

NOTICE OF FINDING OF NO SIGNIFICANT IMPACT FOR THE PROPOSED CACHIL DEHE BAND OF WINTUN INDIANS OF THE COLUSA INDIAN COMMUNITY PROPOSED FEE-TO-TRUST PROJECT

AGENCIES: Bureau of Indian Affairs

ACTIONS: Finding of No Significant Impact

SUMMARY:

The Cachil DeHe Band of Wintun Indians of the Colusa Indian Community (Tribe) submitted a request to the Bureau of Indian Affairs (BIA) to approve the acquisition in trust of 225 acres of fee land for Tribal housing. The land proposed for development and trust acquisition is located approximately three miles north of the Town of Colusa in Colusa County, California, between State Route (SR) 45 (Princeton Road) and the Sacramento River. The project site is located in unsectioned areas of Rancho Jimeno, Township 16 North, Ranges 1 and 2 West, on the Moulton Weir, California U.S. Geological Survey (USGS) 7.5-Minute Topographic Quadrangle (quad), Mount Diablo Base & Meridian.

Based upon the analysis documented in the Environmental Assessment (EA) and consideration of comments received during the public review period the BIA makes a finding of no significant impact (FONSI). This finding constitutes a determination that the Proposed Action is not a federal action significantly affecting the quality of the human environment. Therefore, an Environmental Impact Statement (EIS) is not required.

BACKGROUND:

The original 59-acre Colusa Rancheria ("Old Reservation") was established by the federal government in 1907. The Tribe adopted a Constitution and Bylaws in 1941 in accordance with the Indian Reorganization Act of 1934, as amended (25 U.S.C. §461 *et seq.*). In 1943, the Cachil DeHe Band's federal recognition status was reaffirmed as a sovereign Indian Tribe with the dedication of an additional 227 acres of trust land ("New Reservation") to support the economic and cultural welfare of the Tribe.

If the site is accepted in trust, the site and facilities developed on the site would assist the Tribe in meeting the following goals:

- Expand the Tribe's land base to promote stewardship of the Tribe's historical territory in a manner consistent with Tribal priorities;
- Provide much needed residential housing and associated infrastructure for Tribal members;
- Engage in diverse and self-sustaining economic development activities compatible with the rural, agricultural setting of Colusa County; and

- Allow the Tribal Government to exercise sovereign authority over a greater percentage of the land that it owns, and protect and enhance the wellbeing of Tribal members and natural resources on those lands.

DESCRIPTION OF THE PROPOSED ACTION:

The BIA's Proposed Action consists of the transfer of the site into federal trust status for the benefit of the Tribe. The proposed fee-to-trust conveyance is for 12 parcels totaling approximately 225 acres. A reasonably foreseeable consequence of this action is the subsequent development of the site for Tribal housing and associated facilities (Proposed Project). The Proposed Project would include up to 20 single-family units on quarter acre plots. The existing walnut orchards would be maintained on the remainder of the property.

ALTERNATIVES CONSIDERED:

The BIA considered two alternatives to the Proposed Action which are described in the EA and summarized below. The Reduced Intensity Alternative and the No Action Alternative were evaluated in full detail in the EA.

- 1) **Reduced Intensity Alternative:** The Reduced Intensity Alternative, like the Proposed Action, consists of the conveyance of the site from private ownership into federal trust status for the benefit of the Tribe, and the subsequent construction of Tribal housing on the site. Under this alternative, 10 single-family homes would be developed on quarter acre lots. As with the Proposed Project the existing walnut orchards would be maintained on the remainder of the property.
- 2) **No Action Alternative:** Under the No Action Alternative, the 12 parcels (225 acres) would not be placed into federal trust for the benefit of the Tribe, and would not be developed with Tribal housing and associated facilities. Land use jurisdiction would remain with Colusa County, and the Tribe would continue to pay property taxes on the parcels. The current use of the site (walnut orchard) is assumed to continue.

ENVIRONMENTAL IMPACTS:

An EA, documenting and analyzing the potential impacts of the Proposed Action and Alternatives, was completed in March 2010. The EA was distributed for public review from April 14, 2010 to May 14, 2010. The BIA received two comment letters. As part of the EA, potential impacts to land resources, water resources, air quality, biological resources, cultural resources, socioeconomic conditions/environmental justice, transportation and circulation, land use, public services, noise, hazardous materials, and visual resources were evaluated, with the following conclusions:

- A. Implementation of BMPs and mitigation measures will ensure impacts to land resources will be less than significant. See EA Sections 4.1.1, 2.1.7, and 5.1.

