

J. Williams, "46 BOS, 2/24/15

To: El Dorado County Board of Supervisors

From: South Buckeye Rancheros Owners Association (SBROA)

Re: Proposed Projects by the Sacramento Verona Band of Homeless Indians, AKA Shingle Springs Band of Miwok Indians

The Shingle Springs Band of Miwok Indians, have indicated their plans to begin construction on two commercial projects on their land located on the southeast and southwest corners of Shingle Springs Drive and Highway 50, in Shingle Springs. These projects include a 29 lane outdoor shooting range on the southeast corner, and a gas station, fast food restaurant and other commercial development on the southwest corner at this intersection. We are vehemently opposed to these projects as proposed for the following reasons:

SHOOTING RANGE: No impact studies have been performed. Representatives of the tribe have indicated that they have not engaged in any studies to determine traffic or noise impacts to the immediate surrounding land owners. The tribal representatives have also stated that they will go ahead and build the range and assess noise impacts after the range is built. If this range is built without addressing the negative impacts and without imposing mandatory mitigation requirements, the horse will be out of the barn and the community will be left to live with the substantially degraded quality of life impacts. This shooting range project is located in a residential area, with homes and livestock extremely close. There is also a walking/riding trail along with a railroad corridor directly in line with the proposed shooting lanes.

The tribe has stated that it will not build an indoor range which would, in all likelihood, resolve all noise impact issues if built to the correct construction standards. The point is the tribe has a method of mitigating the noise issue, but refuses to spend the money. The tribe will not spend their money, but apparently has no problem watching the surrounding community of home owners lose significant value to their property because of the devaluation that will inevitably occur. Who will want to buy a house in the surrounding community with the noise this range is going to generate? The answer is simple, no one! The tribe's answer is that they "think" that they will only be operating the range on weekends. Subsequently, the residents would only have every weekend destroyed!

Of course, like every other such project, it will start out weekends only, then special events on Tuesdays and then other special events on Thursdays and before you know it, most of the week will be met with 29 lanes of minimally suppressed gunfire.

Impact studies should include environmental impacts, traffic impacts and in particular, noise impacts. This shooting range will increase traffic on county roads. There is some indication from County representatives that the Board believes it has little power to limit or eliminate the proposed projects. Our information is that these projects are inconsistent with the County's General Plan, and the projects require ingress and egress on county roads. If county roads are used to get to and from the projects, and in and out of the projects, it would seem elementary that the county has a say so. In fact, the county would have control, over setting substantial mitigation requirements before the projects can go forward. The County may or may not be able to have significant control over the trust land because of the limited sovereign immunity issue, but certainly can completely control ingress and egress to the projects just as it does with any other project in the county. The tribe is not entitled to an encroachment permit just because they are a tribe.

1 of 2

GAS STATION: No impact studies have been performed. This commercial project is inconsistent with the underlying RE10/5 zoning for the property. There will be a significant loss of tax revenue to the county. A gas station on tribal lands will be able to sell gas at a cheaper price than competing stations nearby, thereby cutting into the profits of other stations. It is our understanding that the nearby Shingle Springs 76 Station is the #1 sales tax generator for the County, more tax revenue than Walmart or any other commercial venture in El Dorado County. Building the gas station is a money loser for the County.

We are asking the Board to do the following:

1. Issue a position statement opposing the projects on the grounds of the above-stated reasons.
2. Agendize this matter in a public session. Require an in depth study by Board staff to evaluate the projects and a report regarding the consistency or inconsistency with the General Plan, traffic and environmental impacts along with proposed mitigation measures.

Time is of the essence here. The Tribe has expressed its plans to begin construction soon and have the shooting range completed by spring of 2015. That is in a matter of a couple of months... it is obvious the tribe is trying to fast track these projects and bypass any meaningful local community input, traffic and environmental studies. The tribe is trying to project an image that they are cooperating by meeting with limited individuals; however, "meetings" are not beneficial if the conclusion has already been ordained, decided and about to be acted upon.

