

Tule River
Porterville



August 6, 2003

Dale Risling, Sr., Superintendent
United States Department of the Interior
Bureau of Indian Affairs
Central California Agency
650 Capitol Mall, Suite 8-500
Sacramento, CA 95814

Re: Notice of Land Acquisition Application, Off-Reservation/Non-Gaming - Porterville, CA

Dear Mr. Risling:

This letter is in response to the notice of the application filed by the Tule River Tribal Council, to have real property accepted into Trust for the Tule River Indian Tribe of the Tule River Rancheria, California. Thank you for the opportunity to comment on this proposal.

As background information, the City of Porterville offers the following:

- 1) The subject site is within the City Limits of the City of Porterville, CA.
- 2) The land was originally acquired by the Tule River Tribal Council in a purchase from the City of Porterville in 1988. Note: The City of Porterville retained mineral rights in this sale.
- 3) In 1992, the Tule River Tribal Council 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 the infrastructure development for an Industrial Park on the subject site. The two agencies were awarded \$600,000 in support of a \$750,000 construction program. In 1994, this grant was amended to be an \$800,000 grant in support of a \$1 Million construction project.
- 4) The original 40 acre parcel was divided into 17 lots for industrial development through a Parcel Map approved by the City of Porterville in 1995.
- 5) Industrial development is ongoing on the subject site. Two buildings have been constructed on two adjacent parcels. Additional development is anticipated on the remaining fifteen parcels. The industrial park is managed by the Tule River Economic Development Corporation (TREDC).
- 6) The City of Porterville currently receives approximately 11.7% of the property tax and 13.1% of the sales tax generated on the subject site.

In response to the four questions specifically included in the notice, the City of Porterville has determined the following:

- 1) If known, the annual amount of property taxes currently levied on the subject property allocated to your organization;

The subject property is currently assessed at \$2,239,252 which generates a total property tax liability of \$27,394.52 per year. Of this, the City of Porterville is allocated \$3,198.94. In addition, the City of Porterville would be allocated 11.7% of any increase in assessed property taxes brought about by development. Based upon the assessed value of the current improvements (an average of \$500,000 for each of three warehouse/industrial buildings), development may reasonably be expected to increase the value of the property by \$14,000,000 (for full buildout of the equivalent of an additional twenty-eight 10,000 sq.ft. warehouse/industrial buildings). That would increase the tax liability by \$140,000 to \$167,000. The City of Porterville's allocation of the increase would be approximately \$16,380 per year to a total allocation of \$19,540 per year.

- 2) Any special assessments, and amounts thereof, that are currently assessed against the property in support of your organization;

The City of Porterville levies a 6% Utility Users Tax (UUT) on all utility customers within the City of Porterville for water, gas, electric, telephone and cable TV services (capped at a maximum liability of \$500 per utility per customer/meter). The subject site generates approximately \$52 per year in water related UUT. Future development may be expected to generate an additional \$485 per year of water related UUT. It is not possible to determine the current UUT paid by the subject site for gas, electric and phone utilities. Total future UUT liability for all utilities is highly speculative but is expected to be less than \$10,000 per year.

The City of Porterville assesses a Storm Water Drainage Impact Fee of \$9,964 per acre for all new industrial development. This fee has previously been paid for the entire industrial park.

The City of Porterville assesses a Water Impact Fee of \$13,090 per acre for all new industrial development. This fee has been paid for each of the developed properties but not for the vacant parcels. This fee would be expected to generate approximately \$435,000 (current value) as the remainder of the subject site develops.

The City of Porterville assesses a Sewer Impact Fee of \$8,354 per acre for all new industrial development. This fee has been paid for each of the developed properties but not for the vacant parcels. This fee would be expected to generate approximately \$275,000 (current value) as the remainder of the subject site develops.

Transportation Impact Fees: The City of Porterville charges a Transportation Impact Fee of \$583 per 1,000 sq.ft. of industrial development. Future development of the equivalent of an additional 28 buildings of 10,000 sq.ft. each, would be expected to generate approximately \$163,240 of Transportation Impact Fees.

- 3) Any governmental services that are currently provided to the property by your organization;

The City of Porterville is a full service municipality. All services of the City Government are provided to the subject site including, but not limited to:

Police Service - Crime prevention, emergency response and investigation.