- B. Project design, Best Management Practices (BMPs) incorporated into the Proposed Project, and mitigation measures will ensure that impacts to water resources are not significant. See EA Sections 4.1.2, 2.1.7, and 5.2.
- C. BMPs incorporated into the Proposed Project and mitigation measures will ensure impacts to air quality will be less than significant. See EA Sections 4.1.3, and 5.3.
- D. Project design, BMPs incorporated into the Proposed Project, and mitigation measures will ensure that impacts to biological resources are not significant. See EA Sections 4.1.4, 2.1.7, and 5.4.
- E. There will be no adverse effects to known cultural resources by avoidance. Mitigation measures will ensure impacts to unknown cultural resources are less than significant. See EA Sections 4.1.5 and 5.5.
- F. There will be no significant impacts associated with socioeconomic conditions and environmental justice. See EA Section 4.1.6.
- G. There will be no significant impacts associated with transportation and circulation. See EA Sections 4.1.7.
- H. There will be no significant land use impacts. See EA Section 4.1.8.
- I. Implementation of mitigation measures will ensure that impacts to public services are not significant. See EA Sections 4.1.9, 2.1.7, and 5.9.
- J. There will be no significant impacts associated with noise. See EA Sections 4.1.10.
- K. Implementation of mitigation measures will ensure that hazardous materials impacts are not significant. See EA Sections 4.1.11, and 5.11.
- L. There will be no significant impacts associated with visual resources. See EA Sections 4.1.12 and 2.1.7.
- M. Cumulative impacts to land resources, biological resources, cultural resources, socioeconomic conditions, land use, and hazardous materials would be less than significant. BMPs incorporated into the Proposed Project, and mitigation measures will ensure that cumulative impacts to water resources, air quality, traffic and circulation, public services, and noise are not significant. See EA Sections 4.4, 2.1.7, 5.1, 5.2, 5.3, 5.4, 5.5, 5.9, and 5.11.

SUMMARY OF EA PROTECTIVE MEASURES, BMPS, AND MITIGATION MEASURES:

The protective measures, BMPs, and mitigation measures described in the EA are included either to reduce significant impacts to a less than significant level, to further reduce already less than significant impacts, or both. To ensure that the mitigation measures required to reduce significant impacts to a less than significant level are enforceable as applicable, the mitigation measures are either included as an integral part of the project description, required by Federal law, and/or included within an enforceable NEPA document.

Following is a summary of protective measures, BMPs, and mitigation measures that have been incorporated into the project design to eliminate or substantially reduce environmental impacts from the project (see the EA for a detailed description of all measures and BMPs).

Land Resources

- All structures would meet the California Building Code (CBC) requirements for the site, including the seismic design criteria of the most recent edition of the Uniform Building Code (UBC).
- Protective coatings for buried steel pipelines and other facilities would be used in construction occurring on corrosive soils.
- All site preparation and earthwork construction in the field shall be performed by licensed contractors.
- Suitability of earth and construction materials shall be determined by a licensed professional employing geotechnical/soils laboratory testing standards according to standard engineering practice.
- All grading plans, subsurface investigations, and slope stability and seismic design calculations as well as all foundation and building design parameters shall be produced under the supervision of appropriate licensed professionals.
- Construction on expansive soils shall be mitigated by using specialized grading techniques or designing structural foundations to withstand expansion pressures.
- The effects of soil movement shall be mitigated by strengthening the soils during grading and/or designing and constructing satisfactory foundation support.
- Prior to finalization of the grading and development plans for the property, design-level geotechnical specifications addressing the specific grading and development plans shall be developed.

Water Resources

- Areas outside of buildings and existing roads would be kept as permeable surfaces to the extent practicable; either as vegetation or high infiltration cover, such as mulch, gravel, or turf. No additional paving of roads is anticipated.
- Existing vegetation (including walnut trees) would be retained where possible.
- High water-demand plants would be minimized in residential landscaping plans. Native and drought-tolerant plant species (trees, shrubs, and ground cover) would be emphasized.
- Water-efficient fixtures and appliances would be installed in residences.
- Septic systems would be installed and maintained according to Indian Health Services (IHS) guidelines.
- Drainage from the proposed trust parcels would continue to be directed across an existing detention basin on the Rancheria. The detention basin has been designed to slow the velocity of peak stormwater flows and allow increased infiltration of groundwater, reducing stormwater discharge to off-Reservation lands.
- The Tribe shall obtain a National Pollutant Discharge Elimination System permit (NPDES General Permit) from the USEPA for construction site runoff during the construction phase in compliance with the Clean Water Act (CWA). A Storm Water Pollution and Prevention Plan (SWPPP) shall be prepared, implemented, and maintained throughout the construction phase of the development, consistent with General Permit

requirements. The SWPPP would detail the BMPs to be implemented during construction and post-construction operation of the Proposed Project.

