for the California ground squirrel (*Spermophilus beecheyi*) were noted near the southern fence

line, and signs of the valley pocket gopher (*Thomomys bottae*) were also noted along the southern fence line.

No evidence has been identified to indicate that the site provides habitat for any endangered or threatened species. The City of Porterville, in conjunction with the U.S. Fish and Wildlife Service recently developed and approved the removal requirements of a single elderberry shrub on property to the south of the subject site in conjunction with the subdivision of that property into four large parcels. Elderberry shrubs provide habitat for the valley elderberry longhorn beetle (*Desmocerus californicus dimorphus*), a federally listed Threatened species. Based on information gathered during a 2010 site visit by Randall Rouda, AICP, no elderberry shrubs have been identified on the subject site. Prior environmental reviews of the project also did not discuss the existence of elderberry shrubs on the property. The site is within the range of the San Joaquin kit fox (*Vulpes macrotis mutica)* a federally listed endangered species. No evidence of San Joaquin kit fox habitation on the subject site was identified in the prior environmental reviews for the approval of development of the industrial park. Adjacent properties have been identified as potential foraging sites in a Biological Opinion issued by the U.S. Fish and Wildlife Service.

That Biological Opinion was amended to permit the mitigation of potential incidental take of foraging areas through the purchase of conservation credits in an established conservation bank. Those credits have been purchased, and development on the adjacent site has begun. As the subject site has not been identified as potential habitat of endangered or threatened species, and the potential habitat on adjacent properties has been removed in conformance with the Endangered Species Act, the proposed project will not affect either the valley elderberry beetle or the San Joaquin Kit Fox. The amended Biological Opinion issued by the U.S. Fish and Wildlife Service is attached in Appendix D.

3.4.2 Vegetation

Vegetation at the Airpark consists mostly of non-native species growing on previously disturbed land on and near the site.

Non-native annual grasses were observed in a few relatively undisturbed areas of the project site including wild oats (*Avena fatua*), soft chess (*Bromus mollis*), red brome (*Bromus rubens*), and foxtail barley (*Hordeum jubatum*). Bermuda grass (*Cynodon sp*.) was observed in the shoulder of Teapot Dome near Road 224, about 0.5 miles south of the project site. Non-grass weed species included common Russian thistle (*Salsola iberica*), prickly lettuce (*Latuca serriola*) and common cocklebur (*Xanthium strumarium*).

No native trees or shrubs were noted on the project site. Shrubs and trees planted in the vicinity of the two TREDC buildings included oak (*Quercus sp.*), red tip (*Photinia sp*.) and oleander (*Nerium oleander*). A few eucalyptus (*Eucalyptus sp*.) and a California pepper tree (*Schinus molle*) were observed on the Porterville Sportsplex side of the northern fence line. Cultivated orange groves (*Citrus sinensis*) are common in much of the surrounding countryside.

3.5 Cultural Resources

As a federal action, the proposed undertaking must comply with NEPA and Section 106

(Codified as 36 CFR Part 800) of the National Historic Preservation Act, and must consider effects to historic properties. Advanced Archaeological Research, Inc. of Portland, Oregon, conducted a cultural resource survey of the proposed site in February 2008. The survey included a Class I previous research and site files check, and Class III pedestrian survey for the proposed project. To ensure all possible effects to historical and cultural resources were considered, the entire proposed site was surveyed. The written report is a confidential document that is protected under the Archaeological Resources Protection Act of 1979 (16 USC Chapter 1b; § 470hh) and is not available to the general public. The report however, has been provided to cognizant agencies including the Bureau of Indian Affairs and the State Historic Preservation Officer (SHPO).

No historic properties were identified during the preliminary inventory of the project area. The report was submitted to the State Historic Preservation Office (SHPO) for review and approval. On December 13, 2007, the California SHPO concurred with the cultural resource report conducted for the site. No further archaeological research was required and no stipulations were made. Appendix B of this EA includes a copy of the cultural resource compliance letter. On February 23, 2010, the SHPO was provided an updated letter from the Pacific Region of the Bureau of Indian Affairs which stated that the "BIA is proposing a finding of No Historic Properties Affected." Concurrence from the SHPO with BIA's letter is included in Appendix B.

3.5.1 Ethnography and History

The Native American groups that originally inhabited the San Joaquin Valley are known as the Yokuts. There are over 50 Yokuts tribelets, each having a distinct name, dialect, and territory. However, for purposes of definition, the Yokuts have been divided into three geographical divisions: Northern, Southern Valley, and Foothill. The Southern Valley Yokuts occupied the region around the proposed project site.

European contact with the Southern Valley Yokuts was first recorded in 1772 when a band of Spanish soldiers ventured through Tejon Pass into the San Joaquin Valley. No further contact was indicated until Francisco Garces arrived in 1776. In the early 1800s, the Catholic Church made an attempt to establish missions in the region, but failed. The southern valley became a haven for the runaways of missions outside the area, and the infiltration of different customs led to the breakdown of local cultural patterns.

When California was annexed by the United States, the San Joaquin Valley was overrun with settlers, and Indian land passed into Euro American hands. The United States Calvary forced the Indians in California into regional reservations. The closest regional reservation to the San Joaquin Valley was Ft. Tejon at the base of the Tehachapi Mountains. When the Ft. Tejon Reservation failed to prosper, the Indians were then settled in 1856 to an area east of the City of Porterville along the Tule River, which is referred to as the "Tule River Farm".

However in 1860, Thomas Madden, an Indian service employee, fraudulently gained personal title to the Tule River Farm using state school warrants (Investigation of U.S. Treasury Special Agent J. Ross Browne, 1858). The federal government then had to rent the Tule River Farm, paying Madden $1,000 per year. Tule River Indians on the Tule River Farm were again resettled in 1873 by the federal government to what would become the present day Tule River Indian Reservation due in part to the rental cost of the Tule River Farm and the lost of federal control.

3.5.2 Historic, Cultural, and Religious Properties

No historic properties were identified during the inventory of the project area. On February 23, 2010, the SHPO was provided a letter from the Pacific Region of the Bureau of Indian Affairs which stated that the "BIA is proposing a finding of No Historic Properties Affected". The Bureau of Indian Affairs will finalize State Historic Preservation Officer consultation pursuant to 36 CFR Part 800. On March 16, 2010 the SHPO did not object to the BIA's finding. A copy of the March 16th letter is included in Appendix B.

No cultural resources will be impacted by the proposed conveyance of the project area from fee land to Federal trust land as there is no change in land use. If, however, any undetected (e.g., buried) cultural resources are encountered during future development, a qualified archaeologist should be consulted for further evaluation.

3.6 Socioeconomic Conditions

3.6.1 Employment and Income

According to the U.S. Census 2000, Tulare County had a civilian labor force of 153,805 persons in 2000. 19,593 persons in the labor force were unemployed in 2000, creating an unemployment rate of 12.7 percent. 25.3 percent of the labor force was employed in management, professional, and related occupations, and 22.7 percent was employed in sales and office occupations. Other types of employment included services occupations (16.2 percent of the labor force), production, transportation, and material moving occupations (14.2 percent of the labor force), farming, fishing, and forestry occupations (13.2 percent of the population), and construction, extraction, and maintenance occupations (8.4 percent of the population).

The median household income for Tulare County in 1999 was $33,983. Nearly 19 percent (18.8%) of families and 23.9 percent of individuals in Tulare County were living below the poverty level in 1999.

According to the U.S. Census, the unemployment rate of the Tule River Indian Reservation was 10.7 percent in the year 2000. Nearly twenty-seven percent (26.7%) of the Reservation's labor force was employed in management, professional, and related occupations, and 31.8 percent was employed in service occupations. Other types of employment included sales and office occupations (15.9 percent of the labor force), production, transportation, and material moving occupations (8.5 percent of the labor force), farming, fishing, and forestry occupations (4.0 percent of the population), and construction, extraction, and maintenance occupations (13.1 percent of the population).

The median household income for the Tule River Reservation in 1999 was $30,625, which was slightly below the median income for the Tulare County. 30.4 percent of all families living on the Reservation were living below the poverty level in 1999.

Unemployment on the Reservation was at 57 percent in 1992. This is partly due to seasonal forestry work as a source of employment for the Tribal Member residents. Tulare County had an unemployment rate of 13.7 percent during the same period. The BIA Labor Force Report indicates that while 72 percent of the employed Reservation labor forces earn more than $7,000, only 26 percent of the potential labor forces are employed.

In large part, as a result of the construction and operation of Eagle Mountain Casino,

unemployment has dropped from a seasonal high of 57% in 1992 to 10.7% in 2000.

According to Tribal statistical data, the population on the Reservation is 690 Tribal Members, with 1,200 Tribal Members residing adjacent and/or off the Reservation. There are 158 homes in the community, ranging from very substandard to relatively new HUD homes. Other buildings include the Tribal Administration building, Health Center, Child Care Center, the Gymnasium/Recreation Center and the Education Center. The community does not have a grocery store, post office, bank, or business district. Those services are available in nearby Porterville.