Fire Services - Construction inspection, periodic life-safety inspections, Emergency Medical Services, and fire suppression.

Road Maintenance - The City of Porterville owns and maintains three municipal streets directly serving the subject parcels. In addition, the City maintains several of the streets providing access to the subject site.

Water Service - The City owns and maintains water utility lines serving the subject area.

Sewer Service - The City owns and maintains sewer utility lines serving the subject area.

Storm Drainage - The City owns drainage facilities serving the subject area, a drainage easement crossing the site and accepts all storm water drainage into city facilities.

Parks - The City of Porterville maintains a rich network of public parks and related amenities which are available to the benefit of those who work at the TREDDC industrial park. The nearest park is the Porterville Sports Complex which is adjacent to the northerly boundary of the subject site.

Airport - The subject site has ready access to the Porterville Municipal Airport which may be an asset in marketing the site to potential tenants/buyers.

Land Use Planning - The City of Porterville reviews all development proposals on the subject site for consistency with the General Plan and Zoning Ordinance (see below).

The City also applies for FAA review of all development on the subject site, as necessary.

Building Services - Plan check for compliance with building codes and construction inspections.

Economic Development - The subject site is a component of the City of Porterville's Enterprise Zone, Targeted Tax Area, Recycling Marketing Development Zone and other incentive zones intended to encourage industrial development. In addition, the City of

Porterville's Economic Development Staff regularly include the subject site in "available site" lists for potential developers.

- 4) If subject to zoning, how the intended use is consistent, or inconsistent, with current zoning.

Land use planning on the subject site is subject to a variety of General Plan documents and Zoning Ordinance regulations. The Land Use Element of the General Plan designates the site for Industrial uses. This is a broad category permitting a wide variety of manufacturing and warehousing uses. Development of the subject site to date has complied with this designation, and the estimates of future activity above presume continued industrial development.

The subject site is also located within the boundaries of the Porterville Municipal Airport Master Plan (an Element of the City of Porterville General Plan). This Plan serves as an "Airport Land Use Plan" which supersedes the Tulare County Airport Land Use Plan within the City Limits of the City of Porterville. The Airport Master Plan designates the site as within the "Horizontal Zone" which influences the permitted development standards (see the Zoning discussion below). In addition, the subject site is within Compatibility Zone D, which is defined as lying under common flight tracks. This area is subject to small risk from navigation, but frequent noise intrusion. Within this compatibility zone, the Airport Master Plan establishes a maximum population density of 60 persons per acre in non-residential buildings or 120 persons per acre not in structures. Highly noise sensitive outdoor activities are typically not acceptable in this zone.

The City of Porterville has also adopted Master Plans for Sewer, Water and Storm Drainage facilities. These are also Elements of the Porterville General Plan. In each case, facilities are shown to be adequate to serve the subject site. However, the anticipated utility demand and the infrastructure necessary to serve that demand presume that development will occur within the constraints of the Land Use Element and Airport Master Plan. More intense development than anticipated could overtax the existing and planned utility systems.

The subject parcels are within two complementary Zoning categories; the AD (Airport Development) Zone and the AS (Airport Safety) Zone. The AD Zone permits industrial development, but requires site review and architectural review by the City Council. It is not possible to judge how well future projects may comply with the standards in the Porterville Zoning Ordinance or the requirements likely to be imposed by the City Council. The AS Zone restricts development for navigation safety and safety on the

ground, based upon the designations within the Airport Master Plan. The subject site is within the Horizontal Zone which prohibits construction exceeding 150 feet in height.