Air Quality

- Set a five-minute idling time for construction and commercial delivery vehicles.
- Require energy efficient designed building.
- Consider LEED certification.
- Incorporate "Green Building" methodologies.
- Require the use of energy-efficient appliances in new residences.
- To the extent possible, require energy efficient lighting.
- Construct residences in a manner that would take advantage of shade, prevailing winds, and landscaping to reduce energy use.
- Preserve open spaces were possible.
- Require construction to reuse and recycle construction waste.

Biological Resources

- All native oak trees would be preserved.
- Mixed riparian habitats on APNs 015-030-049 and 015-030-051 would be preserved.
- The applicant shall comply with all avoidance measures including protective measures identified in the *Conservation Guidelines for the Valley Elderberry Longhorn Beetle* (VELB; USFWS, 1999), to the extent feasible.
- All areas to be avoided shall be fenced and flagged during construction activities. In areas where encroachment on the 100-foot buffer has been approved by the USFWS, a minimum setback of at least 20 feet from the dripline of each elderberry shall be implemented.
- Signs shall be erected every 50 feet along the edge of avoidance areas with the following information: "This area is habitat of the valley elderberry longhorn beetle, a threatened species, and must not be disturbed. This species is protected by the FESA, as amended. Violators are subject to prosecution, fines, and imprisonment." The signs should be clearly readable from a distance of 20 feet, and must be maintained for the duration of construction.
- Sensitivity training shall be provided to instruct all construction personnel crews about the status of the VELB and the need to protect its elderberry host plant. The training shall include identification of special-status species, required practices before the start of construction, general measures that are being implemented to conserve these species as they relate to the Proposed Action, penalties for noncompliance, and boundaries of the action area and of the permitted disturbance zones. Supporting materials containing training information will be prepared and distributed. Upon completion of training, all construction personnel will sign a form stating that they have attended the training and understand all the conservation measures. Training shall be conducted in languages other than English, as appropriate. Proof of this instruction will be kept on file with the applicant. The applicant will provide the USFWS with a copy of the training materials and copies of the signed forms by project staff indicating that training has been

completed within 30 days of the completion of the first training session. Copies of signed forms will be submitted monthly as additional training occurs for new employees.

- Staging areas shall be located at least 100 feet from elderberry (*Sambucus* sp.) shrubs with stems at least one inch in diameter at ground level. Temporary stockpiling of excavated or imported material shall occur only in approved construction staging areas. Excess excavated soil shall be used onsite or disposed of at a regional landfill or other appropriate facility.
- Equipment operators shall access the action area via existing roads. The operators shall minimize access on existing roads in the vicinity of the elderberry shrubs to the maximum extent feasible.
- Standard precautions shall be employed by the construction contractor to prevent the accidental release of fuel, oil, lubricant, or other hazardous materials.
- No construction activities will occur within 100 feet from the toe of slope of the levee that occurs east of riparian habitat and pond. No construction activities will occur within 100 feet from the riparian habitat that surrounds the irrigation ditch on the west side of the action area.
- A qualified biologist shall conduct habitat sensitivity training related to GGS for all project contractors and personnel, as identified under the VELB mitigation measures.
- Construction activities shall occur during the active season for GGS (May 1 through October 1), because snakes are expected to actively move and avoid danger.
- A biologist shall be present during land clearing activities to ensure that no take of this species occurs.
- Trees anticipated for removal should be removed at least one month prior to and one month following the yellow-billed cuckoo nesting season (May 1 through October 1). If trees are anticipated to be removed during the nesting season, a preconstruction survey shall be conducted by a qualified biologist conducted within 14 days prior to commencement of construction activities. If the survey shows that there is no evidence of active nests, then the tree shall be removed within ten days following the survey.
- If any active yellow-billed cuckoo nests are located within the action area, a buffer zone will be established around the nests. A qualified biologist will monitor nests weekly during construction to evaluate potential nesting disturbance by construction activities. The biologist will delineate the buffer zone with construction tape or pin flags within 250 feet of the active nest and maintain the buffer zone until the end of breeding season or the young have fledged. Guidance from the USFWS will be requested if establishing a 250-foot buffer zone is impractical.
- Construction will not occur within 250 feet of identified migratory bird/raptor nests during the breeding/nesting season.

Cultural Resources

- In the event that any prehistoric or historic cultural resources are discovered during ground-disturbing activities, all work within 50 feet of the resources shall be halted and a Colusa Indian Community tribal representative and BIA archaeologist shall be consulted to assess the significance of the find. If any find is determined to be significant by the qualified professionals, then appropriate agency and tribal representatives shall meet to determine the appropriate course of action.