There are no significant negative economic impacts that would result from the proposed action. Conveyance of the proposed site from fee based land to Federal trust land would involve development of a portion of the 40-acre parcel to allow for industrial or other similar development as described in the Cooperating Agreement. The conveyance of this property also creates a beneficial economic impact to the Tribe by removing it from County and local tax rolls. The proposed land conveyance would not directly create nor eliminate any jobs, and would consequently provide no economic stimulus or new market. The proposed land conveyance would have no significant economic impacts on social organization, or employment or income.

Property taxes assessed for the property were $33,459.98 in tax year 2009-2010. According to the State Controllers Office, the Tulare County assessment roll included 148,867 assessments, in which $277,741,754 was paid. The loss of property taxes as a result of the trust conveyance would be 0.0012047%.

3.6.2 Demographic Trends

According to the U.S. Census 2000, the population of Tulare County in the year 2000 was 368,021 persons. 58.1 percent of the population was classified as White, 1.6 percent was Black or African American, 3.3 percent was Asian, 1.6 percent was American Indian or Alaska Native, 30.8 percent was classified as Some Other Race, and 4.6 was classified as two or more races. 50.8 percent of the total population (of any race) was considered Hispanic or Latino.

The California Department of Finance (DOF) projects that the population of Tulare County will increase by approximately 55 percent to 569,896 persons by the year 2020. The County is projected to grow at an average annual growth rate of 2.7 percent between the years 2000 and 2020. In the year 2020, the DOF projects that approximately 55.4 percent of the population will be Hispanic, 35.5 percent will be white, 7.0 percent will be Asian or Pacific Islander, 1.4 percent will be black, and 0.7 percent will be American Indian.

According to the U.S. Census 2000, the population of the Tule River Indian Reservation in the year 2000 was 566 persons. 87.5 percent of the reservation population was classified as American Indian or Alaska Native, 6.2 percent was white, 0.2 percent was Asian, 4.8 percent was classified as Some Other Race, and 1.4 percent was classified as two or more races. (Note: the totals do not add to 100% due to rounding)

The population of the Tule River Indian Reservation appears quite stable and is experiencing very moderate growth rates. Situated in a rural environment in Tulare County, the study area has been largely sheltered from the rapid growth experienced by

the valley portions of the county. Nevertheless, due to the young median age of Reservation residents and the number of child bearing residents, the Reservation is projected to have a 12 percent growth rate over the next decade.

3.7 Attitudes, Expectations, Lifestyle, and Cultural Values

In so far as Tribal expectations are concerned, Tribal Members are very supportive of the proposed project as a method of expanding the autonomous land-holdings of the Tribe and the development of much needed economic opportunities. Since the proposed project consists of conveying the subject property from fee based land to Federal trust land, the lifestyle and cultural values of the Tribal community is not anticipated to change as a result of the proposed action.

3.8 Community Infrastructure

Senate Bill 621, which became law on January 1, 2004, makes grant funding available to counties, cities and special districts impacted by tribal gaming from the Indian Gaming Special Distribution Fund (SDF). Gaming tribes that operated 200 or more gaming devices on or before September 1, 1999 contribute a variable portion of their net winnings into the Fund. Although the proposed conveyance of the property is not directly attributed to gaming, the indirect effects of S.B. 621 contributions do affect the proposed undertaking.

Pursuant to the Tribe's Tribal-State Gaming Compact, a certain portion of net gaming revenues are contributed by the Tribe to the SDF for payment of local government grants for such items as law enforcement, fire protection, road maintenance amongst other local government programs. Those SDF funds are transferred to the Tulare County Indian Gaming Local Community Benefit Committee (the "Committee"), who administers the grant application process and is responsible for selecting grants pursuant to the priorities and other requirements stated by law. In 2009, the Committee awarded $535,038 in SDF grant funding for projects in Southeast Tulare County. Recipients of the Indian Gaming grants and brief project descriptions include:

County of Tulare, Law Enforcement and Fire Communications Equipment Upgrades		$295,038
County of Tulare, Reservation Road		$65,000
City of Porterville, Public Safety Enhancements		$125,000
Sierra View District Hospital, Level IIA Nursery		$50,000
	Totals	$535,038

3.8.1 Fire Protection

Fire protection to the site is currently provided by the City of Porterville Fire Department, operating out of Fire Station No. 2, on the east side of Newcomb Street, approximately 4.5 road miles northeast of the subject site. Secondary emergency response protection is available through a mutual aid agreement with the Tulare County Fire Department operating out of the West Olive Avenue station, approximately 3.9 (road) miles north of the subject site. The Tule River Indian Tribe maintains its own structural Fire Department on the Reservation, approximately, 19 (road) miles east of the subject site. Due to the distance from the Tribe's fire station, it is anticipated that primary fire protection will continue to be provided by the City of Porterville following the acquisition of the property.

3.8.2 Law Enforcement

Law enforcement services for the site are currently provided by the City of Porterville Police Department, with secondary service provided under the terms of a mutual aid agreement with the Tulare County Sheriff's Department, operating out of the Porterville sub-station. The Tule River Indian Tribe, as a federally recognized Tribal government has established a Tribal Police Department pursuant to the Constitution and Bylaws of the Tribe. In addition, the Tribe has entered into a Cross Deputation Agreement with the U.S. Department of the Interior, Bureau of Indian Affairs, Office of Law Enforcement & Justice Services, which provides for Tribal Peace Officers to be cross-deputized as Federal Peace Officers. Due to the distance from the Tribe's law enforcement offices, it is anticipated that primary law enforcement will continue to be provided by the City of Porterville following the acquisition of the property.

3.8.3 Schools

The project site is within the Porterville Unified School District. No residential construction is anticipated on the subject site.

3.8.4 Solid Waste Disposal

The City of Porterville provides solid waste services to the Airpark. There are currently six landfills permitted to receive solid waste in the County, including the Teapot Dome landfill which receives most solid waste from the City of Porterville. All six landfills are classified as Class III disposal sites suitable to receive non-hazardous materials. In addition, there are four transfer stations in the County that are permitted to receive solid waste.

3.8.5 Gas and Electric Services

Southern California Edison provides electricity to residents of the Porterville area. Southern California Gas Company provides natural gas services to the area.

3.8.6 Communications Service

Local telephone service and internet access is provided by Qwest to the Airpark.

3.8.7 Water Service

The City of Porterville provides municipal water to the project site.

3.8.8 Sanitary Sewer Services

The City of Porterville provides municipal sewage service to the Airpark.

3.9 RESOURCE USE PATTERNS

3.9.1 Hunting, Fishing, Gathering

The proposed project site is not currently utilized for hunting, fishing, or gathering.

3.9.2 Timber

The proposed project site does not include merchantable timber stands.

3.9.3 Agriculture

According to the Porterville 2030 General Plan, almost 60 percent of the Planning Area

is designated for Agriculture/Rural/Conservation uses (approximately 21,270 acres, of which 20,390 are on unincorporated lands). Agriculture uses occur throughout the Planning Area in large adjoining parcels. Land used for agriculture can be broken down into cropland, orchards, and vineyards.

Croplands comprise the majority of the agricultural lands; vegetation includes a variety of sizes, shapes, and growing patterns. Plants may either be annual (e.g. tomatoes) or perennial (e.g. alfalfa), and when grown in rows provide a varying amount of bare ground between rows. Orchards and vineyards typically are composed of a single species, and are evenly spaced in uniform rows. Generally, agriculture is cultivated on the most fertile soils, and typically has lower habitat values than the native habitats it replaced (Porterville DEIR 2007).

The California Land Conversion Act (LCA) of 1965, also known as the Williamson Act (CGC §51200 et. seq.) was enacted to preserve agricultural and open space lands by discouraging their premature and unnecessary conversion to urban uses. Removing property from the Williamson Act requires an application for non-renewal to be filed with the State of California and no current or future conversion is necessary to accommodate the proposed action. The property is not under a Williamson Act contract.

The subject parcel is not included as Prime Farm land as the property has been developed for light industrial uses consistent with the City of Porterville's General Plan.

3.9.4 Mining

Commercial mining is not a current land use activity within the vicinity of the proposed project site.

3.9.5 Recreation

The subject site is adjacent to the City of Porterville sports complex located immediately to the north. The sports complex consists of soccer fields, baseball diamonds, a BMX track and a variety of other active recreation facilities. The sports complex was designed with the expectation of future industrial or commercial development on the subject site.
The adjacent Porterville Sports Complex (Sportspark) includes 11 soccer fields, three football fields, two softball fields, a concession area, and parking for 300 vehicles. This facility is managed by the City of Porterville and is located adjacent to the Porterville Municipal Airport.

3.9.6 Transportation Network

The roadway system is based on a traditional grid pattern, with State Route (SR) 190 and SR 65 providing regional east/west and north/south access respectively. Caltrans classifies both routes as major arterials in that they are designed to move large volumes of traffic between routes. Access to both routes as well as the Porterville Airport and the railway are important to the vitality and future of the Airpark.