If the Board takes a passive position and does not demand that these projects be suspended until appropriate impact studies can be done, it sets a precedence for the tribe to continue on its path of expansion without county or community input and without regard for rules and regulations put in place to protect public safety, traffic, and noise. The tribe professes to be "good neighbors" and "keepers of the land", the Board should hold them to these statements.

Remember that the Board has a responsibility to represent the **Residents** of El Dorado County, **not** a Sovereign Nation. It is your responsibility to take whatever steps you can to ensure that you protect the community most affected by these projects. The land for these projects belongs to a Sovereign Nation. However, the impacts from these projects will negatively impact the Community surrounding the projects and we expect you to take action on our behalf.

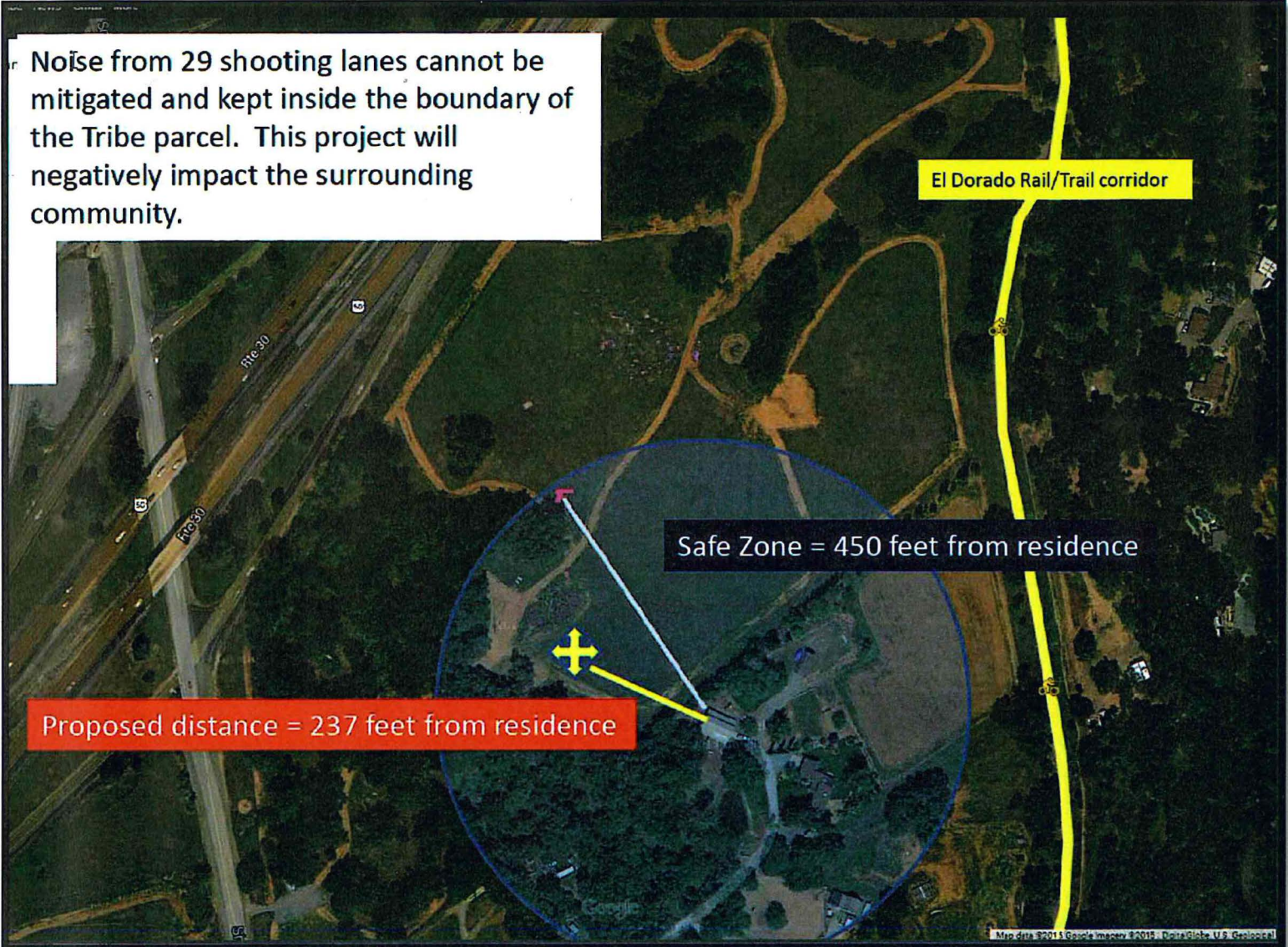
We solicit your attention to this matter and anticipate your assistance in slowing down these projects so that all areas of concern are addressed and resolved before the tribe moves forward.