- If human remains are encountered, work shall halt in the vicinity of the find and the Colusa County Coroner shall be notified immediately. Pursuant to 36 CFR Part 800.13 of NHPA: *Post-Review Discoveries*, and 43 C.F.R. § 10.4 (2006) of the Native American Graves Protection and Repatriation Act (NAGPRA): *Inadvertent Discoveries*, the Colusa Indian Community Tribal representative and BIA archaeologist will also be contacted immediately. No further ground disturbance shall occur in the vicinity of the find until the County Coroner, Tribal Official, and BIA archaeologist have examined the find and agreed on an appropriate course of action. If the remains are determined to be of Native American origin, the BIA representative shall notify a Most Likely Descendant (MLD). The MLD is responsible for recommending the appropriate disposition of the remains and any grave goods.

Public Services

- Structural fire protection would be provided through compliance with Uniform Fire Code requirements for residential structures. The Tribe would ensure that appropriate water supply and pressure is available for emergency fire flows.
- All structures would be constructed in accordance with all Uniform Building Codes, as adopted or supplemented by Colusa County.
- Existing roads would be maintained to standards adequate for emergency vehicle access.
- To minimize the risk of fire and the need for fire protection services during construction, any construction equipment that normally includes a spark arrester shall be equipped with a spark arrester in good working order. This includes, but is not limited to, vehicles, heavy equipment, and chainsaws.
- During construction, staging areas, welding areas, or areas slated for development using spark-producing equipment would be cleared of dried vegetation or other materials that could serve as fire fuel. To the extent feasible, the contractor would keep these areas clear of combustible materials in order to maintain a firebreak.
- Fire extinguishers shall be maintained onsite and inspected on a regular basis.
- An evacuation plan shall be developed for the proposed development in the event of a fire emergency.

Hazardous Materials

- Potentially hazardous materials, including fuels, shall be stored away from drainages and secondary containment shall be provided for all hazardous materials during construction.
- Vehicles and equipment used during construction shall be provided proper and timely maintenance to reduce potential for mechanical breakdowns leading to a spill of materials

into water bodies. Maintenance and fueling shall be conducted in an area that meets the criteria set forth in the spill prevention plan.

Visual Resources

- Homes would be designed and constructed to be visually compatible with the rural agricultural setting of the project area and vicinity.

RESPONSE TO EA COMMENTS:

The BIA received two comments letter on the EA. No additional impacts were identified in the comments.

The California Department of Conservation recommended that no structure be built over or in proximity to a an abandoned well and that structures be set back sufficiently to allow future access to the well. It has been determined that the abandoned well referenced in the letter is not actually located on the proposed fee-to-trust parcels. Therefore, no additional mitigation is required.

The California State Land Commission wrote that there may be property boundary issues associated with two parcels that are part of the fee-to-trust application (Assessor Parcel Numbers 015-030-049 and -051). The Commission contends that the course of the Sacramento River may have shifted over time, affecting the eastern parcel boundaries. No houses or other facilities are proposed on these parcels as part of the Proposed Action, and therefore no impacts or environmental resources would be affected by a correction of the parcel boundaries, if it is determined to be necessary. Therefore, no new impacts would occur and no additional mitigation is necessary, however the Tribe is currently consulting with the Commission to resolve property boundary issues.


PUBLIC AVAILABILITY:

This FONSI will be distributed to all persons and agencies known to be interested in the Proposed Action as indicated by their comments on the EA. Additionally, all persons and agencies on the initial EA mailing list will receive a copy. Copies of the EA and FONSI are available for public review at the Colusa Indian Community Administration Building located at 3730 Highway 45, Colusa, CA 95932, telephone (530) 458-8231, or at the Colusa County Library located at 738 Market Street, Colusa, California 95932, telephone (530) 458-7671. An electronic version of the EA and FONSI are also available online at www.analyticalcorp.com.

DETERMINATION:

After review and independent evaluation, the BIA has determined that the proposed federal action, to approve the Cachil DeHe Band of Wintun Indians of the Colusa Indian Community's request to acquire the proposed 225-acre site into trust for the purpose of developing Tribal housing and associated facilities, does not constitute a major federal action that would significantly affect the quality of the human environment within the meaning of NEPA. This conclusion is based on the analysis contained in the EA, public comments made on the EA, the response to those comments, and the mitigation imposed. Therefore, an Environmental Impact Statement is not required and the BIA is issuing this mitigated FONSI.

Issued in Sacramento, California this 9TH day of August, 2010.



Acting Regional Director
Bureau of Indian Affairs
U.S. Department of the Interior

This FONSI is a finding on environmental effects, not a decision to proceed with an action, therefore it cannot be appealed. Regulations in 25 CFR Part 2.7 requires a 30 day appeal period after the decision to proceed with the action is made before the action may be implemented. Appeal information will be made available to the public when the decision to proceed is made.