SR 65 is a regional State Highway that provides north-south travel through Porterville. SR 65 is a four-lane divided freeway from south of SR 190 through Porterville and is a four-lane divided express with limited access north into the City of Lindsay. SR 65 also provides a connection to Bakersfield and related communities including Strathmore, Terra Bella, and Exeter. SR 65 is an undivided two-lane highway with designated passing lanes, except for the four-lane segments noted above.

SR 190 is a regional State Highway that provides for east-west travel within and through Porterville. SR 190 begins at SR-99 to the west and ends in eastern Tulare County near the community of Camp Nelson. Within Porterville, SR 190 is a four lane divided freeway from the west of SR 65 to Jaye Street, and is a four-lane divided expressway with limited access from Jaye Street to the east.

Average Daily Traffic count data (ADT) is available for portions of the transportation network which serves the Airpark. According to the Tulare Caltrans (2009), the following ADT was registered:

Road Segment	ADT
Highway 65 at Avenue 95	21,900
Highway 65 at Avenue 112	22,700
Highway 65 at Highway 190 Junction	40,200
Highway 65 at Olive Street Interchange	46,500

3.9.7 Land Use Plans

The City of Porterville's General Plan designates the area including the site for Light Industrial Uses and the site is within the M-1(AS) (Light Industrial – Airport Safety Overlay) Zone. The General Plan and Zoning Designations are consistent with the continued development of an industrial park on the subject site as well as a variety of alternative commercial and industrial uses. Continued development of the site was contemplated in the City of Porterville's General Plan Update and associated Environmental Impact Report (2008). The General Plan EIR includes an analysis of the cumulative effects of complete buildout of the Plan as adopted and incorporates appropriate Mitigation Measures to address such community-wide effects. The adopted Cooperative Agreement (Appendix A) between the Tribe and the City of Porterville ensures that the City's General Plan and Zoning will continue to have effect following acquisition of the property unless changed through an affirmative action of the City of Porterville in a similar manner to that available to a private landowner. No such changes to the current land use regulations are proposed.

3.10 OTHER VALUES

3.10.1 Wilderness

The proposed project site is not located in a natural wilderness area.

3.10.2 Sound and Noise

The assessment of noise impacts involves the identification of project noise sources and the location of noise-sensitive receptors. Aircraft operations are the dominant source of noise in the area. Roadway and traffic noise are also present along the project frontage. The noise generated from vehicles using roads within the area is governed primarily by the number of vehicles, type of vehicles (mix of automobiles, trucks, and other large vehicles), and speed.

Porterville Municipal Airport is owned by the City of Porterville. The primary runway (30-12) is 6000 feet long. A 4000-foot cross-wind runway (25-7) is designated as abandoned by the City of Porterville Airport Master Plan. Flight schools and aircraft charter FBO's

and a California Division of Forestry (CDF) fire suppression operation is located at the airport. During the fire season three to six fire suppression aircraft may be based at the field. In addition to operations provided by based aircraft, transient corporate jets commonly use the field. On a typical busy day five or six of these jets may use the field. Approximately 70% of airport operations occur on Runway 30. About 75% of operations at the airport occur during the daytime hours (7:00 a.m. - 7:00 p.m.), 20% during the evening hours (7:00 p.m. - 10:00 p.m.) and 5% during the nighttime hours (10:00 p.m. - 7:00 a.m.). A standard left hand pattern is used on runway 30-12. Land uses adjacent to the airport include agricultural, commercial, industrial and recreational uses. Based on reported operational information, 60 and 65 dB CNEL contours were prepared for existing annual average operations at the airport (City of Porterville 2007). Such noise levels fall within EPA's maximum noise compatibility guidelines for residential development, but are generally acceptable for industrial and/or commercial uses (excepting some professional office uses and other noise sensitive activities). The continued use of the site for the development of industrial and/or commercial uses is compatible with the existing airport noise.

3.10.3 Public Health and Safety

A site reconnaissance of the development grounds and surrounding area revealed no hazardous wastes or waste sites and no evidence of underground storage tanks was evident at the Site. No above ground storage tanks were observed. No potential PCB-containing equipment or pole mounted utility transformers were observed within the immediate area of the site.

The conveyance of the properties from fee-to-trust status can go forward without the need for a Phase II Report and the acquisition of the properties does comply with the requirements of the Bureau of Indian Affairs Departmental Manual 602 (DM 602).

3.10.4 Aesthetics

The project area is southwest of downtown Porterville, California. The area is characterized by an alluvial valley along the east side of the San Joaquin River. Mountain ranges are visible to the northeast across the San Joaquin Valley approximately 20 miles to the northeast.

There are no eligible or officially designated California Scenic Highways, California State Byways, or Wild and Scenic Rivers, in the surrounding area. The only recreational facility is the Porterville Sportsplex, just north of the project area on adjacent land.

4.0 ENVIRONMENTAL CONSEQUENCES

This section of the EA analyzes the effects of the proposed conveyance of 40-acres of property from "fee" to "federal trust" status for the Tule River Indian Tribe. For the purposes of this analysis, both direct and indirect impacts were reviewed. Direct effects, are those are caused by the proposed action and occur at the same time and place (i.e. the trust conveyance). Indirect effects, which are caused by the action and are later in time or farther removed in distance, but are still reasonably foreseeable (i.e. construction of permitted facilities). Indirect effects may include growth inducing effects and other effects related to induced changes in the pattern of land use, population density or growth rate, and related effects on air and water and other natural systems, including ecosystems. (40 CFR 1508.8)

Apart from the removal of the property from local tax rolls, the trust conveyance of the property as a direct effect is considered insignificant by the Yokuts Tribe of the Tule River Indian Reservation as the loss of property taxes to the City and County would be equal to 0.0012047% of the assessments collected. No significant impacts to the natural and human environments are anticipated to occur with the proposed trust conveyance as the action is "administrative" with development not a consideration.

The proposed action includes parcels of land currently permitted and would be developed for industrial and/or commercial faculties in the foreseeable future. This indirect effect of the trust conveyance is discussed below:

4.1 Land Resources

The direct effects of the proposed action (trust conveyance) will not have an impact to topography, soil types & characteristics, geologic setting and mineral resources. The indirect effect of construction of commercial facilities would impact land resources as building footprints and roadways are constructed.

Mitigation Measures
Soil Types and Characteristics
The construction of the proposed project would remove native vegetation and grasses and vegetation and involve grading and earth moving activities. This would increase the potential for erosion impacts. Therefore, implementation of the best management practices (BMP) would be required.

> *BMP 1: An erosion and sedimentation control plan for the proposed project shall be prepared by a qualified civil or geotechnical engineer and implemented during the construction of the proposed project. The erosion and sedimentation control plan shall include best management practices to reduce potential erosion and sedimentation impacts.*

With the implementation of the above BMP, impacts related to erosion would be reduced to less than significant levels during the construction of the project. After construction of the proposed project, native soils would be covered by landscaping and vegetation or by impervious surfaces, such as buildings, concrete or asphalt. This would stabilize soils and reduce the potential for erosion.

Seismic Hazards
The proposed area would be subject to ground shaking if a seismic hazard were to occur. Compliance with the Uniform Building Code and standard engineering design techniques would

help to reduce potential impacts related to ground shaking. These site conditions would increase the potential for geotechnical hazards. Therefore, BMPs would be required.

> *BMP 2: Prior to construction, a final geotechnical investigation shall be prepared for the proposed project. The design of the project shall incorporate the engineering recommendations from the geotechnical investigation. Recommendations may include (but are not limited to) the export of unstable soils, the use of engineering fill, foundation and retaining wall design requirements, and other related engineering design measures to lessen potential geotechnical hazards at the site.*

With the implementation of the above BMP, impacts would be considered less than significant.

Mineral Resources
There are no known mineral or energy resources of local, regional, or national importance on the proposed project site. Therefore, no impacts to mineral or energy resources would occur as a result of the proposed project.

No-Action Alternative
Under the No Action Alternative, the proposed property would remain in fee status. Existing environmental conditions on the site would remain unchanged.

4.2 Water Resources

The direct effects of the proposed action (trust conveyance) will not have an impact to water quality.

The indirect effects on water quality due to urbanization are typical of those for any industrial or commercial development. In general, urbanization has a direct impact on water resources and water quality. Urbanization introduces impervious surfaces to the landscape, including concrete, asphalt, and other building materials. This reduces the amount of pervious surfaces, which are vital for groundwater percolation and the recharge of water aquifers. In addition, urbanization reduces natural vegetation, which plays an important role in reducing erosion and sedimentation, and filtering pollutants from water as it percolates the soil. Urbanization also decreases water quality by increasing the amount of pollutants that enter waterways. Pollutants, including silt, herbicides, pesticides, fertilizers, trash, grease, oil, hydrocarbons, and heavy metals are constantly introduced to the built environment. Stormwater often carries these pollutants from streets, parking lots, and landscaped areas to urban drainage systems that flow to natural streams, rivers, and lakes. These pollutants can pose a serious threat to the water quality of the streams, rivers, and lakes, and can have a negative impact on the ecology.