South Buckeye Rancheros Owners Association (SBROA),

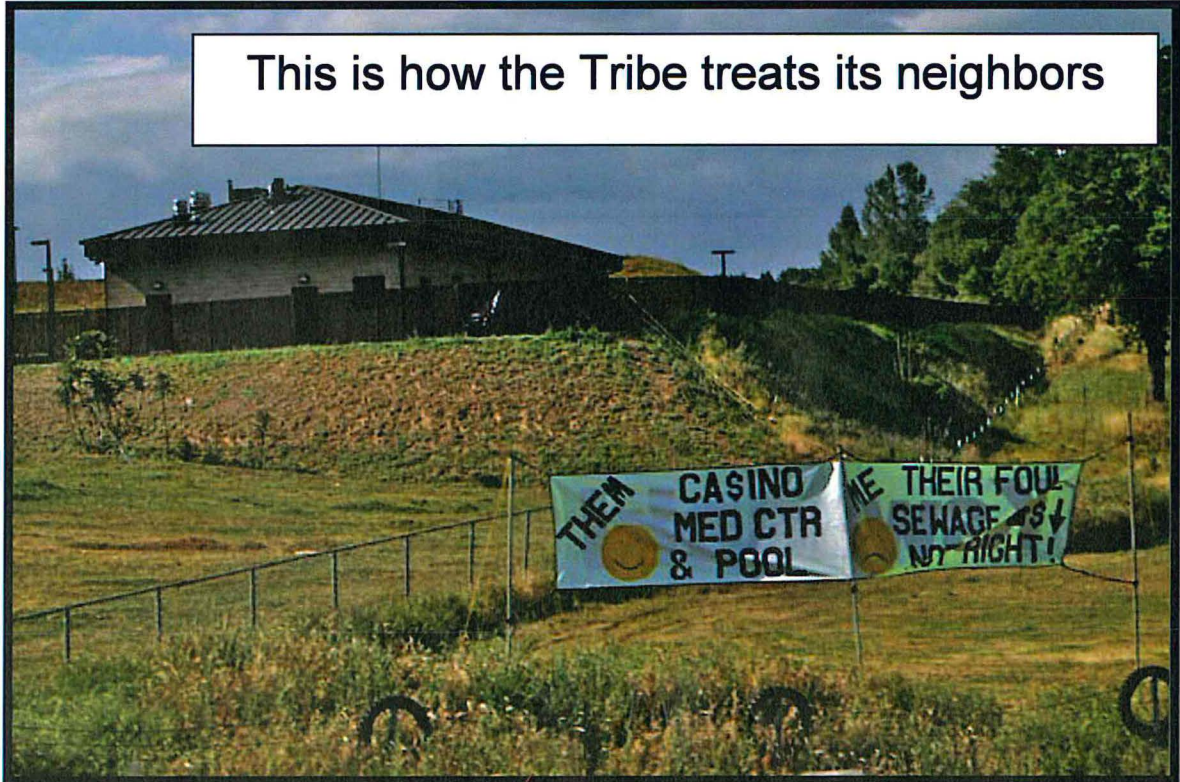
Board of Directors: Ron Dosh, Lynn Kozar, Terry Jenkins, John Nelson, and James Williams

Cc: El Dorado County Counsel

Noise from 29 shooting lanes cannot be mitigated and kept inside the boundary of the Tribe parcel. This project will negatively impact the surrounding community.