The City of Porterville would also like to note the following issues and questions as potentially relevant to the question of acquisition of the subject site as trust land:

- 1) Will the proposed action create any concerns with the Economic Development Authority of the US Department of Commerce? The EDA funded the majority of the initial infrastructure on the subject site with a grant based upon circumstances which may now be subject to change. As a joint applicant for the grant funds, the City of Porterville retains an obligation to ensure development of the subject site in accordance with the grant award. This becomes extremely problematic if the subject area is removed from the City's jurisdiction places the City in an untenable situation in which we would not be able to fulfill our obligations as co-applicant for the EDA Grant.
- 2) The legal description of affected property in the application includes the developed and developable lots in the industrial park but not the public streets serving those parcels. Does this accurately reflect the Bureau's understanding of the request? Is this a typical or acceptable approach in the acquisition of land to be held in Trust?
- 3) Is it necessary or typical that the property be formally detached from the boundaries of the City of Porterville in order to complete the proposed transaction? The City notes that there are a variety of other Federally owned parcels within the City of Porterville. Because of the significant planning already undertaken and joint effort to realize development of the site and extension of City services, the City would have significant concerns regarding the removal of the property from City jurisdiction. Acquisition of the property as Trust Land, while maintaining municipal jurisdiction also raises some difficult issues, but is likely to be preferable to formal detachment.
- 4) The City's authority to extend services beyond its boundaries is limited by Section 56133 of the California Government Code. The City cannot guarantee water and sewer service availability to new development until a thorough review of this issue is made. The Local Agency Formation Commission (LAFCO) may have the authority to veto such services.
- 5) Is there a method to preserve all or part of the City of Porterville's land use review authority through the proposed action? The municipal airport is one of the City of Porterville's major assets. Development on the periphery of the airport could alter or restrict future options for airport operations and on-site development. Furthermore, the airport and surrounding industrial properties are a vital component of the City's economic development strategy. Changes in the approach to development on the subject site could

have implications throughout the industrial and commercial sectors of the City. Finally, provisions have been made to provide a wide variety of municipal services under the assumption that existing land use controls would remain. Losing all control over land use decisions, while retaining the responsibility to provide services could place the City in an untenable position.

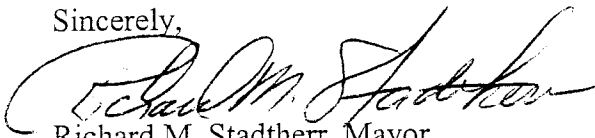
- 6) If land use control must shift entirely to the Tribal Council, what is the equivalent Federal process to the State mandated Airport Land Use Plan and Airport Land Use Commission system? What limitations on land use are imposed directly by the Federal Aviation Administration on federally owned property in the vicinity of an airport? What method of Land Use regulation would apply?
- 7) What is the effect of the proposed action on various properties within the subject area which are owned by the City of Porterville? The City retains ownership of the mineral rights under the entire subject property, as well as an easement for storm drainage and a storm drainage pipeline. If the streets are to be included within the transaction (see No. 1 above), several rights of way, developed streets, and underground utility facilities would be affected.
- 8) What effect, if any, would the proposed action have on the City's ability to collect development impact fees for sewer, water, and traffic?
- 9) What effect, if any, would the proposed action have on the City's ability to enforce the municipal Wastewater Pre-Treatment Ordinance?
- 10) What mechanisms are available to make the City whole for the loss of property tax revenues, potential sales tax revenues and other funding sources which may be affected by the proposal?
- 11) The City is concerned that a precedent will be set by continuing to provide water service to an industrial park which may no longer be located within the boundaries of the City of Porterville. The City has policies in place to require annexation prior to the delivery of water service to most users unless the property is "physically un-annexable." The City Council will need to determine whether detachment from the City for the purpose of attaining Trust status would qualify the property as "un-annexable."
- 12) Are there other jurisdictions which have experienced a similar project (a non-gaming project in an urban area)? How have these issues been resolved in those cases?

Dale Risling, Bureau of Indian Affairs
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The City of Porterville remains highly supportive of the Tule River Tribe, their Tribal Council and the Tule River Economic Development Corporation. We are committed to continuing to assist the Tribe as they seek to expand the economic opportunities available, both to members of the tribe and to the community at large. However, it is vital that the City Council be given an opportunity to learn the answers to the above questions, and resolve the identified issues prior to any action on the application for acquisition.

With that, the City of Porterville respectfully requests a 180 day extension of time to comment on the proposed project. Any assistance the Bureau of Indian Affairs could offer in researching the above issues would be greatly appreciated and would certainly shorten the delay necessary to allow for an adequate review of this complex proposal.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard M. Stadtherr". The signature is written in a cursive style with a large, looping initial "R".

Richard M. Stadtherr, Mayor
City of Porterville