The construction of future facilities would involve the removal of native vegetation, grading, and earth moving activities. This would expose native soils and increase the potential for erosion and sedimentation, which could have a negative impact on stormwater runoff and off-site water bodies. In addition, construction sites can also introduce water pollutants to stormwater runoff, including paints, solvents, concrete, drywall, pesticides and fertilizers, construction debris and trash, and spilled oil, fuel, and other fluids from construction vehicles. These activities will be covered by the EPA's NPDES General Storm Water Discharge Permit for Construction Activities that the Tribe will obtain. Therefore, best management practices would be required.

> *BMP 3: The following best management practices shall be implemented during the construction of the proposed project site to reduce potential water quality impacts:*
> - *Phase grading operations to reduce disturbed areas and time of exposure. Avoid*

grading and excavation during wet weather.

- *Construct diversion dikes and drainage swales to channel runoff around the construction site.*
- *Delineate clearing limits, easements, setbacks, sensitive or critical areas, trees, drainage courses, and buffer zones to prevent excessive of unnecessary disturbances and exposure.*
- *Plant vegetation on exposed slopes or use erosion control blankets (e.g., jute matting, glass fiber or excelsior matting, mulch netting) to reduce the potential for erosion.*
- *Once grading is complete, stabilize the disturbed areas with permanent vegetation as soon as possible.*
- *Cover stockpiled soil and landscaping materials with secured plastic sheeting and divert runoff around them.*
- *Protect drainage courses, creeks, or catch basins with straw bales, silt fences, and/or temporary drainage swales.*
- *Protect storm drain inlets from sediment-laden runoff with sand bags barriers, filter fabric fences, block and gravel filters, and excavated drop inlet sediment traps.*
- *Prevent construction vehicles from tracking soil onto adjacent streets by constructing a temporary stone pad with a filter fabric underliner near the exit where dirt and mud can be washed from vehicles.*
- *Use dry-sweep methods to clean sediments from streets, driveways, and paved areas of the construction site.*
- *Maintain all construction vehicles and equipment. Inspect frequently for and repair leaks.*
- *Designate specific areas of the construction site, located well away from creeks or storm drain inlets, for auto and equipment parking and routine vehicle maintenance.*
- *Perform major maintenance, repair, and vehicle and equipment washing off site or in designated and controlled area. Clean up spills immediately.*
- *When vehicle fluids or materials such as paints, solvents, fertilizers, and other materials are spilled, cleanup immediately. Use dry cleanup techniques whenever possible.*
- *Store wet and dry building materials that have the potential to pollute runoff under cover and/or surrounded by berms when rain is forecast or during wet weather months.*
- *Cover and maintain dumpsters.*
- *Collect and properly dispose of construction debris, plant and organic material, trash, and hazardous materials as soon as possible.*
- *Plan roadwork and pavement construction to avoid stormwater pollution during wet weather months.*

With the implementation of the above best management practices measures, water quality impacts during construction would be reduced to a less than significant level.

After future development, the site would include commercial facilities and paved surfaces, and would be landscaped with vegetation and ground cover. This would greatly reduce the potential for water quality impacts related to erosion and sedimentation. In addition, the introduction of access roads on the proposed project site would also increase the potential for stormwater quality impacts. Access roads would collect oil, grease, transmission and brake fluid, solvents, heavy metals, and other pollutants that are typically concentrated on surface streets. Because these pollutants are typically washed directly from impervious surface areas and are transported to storm drains the increase of impervious surfaces on the site would result in potentially

adverse water quality impacts. Therefore, best management practices specified below would be required.

> *BMP 4: The drainage plan for the proposed project shall include feasible post construction stormwater quality control measures. Such measures shall include any combination of the following techniques:*
> - *Design the proposed project to locate impervious surfaces as far away from natural drainage channels as possible and utilize vegetation and grass swales to decrease runoff velocity and filter stormwater pollutants.*
> - *Install drop inlets that channel stormwater to a sedimentation trap and then to a new detention pond. Detention ponds should be designed to allow sediments and pollutants to settle, to release runoff at pre-development levels, and to filter nutrients in the runoff by including wetland plants.*
> - *Install and regularly maintain catch basin or inlet inserts, grease/oil water separators, or media filters to capture and filter stormwater pollutants.*

With the implementation of the above BMPs, stormwater quality impacts would be considered less than significant.

Wetlands
The direct effects of the proposed action (trust conveyance) will not impact wetlands.

The subject site does not include dominant hydrophytic vegetation contained in the inventory of vascular plants. Wetlands hydrology of the site and hydric soils are not present.

4.3 Air Quality

The direct effects of the proposed action (trust conveyance) will not impact air quality thresholds.

For the indirect effect of the project, air quality impacts will require evaluation. The 1990 amendments to federal Clean Air Act Section 176 required the EPA to promulgate rules to ensure that federal actions conform to the appropriate State Implementation Plan (SIP). These rules, known together as the *General Conformity Rule* (40 CFR §§ 51.850-.860 and 40 CFR §§ 93.150-160), require any federal agency responsible for an action in a nonattainment or maintenance area to determine that the action is either exempt from the General Conformity Rule's requirements or positively determine that the action conforms to the applicable SIP. In addition to the roughly 30 presumptive exemptions established and available in the General Conformity Rule, an agency may establish that forecast emission rates would be less than the specified emission rate thresholds, known as *de minimis* limits. An action is exempt from a conformity determination if an applicability analysis shows that the total direct and indirect emissions from the project would be less than the applicable *de minimis* thresholds and would not be regionally significant, which are defined as representing 10 percent or more of an area's emissions inventory or budget.

From the perspective of the SJVAPCD, compliance with the control measures described in BMP 5 below would constitute sufficient best management practices to reduce PM_{10} and $PM_{2.5}$ impacts to a level considered less than significant.

BMP 5: The following control measures shall be implemented during the construction of the proposed project to reduce construction emissions of PM_{10} and $_{2.5}$*:*

- *All disturbed areas, including storage piles, which are not being actively utilized for construction purposes, shall be effectively stabilized of dust emissions using water, chemical stabilizer/suppressant, covered with a tarp or other suitable cover, or vegetative ground cover.*
- *All on-site unpaved roads and off-site unpaved access roads shall be effectively stabilized of dust emissions using water or chemical stabilizer/suppressant.*
- *All land clearing, grubbing, scraping, excavation, land leveling, grading, cut and fill, and demolition activities shall be effectively controlled of fugitive dust emissions utilizing application of water or by presoaking.*
- *When materials are transported off-site, all materials shall be covered, or effectively wetted to limit visible dust emissions, and at least six inches of freeboard space from the top of container shall be maintained*
- *All operations shall limit or expeditiously remove the accumulation of mud or dirt from adjacent public streets at the end of each workday. (The use of dry rotary brushes is expressly prohibited except where preceded or accompanied by sufficient wetting to limit the visible dust emissions. Use of blower devices is expressly forbidden).Following the addition of materials to, or the removal of materials from, the surface or outdoor storage piles, said piles shall be effectively stabilized of fugitive dust emissions utilizing sufficient water or chemical stabilizer or suppressant. Within urban areas, trackout shall be immediately removed when it extends 50 or more feet from the site and at the end of each work day.*
- *Any site with 150 or more vehicle trips per day shall prevent carryout and trackout.*
- *Limit traffic speeds on unpaved roads to 15 mph.*
- *Install sandbags or other erosion control measures to prevent silt runoff to public roadways from sites with a slope greater than 1 percent.*
- *Suspend excavation and grading activities when winds exceed 20 mph.*
- *Install wheel washers for all exiting trucks, or wash off all trucks and equipment leaving the site.*

With the implementation of the above measures, construction emission impacts would be considered less than significant.

4.4 Living Resources

As a direct effect, the proposed trust conveyance is not expected to impact rare or endangered plant or animal species.

No elderberry shrubs have been identified on the subject site in this, or in prior environmental reviews of the project indicating a lack of potential habitat for Valley elderberry longhorn beetle (*desmocerus californicus dimorphus*), a federally listed Threatened species native to the area. The site is within the range of the San Joaquin kit fox (*Vulpes macrotis mutica)* a federally listed endangered species. No evidence of San Joaquin kit fox habitation on the subject site was identified in the prior environmental reviews for the approval of development of the industrial park. Adjacent properties have been identified as potential foraging sites in a Biological Opinion issued by the U.S. Fish and Wildlife Service. That Biological Opinion was amended to permit the mitigation of potential incidental take of foraging areas through the purchase of conservation credits in an established conservation bank. Those credits have been purchased, and development on the adjacent site has begun. As the subject site has not been identified as

potential habitat of endangered or threatened species, and the potential habitat on adjacent properties has been removed in conformance with the Endangered Species Act, the proposed project will not affect either the valley elderberry beetle or the San Joaquin Kit Fox.

4.5 Cultural Resources

It is possible that unrecorded prehistoric and historic cultural resources exist in parts of the parcel that includes the planned industrial and commercial development based upon a recent survey report, historic and ethnographic information, and consideration of settlement patterns. However, the proposed conveyance of the property will not have a direct impact on resources.