This is how the Tribe treats its neighbors



Things to consider:

- Residents count on our representatives to protect its citizens. It is the duty of our Board of Supervisors to represent the citizens of El Dorado County, not the Tribe.
- The following text is directly from the 2006 MOU between El Dorado County and the Tribe. Please enforce the MOU and demand that the Tribe file a project application with the County to start environmental review:

5. The County will support any efforts by the Tribe to renegotiate and amend the compact it entered with the State of California in 1999. The Tribe agrees to undertake environmental reviews for projects commenced after, and pursuant to the terms of, any renegotiated or amended Compact. Regardless, the County acknowledges the payments provided herein will fully address the impacts the County perceives to be associated with the Gaming and Interchange Projects described herein. The Tribe consents to the inclusion in any future Compact with the State of California of a provision permitting the State of California to enforce this Agreement on behalf of the County.

- This text is taken directly from the California Fish and Game Code Section 3000-3012 and is also on the U.S. Department of the Interior, Bureau of Land Management website: 3004. (a) It is unlawful for any person, other than the owner, person in possession of the premises, or a person having the express permission of the owner or person in possession of the premises, to hunt or to discharge while hunting, any firearm or other deadly weapon within 150 yards of any occupied dwelling house, residence, or other building or any barn or other outbuilding used in connection therewith. The 150-yard area is a "safety zone."
(b) It is unlawful for any person to intentionally discharge any firearm or release any arrow or crossbow bolt over or across any public road or other established way open to the public in an unsafe and reckless manner.
- This is not about gun control. This is about compatible development in a community, adjacent to a residential neighborhood, and in close proximity to schools and our recreational rail and trail systems.
- If the Tribe does not want to build a compatible project on this land, in harmony with the surrounding community, then our Board of Supervisors has no alternative other than to do whatever is within their powers to protect the citizens of El Dorado County. One alternative is to deny the Tribe access to our County roads, until a compatible project is proposed, and a project application is submitted to the County for environmental review.

2 of 2

February 24, 2015

RE: Testimony Before The Board Of Supervisors El Dorado County

On September 28, 2006, Chairman Supervisor Jack Sweeney entered into an MOU Memorandum of understanding and Intergovernmental Agreement Between the County of El Dorado and the Shingle Springs Band of Miwok Indians.

The Board of Supervisors are an elected body representing the citizens of El Dorado County.

You have been also sworn to uphold the Constitution of United States and in doing so to uphold the 14th Amendment which states:

Under section one NO state shall make or enforce any law which abridges the privileges or immunities of citizens of the United States; nor shall any state deprive any person life, liberty or property without due process of law, nor deny any person within its jurisdiction the equal protection of the laws.

In pages 5 thru 8 and item 5 K it appears Chairman Sweeney vacated the Board of Supervisors representation of the citizens of El Dorado County and agreed to not assist the citizens in any lawful action.

As a citizen and property owner in El Dorado County I'm cautioning this new board to not abandon the citizens and the Constitution in dealing with the Miwok Tribe.

Under the FOREIGN SOVEREIGN IMMUNITIES ACT of 1976 is a United States law codified at TITLE 28, 1330, 1332, 1391 (f) 1441 (D), and 1602 and 1611 of the United States Code.

The FOREIGN SOVEREIGN IMMUNITIES ACT provides the exclusive basis and means to bring a lawsuit against a foreign sovereign in the United States.

Definition of a Foreign State:

“Agency or instrumentality” is then defined as any entity which

Has a separate legal identity

An organ of a Foreign State or political subdivision

Has a “majority- shares” or other ownership interest owned by a Foreign State

The exceptions are listed at 28 U.S.C. 1605, 1605 A, and 1607

The most common exceptions are;

When the Foreign State waives immunity 1605 (a) (1)

Agrees to submit a dispute to arbitration 1605 (a) (b)

ENGAGES IN COMMERCIAL ACTIVITY 1605 (A) (2)

The Supreme Court in 2010 decided that immunity to government officials acting on behalf of a state are not covered by the “ Agency or Instrumentality” definition. Thus those individuals are not entitled to immunity under the FOREIGN SOVEREIGN IMMUNITIES ACT

Commercial Activity Exception;