Subsurface testing of the site revealed a diffuse, but diverse range of subsurface deposits of cultural remains. Based on the findings of the archaeological testing and evaluation, and the criteria established in 36 Code of Federal Regulations 60.4, the site may contain resources eligible for nomination for inclusion in the National Register of Historic Places. The cultural resources report also recommended that any future development of the subject property be designed to avoid adverse impact to the sites within the subject property. The indirect effects will not impact cultural resources as avoidance will be employed in the future development of commercial facilities.

In the event of any inadvertent discovery of cultural resources during development of access roads and commercial facilities, all such finds shall be subject to the implementing regulations under Section 106 of the NHPA (36 CFR Part 800) and the Archaeological Resources Protection Act of 1979 (ARPA) (16 U.S.C. 470 aa-mm) and its implementing regulations on Indian Trust lands (25 CFR 262).

Mitigation Measures
Since there is a possibility of unknown cultural resources, the Tribe will include the following requirement in the contract specifications for the construction of the proposed commercial facilities to mitigate impacts:

> *BMP 6: In the event that any prehistoric, historic, or paleontological resources are discovered during construction-related earth moving activities, all work within 50 feet of the resources will be halted and the Tribe shall consult with a qualified archaeologist and the BIA Regional Archaeologist to access the significance of the find. If any find is determined to be significant by the qualified archaeologist and the BIA Regional Archaeologist, then representatives from the Tribe will meet to determine the appropriate course of action.*

4.6 Community Infrastructure

Since no construction or development is proposed as part of an administrative land conveyance action, no significant impacts on the Yokuts Tribal, or other local non-tribal communities' infrastructure would occur as a result of direct effect.

The indirect effect of development of the site for future industrial or commercial facilities could have an impact as the demand for community infrastructure will increase.

Mitigation Measures
Fire Protection

The future industrial or commercial development might increase the demand for fire protection and emergency medical services in the area. Therefore, protective measures would be required:

> *BMP 7: Future commercial development shall be designed in compliance with the following fire safety standards:*
> - *All structures shall be designed in compliance with the Uniform Fire Code. Compliance with the Uniform Fire Code may require the use of fire-safe building materials.*
> - *Emergency access shall be ensured by a minimum 18-foot road or driveway width with surfaces accommodating conventional vehicles and 40,000 pound loads, grades not exceeding 16 percent, curve radii of at least 50 feet, dead ends meeting maximum length requirements with turnouts and turnarounds, and roadway structures and gate entrances that do not obstruct clear passage of authorized vehicles.*
> - *Signing and building numbering shall facilitate locating a fire and avoiding delays in response times by being sufficiently visible, non-duplicative, and indicative of location and any traffic access limitations.*
> - *Emergency water sources shall be available and accessible in adequate quantities to combat wildfire with labeled hydrants meeting uniform specifications.*
> - *Any proposed industrial or commercial facilities shall be landscaped and maintained to reduce the risk of wildland fire hazards. Flammable vegetation shall not be planted adjacent to structures and in the general vicinity of the development. Fuel modification practices shall be practiced to reduce the volume and density of flammable vegetation on the proposed project site.*

Law Enforcement

The proposed project might increase the demand for law enforcement services in the area. This increase in demand could have an impact on the Porterville Police Department's ability to provide adequate services in the surrounding area. Therefore, allowance measures would be required:

> *BMP 8: The Tulare County Indian Gaming Local Community Benefit Committee (the "Committee"), who administers the SDF grant application process will consider selecting grants for law enforcement-related activities to the City of Porterville pursuant to the priorities and other requirements stated by law.*

Emergency Medical Services

Emergency health care in the project vicinity is provided by the Sierra View Health Care District. Sierra View Hospital is located in Porterville approximately 5.5 (road) miles from the project site. Imperial Ambulance of Porterville maintains ambulances and has a response time to the Airpark of five to ten minutes. No impacts to emergency medical services would likely occur as a result of the proposed project if the same BMPs for fire protection are employed.

Schools

Future industrial or commercial development is not anticipated to result in a significant increase in the population of the area. Therefore, no impacts to schools would likely occur as a result of any future commercial development.

Solid Waste Disposal

The projected life expectancy of the Teapot Dome Landfill 5-miles southwest of Porterville is

approximately 9 to 10 years. Therefore, no significant impacts to the capacity of regional landfills would likely occur as a result of future commercial development.

Gas & Electric Services
No impacts to gas and electrical services would likely occur as a result of future commercial development.

Communications Service
There exists adequate capacity to serve any future commercial development.

Water Service
Domestic water service for future commercial development is available in sufficient quantities from the City of Porterville.

Sanitary Sewer Services
The proposed project site is currently served by a sanitary sewer system and is has sufficient capacity from the City of Porterville.

4.7 Transportation Networks

Since no construction or development that would increase vehicular trips to, or from, the project site is part of the direct effects action, no significant impacts to local or regional transportation networks would occur as a result of the proposed fee to trust conveyance.

Indirect effects might slightly increase traffic impacts to State Highways 65 and 190, although the transportation network has sufficient capacity.

4.8 Sound and Noise

Since no construction or development is proposed as part of this direct effects action, there would be no construction-level, or post-operational noise associated with the proposed conveyance, nor would any new or existing sensitive receptors be created or impacted; therefore, no significant sound or noise impacts would occur.

For the indirect effects of the future commercial development, some minor construction-level, or post-operational noise associated with the expanded industrial park will be generated, however no new significant sensitive receptors will be created or impacted.

4.9 Aesthetic Value

Since no construction or development is proposed as part of this direct effects action prominent visual features on the project site would remain the same, and would not be impacted. As a result, no significant impacts to the existing aesthetic value of the subject parcels would occur as a result of the proposed conveyance.

4.10 Attitudes, Expectations, and Cultural Values

Since no construction or development is proposed as part of this direct effects action, there would be no measurable impacts upon the attitudes, expectations, and cultural values of local community members as a result of the proposed project. Future development will be undertaken under the existing land use regulations as determined to be appropriate by the community in a recent General Plan Update, or as amended in a public process as described in

the existing Cooperative Agreement between the Tribe and the City of Porterville.

4.11 Socioeconomic Impacts

The proposed land conveyance (direct effects) and the expanded commercial facility construction (indirect effects) would have no significant adverse economic impacts on social organization, or employment or income. Property taxes assessed for the property were $33,459.98 in tax year 2009-2010. According to the State Controllers Office, the Tulare County assessment roll included 148,867 assessments, in which $277,741,754 was paid. The loss of property taxes as a result of the trust conveyance would be 0.0012047%.

4.12 Environmental Justice

Environmental Justice issues encompass a broad range of impacts covered by NEPA, including impacts on the natural and physical environment and related social, cultural, and economic effects. Environmental Justice concerns may arise from impacts to such things as human health on minority populations, low-income populations, and Indian Tribes. Executive Order 12898 (Environmental Justice, 59 Fed. Reg. 7629 [1994]) requires each federal agency to achieve environmental justice by addressing "disproportionately high and adverse human health and environmental effects on minority and low-income populations."

The question of whether a proposed project raises environmental justice issues is highly sensitive to the history or circumstances of a particular community or population, the particular type of environmental or human health impact, and the nature of the proposed project itself. There is no standardized methodology for identification or analysis of Environmental Justice issues.

The demographics of the affected area have been examined to determine whether minority populations, low-income populations, or Indian tribes are present in the area impacted by the proposed project. Based on the demographics of the area, a determination was made that the trust conveyance of the subject property and subsequent commercial development will not cause a disproportionately high or adverse impact on human health or environmental effects on minority populations, low-income populations, or the Tule River Tribe.

There is no indication that either the construction or operation of future industrial or commercial development would impact a higher minority population component or low-income population component than the general population of the surrounding area.

The future industrial or commercial development could create employment opportunities, and there is evidence to indicate that the housing units created would be made available to Tribal members, other Native Americans and residents of the Reservation - a significant portion of which could be considered minority and low-income populations.

4.13 Cumulative Impacts

NEPA includes cumulative impacts within the scope of impacts to be considered in an environmental document. The regulations define cumulative impacts as "the impacts…which result from the incremental impact of an action when added to other past, present, and reasonably foreseeable future actions, regardless of what agency (federal or non-federal) or person undertakes such other actions."

The proposed action was analyzed to determine whether less than significant environmental

effects that would be experienced locally could become significant when considered in combination with other reasonably foreseeable future projects in the project area. NEPA defines reasonably foreseeable future projects as projects in progress or that may occur in the near future. Impact issues considered in this context include aesthetics, takings of agricultural land, impacts to biological resources, impacts to cultural resources, contributions to incompatible development, and environmental justice.

Based on the analyses it was determined that the following environmental resources would not contribute to existing or future cumulative impacts by the proposed action: topography, geology, soils, wetlands, cultural resources, climate, biological resources, and visual resources

Traffic, air quality, noise, land use, socioeconomics, and environmental justice are resources that could have cumulative impacts, although environmental justice and socioeconomic impacts were determined to be beneficial in nature, both locally and region-wide. Potential impacts associated with air quality, noise, and traffic would be short- and long-term in nature. However, proposed mitigation measures incorporated into future design specifications would serve to reduce impacts to levels below significance.

5.0 CONSULTATION AND COORDINATION

The Following Agencies Have Been Contacted and/or Provided a Copy of the Environmental Assessment:

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Dept. of Parks & Recreation
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Sacramento, CA 94296-0001

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Tulare County
Resource Management Agency
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Visalia, California 93277

6.0 REFERENCES

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Bureau of Indian Affairs

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1400 10th Street
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Dave Singleton
Native American Heritage Commission
915 Capitol Mall, Room 364
Sacramento, CA 95814

Andrea Hoch, Legal Affairs Secretary
Office of the Governor
State Capitol Building
Sacramento, CA 95814

ENVIRONMENTAL ASSESSMENT
CONVEYANCE OF 40 ACRES OF FEE PROPERTY TO FEDERAL TRUST

APPENDIX A – Cooperative Agreement
APPENDIX B – SHPO Correspondence
APPENDIX C – Soil Map and Classification Data
APPENDIX D – U.S. Fish and Wildlife Biological Opinion

APPENDIX A – Cooperative Agreement

CITY COUNCIL AGENDA: APRIL 20, 2010

TITLE: REPORT – COOPERATION AGREEMENT BETWEEN THE CITY OF PORTERVILLE AND THE TULE RIVER INDIAN TRIBE

SOURCE: CITY ATTORNEY

COMMENT: Attached is the Cooperation Agreement approved by the City Council during its Closed Session on March 16, 2010, and approved by the Tule River Indian Tribal Council at its meeting on April 1, 2010.

The Tribe has submitted an application to the United States Department of the Interior requesting that the United States take title to approximately 40 acres of Tribe-owned land within the City limits so that it will be held in trust for the benefit of the Tribe, to be utilized for non-gaming purposes. In order to address any City concerns regarding the effects said application will have on the City, the Tribe expressed its willingness to enter into an agreement that would set forth a framework for dealing with new land uses on the trust property. Consequently, the City and Tribe have approved the attached agreement.

The Agreement provides 1) that the Tribe will not engage in any new development, construction or new operation of any land use unless a written agreement is executed by the parties that assures consistency with the City's General Plan, regulations and policies in effect at the time of the proposed development, 2) that in any such agreement any and all appropriate monetary and community contributions shall be committed to the City to account for the City's share of lost revenues related to taxes, licenses, and development fees, etc., 3) that in the event the proposed development is not consistent with the City's applicable regulations, development will not proceed unless and until a written agreement between the parties is executed addressing any additional impacts, and 4) that the City will agree that it will not oppose the fee to trust application.

The Cooperation Agreement goes into effect after the Federal Government takes title to the Property in trust for the Tribe.

RECOMMENDATION: Report Only (no action).

ATTACHMENTS: Executed Cooperation Agreement Between the City of Porterville and the Tule River Indian Tribe

COOPERATION AGREEMENT BETWEEN THE CITY OF PORTERVILLE AND THE TULE RIVER INDIAN TRIBE

WHEREAS, the Tule River Indian Tribe ("Tribe") inhabits a reservation that includes over 55,000 acres of rugged foothill lands of the Sierra Nevada Mountains; and

WHEREAS, the Tribe owns approximately 40 acres of land in the City of Porterville ("City") and adjacent to the Porterville Municipal Airport, commonly referred to as Tulare County Assessor Parcel Numbers (APN): 302-400-001 through 017 ("Tribal Property"); and

WHEREAS, the Tribe has submitted an application to the United States Department of the Interior requesting that the United States take title to the Tribal Property ("Fee to Trust Application") so that it will be held in trust for the benefit of the Tule River Indian Tribe of the Tule River Reservation; and

WHEREAS, the Tribe and the City intend to establish a cooperative and mutually respectful government-to-government relationship between each other with respect to development of the Tribal Property consistent with the City's general plan and land use regulations and policies, and assuring mitigation of any potential impacts that may be associated with any future development of the Tribal Property; and

WHEREAS, the Tribe wishes the City to support the Tribe's Fee to Trust Application; and

WHEREAS, the parties are committed to entering into a voluntary contractual arrangement with each other to provide for development consistent with the City's land use framework, and to assure mitigation of any impacts that may be associated with any proposed development of the Tribal Property; and

WHEREAS, the parties believe that the terms and obligations contained in the Memorandum of Understanding Between The City of Porterville and The Tule Indian Tribe To Advance Further Negotiations and The Performance of Governmental Processes ("MOU") are superseded by this Agreement; and

WHEREAS, the purpose of this Cooperation Agreement is to set forth the understandings of the Tribe and the City on the topics expressly set forth in this Cooperation Agreement;

NOW, THEREFORE, the Parties hereby agree as follows:

1. Agreement Required for Development of Tribal Property

After the Federal Government takes title to the Tribal Property in trust for the Tribe, the Tribe agrees that it will not engage in any new development, construction or new operation of any land use on the Tribal Property prior to execution of a written agreement between the Tribe and the City which agreement shall assure that: 1) any intended land use of the Tribal Property shall be consistent with the City's General Plan, and all applicable City regulations and policies, including its zoning ordinance and site development standards for the Tribal Property, in effect at the time of the proposed development, construction or commencement of operation, and 2) any and all appropriate monetary and community contributions shall be committed to the City to account for the City's share of lost revenues in the form

of taxes, licenses, development impact fees and to mitigate various impacts that may arise in connection with any proposed development provided such fees would be imposed on other similarly situated developments in the City which are consistent with the City's land use regulations.

2. **Consideration of Land Uses Inconsistent with Applicable Regulations**

After the Federal Government takes title to the Tribal Property in Trust for the Tribe, in the event the Tribe intends to propose any development of the Tribal Property that is inconsistent with the City's applicable land use regulations, the parties hereby agree that development will not proceed unless and until a written agreement is executed between the parties, addressing additional monetary or community contributions, in addition to those set forth in paragraph 1, above to mitigate impacts associated with the development.

3. **City Non-Opposition**

In consideration of the covenants of the Tribe as set forth in this Agreement, the City agrees to not oppose any efforts by the Tribe to cause the Secretary to accept trust title to the Property for the benefit of the Tribe.

4. **Non-Applicability of CEQA**

The approval of this Agreement is not subject to the California Environmental Quality Act ("CEQA") as it does not constitute a project under CEQA.

5. **Severability**

If any provision of this Cooperation Agreement is held to be illegal, invalid, or unenforceable under present or future laws, such provision shall be fully severable. This Cooperation Agreement shall be construed and enforced as if such illegal, invalid, or unenforceable provision had never comprised a part of this Cooperation Agreement, and the remaining provisions of this Cooperation Agreement shall remain in full force and effect.

6. **Scope**

This Cooperation Agreement is intended to apply and shall be construed to apply solely to the Tribal Property, and shall not be construed to apply to any other property owned by the Tribe.

7. **Dispute Resolution Provisions**

In an effort to foster good government-to-government relationships, the Parties agree to the dispute resolution procedures set forth in this Section.

(a) Meeting: The Parties shall make their best efforts to resolve claims of breach of this Cooperation Agreement by good faith negotiations whenever possible. Any such disputes between the Parties shall first be subjected to a process of meeting and conferring in good faith in order to foster a spirit of cooperation in the efficiency in the administration of the terms, provisions and conditions of this Cooperation Agreement as follows:

(i) A Party shall give the other Party, as soon as possible after the event giving rise to the dispute, written notice setting forth, with specificity, the claims of breach of this Cooperation Agreement.

(ii) The Parties shall meet and confer in a good faith attempt to resolve such dispute through negotiation not later than 10 days after receipt of the notice, unless the Parties agree in writing to an extension of time.

(b) Litigation

If such dispute is not resolved to the satisfaction of the Parties within thirty (30) calendar days after the first meeting, then the Parties may seek to have the dispute resolved in the federal district court for the Eastern District of California, or to the extent it declines jurisdiction, in the Courts of the State of California. The parties expressly agree, however that any lawsuit in the Courts of the State of California will be initiated in the Superior Court for Tulare County.

(c) Other Dispute Resolutions

This Section may not be construed to waive, limit, or restrict the ability of the Parties to pursue, by mutual agreement, any other method of dispute resolution including, but not limited to, arbitration, mediation or utilization of a technical advisor to the Parties; provided, however, that no Party is under an obligation to agree to such alternative method of dispute resolution.

8. **Limited Waiver of Sovereign Immunity**

(a) Waiver

Subject to the provisions of this Section, each of the Parties expressly and irrevocably waives sovereign immunity (and any defenses based thereon) in favor of the other Party as to any civil action relating to claims of breach of this Cooperation Agreement (including but not limited to, claims for injunctive, specific performance or declaratory relief), and not as to any other actions, matters or disputes. Both parties agree that any dispute that is brought as a result of this Agreement shall not include any claim for monetary awards or damages.

(b) Limitations on Tribe's Waiver

The Tribe's wavier of sovereign immunity is limited solely to disputes arising under this Cooperation Agreement that do not involve monetary awards or damages. The Tribe does not waive its sovereign immunity to permit any monetary award or damages against, and the courts will have no authority or jurisdiction to issue any monetary award or damages or order the execution or enforcement of any monetary award or damages against, any assets or revenues of the Tribe. The Tribe's waiver of sovereign immunity shall extend only to the City and shall not inure to the benefit of any third party beneficiaries or others.

9. **Termination of Prior MOU**

The parties agree that the MOU entered into in and around March 2008 by and between the City and the Tule River Indian Tribe is of no further force or effect and no provisions or obligations contained in the MOU shall be binding upon or inure to the benefit of either party.

10. **Termination of this Agreement**

To the extent the Tribe withdraws its fee to trust application for the Tribal Property and so notifies the City of such withdrawal then either the Tribe or City may terminate this Agreement upon the giving of ninety (90) days advance written notice to the other.

Effective this 1st day of April, 2010.

City of Porterville

By: _____

Its: _____

Tule River Tribal Council

By: _____

Its: CHAIRMAN

APPENDIX B – SHPO Correspondence

United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
Pacific Regional Office
2800 Cottage Way
Sacramento, California 95825

FEB 23 2010

Mr. Milford Wayne Donaldson, F.A.I.A.
State Historic Preservation Officer
Office of Historic Preservation
Department of Parks and Recreation
P.O. Box 942896
Sacramento, CA 94296-0001

Dear Mr. Donaldson:

The Bureau of Indian Affairs (BIA), Pacific Regional Office, wishes to initiate Section 106 consultation with the State Historic Preservation Office (SHPO) concerning the proposed fee-to-trust conveyance of approximately 40 acres of land for the Tule River Indian Tribe (Tribe), Tulare County, California. The proposed undertaking is pursuant to regulations under 25 CFR 151 (Land Acquisitions). Implementation of this project is in part contingent upon the BIA meeting its obligations under Section 106 of the National Historic Preservation Act (NHPA) as amended.

The Area of Potential Effects (APE) for this project includes approximately 40 acres of land located in the SW ¼ of the NW ¼ of Section 8, Township 22 South, Range 27 East MDBM. It is situated southwest of the city of Porterville, south of Scranton Avenue and west of the Porterville Municipal Airport. The northern part of the APE has been subject to prior development and/or disturbance. Additionally, three paved streets which form a loop are located in the western part of the APE just to the south of the developed areas. The remainder of the APE appears to have been recently plowed or disked and is characterized by the presence of sparse annual grasses.

The Tribe purchased the property in the late 1980's and through a grant from the U.S. Economic Development Agency (EDA), has been slowly developing the land as an industrial park. Initial construction served to house the Tule River Economic Development Corporation (TREDC) and a U.S. Department of Agriculture (USDA) warehouse for the distribution of food to low income families. Additional tenants currently leasing space on the property including Indian Health Service (IHS), Central California Interagency Communications Center (CCICC). The Tribe desires to continue attracting new tenants and develop the remaining lots within the industrial park for warehousing and light industries.

The APE was surveyed by Krey Easton, of Applied Archaeological Research, Inc. (AAR), in February, 2008 (report enclosed). Prior to the survey, a pre-field records search indicated that the southern ¾ of the current APE had been surveyed in 1993 by Gwen Alcock of California State University, Bakersfield, in advance of initial development of the industrial park. The results

of the 1993 study were negative, the likelihood for the presence of surface or buried cultural deposits within the study area was assessed to be "negligible", and no further archaeological studies were recommended. Two additional studies conducted between 1995 and 2003 on lands near or adjacent to the APE also resulted in negative findings. The current study was conducted with two archaeologists walking closely spaced transects, five (5) meters in the northern area not previously surveyed, and ten (10) meters in the areas that had been surveyed in 1993. Surface exposure was excellent, owing to recent plowing/disking of the surface; however no cultural materials were identified within the APE.

Since no cultural resources were identified within the APE, the BIA is proposing a finding of ***No Historic Properties Affected***. SHPO concurrence with this finding will verify BIA fulfillment of federal regulations pursuant to 36 CFR 800.4(d)(1), and in compliance with Section 106 of the NHPA. If you require further clarification or need additional information, please contact Dan Hall, Regional Archeologist, at (916) 978-6041, or John Rydzik, Chief, Division of Environmental, Cultural Resources Management, and Safety at (916) 978-6051.

Sincerely,

Acting Regional Director

Enclosure

cc: Superintendent, Central California Agency
[redacted]
Chairman, Tule River Reservation

STATE OF CALIFORNIA – THE RESOURCES AGE
ARNOLD SCHWARZENEGGER, *Governor*

OFFICE OF HISTORIC PRESERVATION
DEPARTMENT OF PARKS AND RECREATION
P.O. BOX 942896
SACRAMENTO, CA 94296-0001
(916) 653-6624 Fax: (916) 653-9824
calshpo@ohp.parks.ca.gov
www.ohp.parks.ca.gov

March 16, 2010

In Reply Refer To: BIA100226A

Dale Risling, Acting Regional Director
United States Department of the Interior
Bureau of Indian Affairs, Pacific Regional Office
2800 Cottage Way
Sacramento, California 95825

Re: Proposed Fee-To-Trust Conveyance of 40 Acres for the Tule River Indian Tribe, Tulare County, California

Dear Mr. Risling:

Pursuant to 36 CFR Part 800 (as amended 8-05-04) regulations implementing Section 106 of the National Historic Preservation Act, the Bureau of Indian Affairs (BIA), Pacific Regional Office, is seeking my comments on its determination of effects that the proposed undertaking will have on historic properties. The undertaking consists of the conveyance of 40 acres of land located in the SW ¼ of the NW ¼ of Section 8, Township 22 South, Range 27 East Mount Diablo Base Meridian. No ground disturbing activities are associated with this project. The BIA has determined that the 40-acre area to be conveyed is the Area of Potential Effects (APE). In addition to your letter of February 23, 2010, you have submitted the following document as evidence of your efforts to identify historic properties in the APE:

- *Results of a Class III pedestrian archaeological survey of the Tule River Airpark Project Area, Tulare County, California* (Krey Easton; Applied Archaeological Research, Inc. February 2008).

A records search performed at the SSJIC indicates that three previous studies have been performed in the vicinity of the APE and that the southern ¾ of the APE had been surveyed in 1993. No archaeological materials were observed in any of these investigated areas. A pedestrian survey with transects of 3 to 5 meters in the northern ¼ and ten meters in the southern ¾ located no archaeological materials.

The BIA has determined that the appropriate finding for this undertaking is that of No Historic Properties Affected After reviewing your letter and supporting documentation, pursuant to 36 CFR 800.4(d)(1), I have no objection to this finding.

Be advised that under certain circumstances, such as unanticipated discovery or a change in project description, the BIA may have additional future responsibilities for this undertaking under 36 CFR Part 800. Thank you for seeking my comments and for considering historic properties in planning your project. If you require further information, please contact Trevor Pratt. Assistant State Archeologist, at phone 916-651-0831 or email tpratt@parks.ca.gov.

Sincerely,

Susan K Stratton for

Milford Wayne Donaldson, FAIA
State Historic Preservation Officer

APPENDIX C – Soil Map & Classification Data

Map Unit Description

The map units delineated on the detailed soil maps in a soil survey represent the soils or miscellaneous areas in the survey area. The map unit descriptions in this report, along with the maps, can be used to determine the composition and properties of a unit.

A map unit delineation on a soil map represents an area dominated by one or more major kinds of soil or miscellaneous areas. A map unit is identified and named according to the taxonomic classification of the dominant soils. Within a taxonomic class there are precisely defined limits for the properties of the soils. On the landscape, however, the soils are natural phenomena, and they have the characteristic variability of all natural phenomena. Thus, the range of some observed properties may extend beyond the limits defined for a taxonomic class. Areas of soils of a single taxonomic class rarely, if ever, can be mapped without including areas of other taxonomic classes. Consequently, every map unit is made up of the soils or miscellaneous areas for which it is named and some minor components that belong to taxonomic classes other than those of the major soils.

Most minor soils have properties similar to those of the dominant soil or soils in the map unit, and thus they do not affect use and management. These are called noncontrasting, or similar, components. They may or may not be mentioned in a particular map unit description. Other minor components, however, have properties and behavioral characteristics divergent enough to affect use or to require different management. These are called contrasting, or dissimilar, components. They generally are in small areas and could not be mapped separately because of the scale used. Some small areas of strongly contrasting soils or miscellaneous areas are identified by a special symbol on the maps. If included in the database for a given area, the contrasting minor components are identified in the map unit descriptions along with some characteristics of each. A few areas of minor components may not have been observed, and consequently they are not mentioned in the descriptions, especially where the pattern was so complex that it was impractical to make enough observations to identify all the soils and miscellaneous areas on the landscape.

The presence of minor components in a map unit in no way diminishes the usefulness or accuracy of the data. The objective of mapping is not to delineate pure taxonomic classes but rather to separate the landscape into landforms or landform segments that have similar use and management requirements. The delineation of such segments on the map provides sufficient information for the development of resource plans. If intensive use of small areas is planned, however, onsite investigation is needed to define and locate the soils and miscellaneous areas.

An identifying symbol precedes the map unit name in the map unit descriptions. Each description includes general facts about the unit and gives important soil properties and qualities.

Soils that have profiles that are almost alike make up a *soil series*. All the soils of a series have major horizons that are similar in composition, thickness, and arrangement. Soils of a given series can differ in texture of the surface layer, slope, stoniness, salinity, degree of erosion, and other characteristics that affect their use. On the basis of such differences, a soil series is divided into *soil phases*. Most of the areas shown on the detailed soil maps are phases of soil series. The name of a soil phase commonly indicates a feature that affects use or management. For example, Alpha silt loam, 0 to 2 percent slopes, is a phase of the Alpha series.

Some map units are made up of two or more major soils or miscellaneous areas. These map units are complexes, associations, or undifferentiated groups.

A *complex* consists of two or more soils or miscellaneous areas in such an intricate pattern or in such small areas that they cannot be shown separately on the maps. The pattern and proportion of the soils or miscellaneous areas are somewhat similar in all areas. Alpha-Beta complex, 0 to 6 percent slopes, is an example.

An *association* is made up of two or more geographically associated soils or miscellaneous areas that are shown as one unit on the maps. Because of present or anticipated uses of the map units in the survey area, it was not considered practical or necessary to map the soils or miscellaneous areas separately. The pattern and relative proportion of the soils or miscellaneous areas are somewhat similar. Alpha-Beta association, 0 to 2 percent slopes, is an example.

An *undifferentiated group* is made up of two or more soils or miscellaneous areas that could be mapped individually but are mapped as one unit because similar interpretations can be made for use and management. The pattern and proportion of the soils or miscellaneous areas in a mapped area are not uniform. An area can be made up of only one of the major soils or miscellaneous areas, or it can be made up of all of them. Alpha and Beta soils, 0 to 2 percent slopes, is an example.

Some surveys include *miscellaneous areas*. Such areas have little or no soil material and support little or no vegetation. Rock outcrop is an example.

Additional information about the map units described in this report is available in other soil reports, which give properties of the soils and the limitations, capabilities, and potentials for many uses. Also, the narratives that accompany the soil reports define some of the properties included in the map unit descriptions.

Report—Map Unit Description

Tulare County, Western Part, California

114—Exeter loam, 0 to 2 percent slopes

Map Unit Setting

Elevation: 250 to 570 feet
Mean annual precipitation: 8 to 12 inches
Mean annual air temperature: 63 to 64 degrees F
Frost-free period: 250 to 300 days

Map Unit Composition

Exeter, 0-2% slopes, and similar soils: 85 percent
Minor components: 15 percent

Description of Exeter, 0-2% Slopes

Setting

Landform: Fan remnants
Landform position (two-dimensional): Shoulder
Landform position (three-dimensional): Side slope
Down-slope shape: Linear
Across-slope shape: Linear
Parent material: Alluvium derived from granitic rock sources

Properties and qualities

Slope: 0 to 2 percent
Depth to restrictive feature: 20 to 40 inches to duripan
Drainage class: Moderately well drained
Capacity of the most limiting layer to transmit water (Ksat): Low to moderately low (0.01 to 0.06 in/hr)
Depth to water table: More than 80 inches
Frequency of flooding: Very rare
Frequency of ponding: None
Calcium carbonate, maximum content: 5 percent
Maximum salinity: Nonsaline (0.0 to 2.0 mmhos/cm)
Available water capacity: Low (about 4.4 inches)

Interpretive groups

Land capability classification (irrigated): 3s
Land capability (nonirrigated): 4s

Typical profile

0 to 9 inches: Loam
9 to 26 inches: Sandy clay loam
26 to 28 inches: Clay loam
28 to 46 inches: Indurated
46 to 72 inches: Stratified very gravelly loamy coarse sand to gravelly loam

Minor Components

Hanford

Percent of map unit: 4 percent
Landform: Flood plains, alluvial fans

Colpien

Percent of map unit: 3 percent
Landform: Fan remnants

San joaquin

Percent of map unit: 3 percent
Landform: Fan remnants

Quonal

Percent of map unit: 2 percent
Landform: Fan remnants

Calgro

Percent of map unit: 2 percent
Landform: Fan remnants

Unnamed, ponded
Percent of map unit: 1 percent
Landform: Depressions

Data Source Information

Soil Survey Area: Tulare County, Western Part, California
Survey Area Data: Version 6, Aug 31, 2009

APPENDIX D – U.S. Fish & Wildlife Service Biological Opinion

United States Department of the Interior

FISH AND WILDLIFE SERVICE
Sacramento Fish and Wildlife Office
2800 Cottage Way, Room W-2605
Sacramento, California 95825-1846

In reply refer to:
81420-2009-F-0345

JAN 28 2009

Ms. Robin K. Hunt
Airports District Office Manager
San Francisco Airports District Office
831 Mitten Road, Room 210
Burlingame, California 94010

Subject: Amendment to the Biological Opinion for the City of Porterville Municipal Airport Master Plan (Service File Number 1-1-90-F-2), Tulare County, California

Dear Ms. Hunt:

The U. S. Fish and Wildlife Service (Service) is writing to implement a requested change to the biological opinion (Service File Number 1-1-90-F-2) issued for the City of Porterville Municipal Airport Master Plan Project on February 14, 1990.. The Service analyzed the project's effects to the endangered San Joaquin kit fox (*Vulpes macrotis mutica*), in the biological opinion. On May 22, 2007, Brad Dunlap of the City of Porterville, met with Susan Jones of the Service to discuss changing the San Joaquin kit fox compensation from an 26 acre on-site reserve as originally outlined in the 1990 biological opinion to purchase of 26 credits in a conservation bank. This response is in accordance with section 7 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) (Act).

The Service agrees with this change in location for the conservation acres because the area around the airport has become developed and the on-site reserve and corridor are no longer connected to other kit fox habitat. Therefore, the February 14, 1990, biological opinion is now amended as follows:

From
Page 2: The Project Description Conservation Measure 1-4:

1) Provide a movement corridor on either side of a drainage ditch located parallel to, and roughly equidistant between, Scranton and Teapot Dome Avenues. The minimum width of this corridor would be 100 feet. The corridor would be planted to provide some vegetative cover for traveling kit foxes.

2) Provide artificial cover sites (e.g. dens or pipes for the San Joaquin kit fox, if appropriate.

3) Provide kit fox sized holes in the chain-link fence that separates industrial designed areas from agricultural areas.

4) Provide a fallow area of approximately 20 acres east of the new orage grove, in the southwest corner of the project area. This fallow area would provide a southerly corridor for the San Joaquin kit fox.

To:

The City will compensate for direct effects to 26 acres of San Joaquin kit fox habitat (20 acres of fallow farmland plus 6 acres of movement corridor by the purchase of 26 credits at a Service-approved Conservation Bank that services the action area.

From

Page 4-5: Incidental Take Statement Terms and Conditions 1a-1c:

a) A 20-acre area east of the orange grove shall be left fallow. Surface disturbance including grading and plowing shall be prohibited within this area. This area is shown on Figure 1. The final configuration of this area shall be subject to the approval of the Service.

b) A corridor shall be established along the drainage ditch that is parallel to and roughly equidistant between Scranton and Teapot Dome Avenues. This corridor shall be at least 100 feet wide.

c) Semi-circular holes that are 6-8 inches in diameter shall be cut at ground level in the chain link fence that separates the agricultural and industrial area. The holes should be cut at 50 to 100 yard intervals.

To:

The City will compensate for direct effects to 26 acres of San Joaquin kit fox habitat (20 acres of fallow farmland plus 6 acres of movement corridor by the purchase of 26 credits at a Service-approved Conservation Bank that services the action area.

All other portions of the February 14, 1990, biological opinion remain the same. This concludes reinitiation of formal consultation for the City of Porterville Municipal Airport Master Plan project outlined in your request. As provided in 50 CFR 402.16, reinitiation of formal consultation is required where discretionary Federal agency involvement or control over the action has been maintained (or is authorized by law) and if: (1) the amount or extent of

incidental take is exceeded; (2) new information reveals effects of the agency action that may affect listed species or critical habitat in a manner or to an extent not considered in this opinion; (3) the agency action is subsequently modified in a manner that causes an effect to the listed species or critical habitat that was not considered in this opinion; or (4) a new species is listed or critical habitat designated that may be affected by the action. In instances where the amount or extent of incidental take is exceeded, any operations causing such take must cease pending reinitiation.

If you have any questions regarding this amendment to the biological opinion on the proposed project, please contact Shelley Buranek or Susan Jones, of my staff at (916) 414-6630.

Sincerely,

Peter A. Cross

Peter A. Cross
Deputy Assistant Field Supervisor

cc:
Justin Sloan, California Department of Fish and Game, Fresno, California
Brad Porter, City of Porterville, California