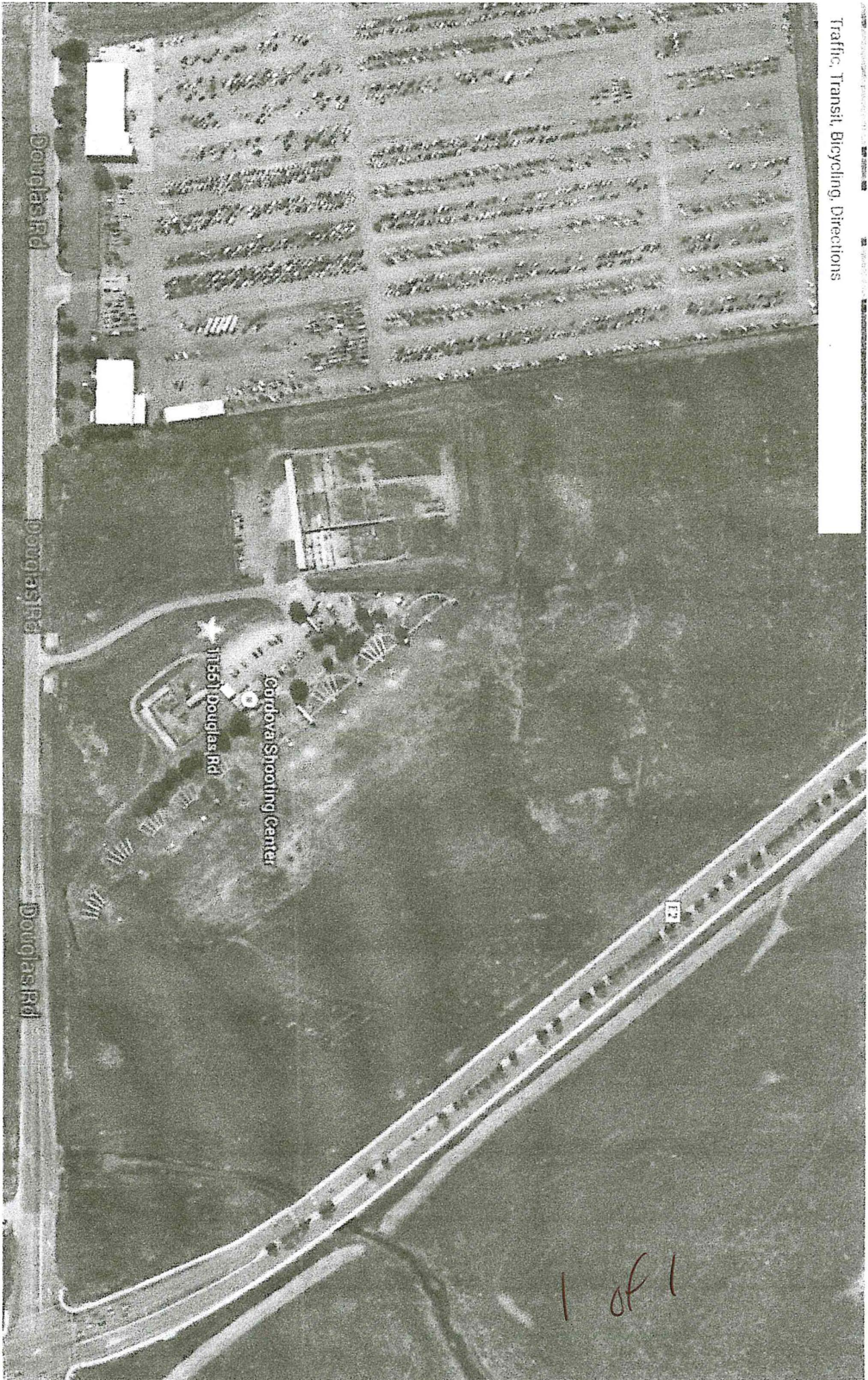
The most important exception to sovereign immunity is the COMMERCIAL ACTIVITY EXCEPTION, 28 U.S.C. 1605 (a) (2)

That section provides three bases on which a plaintiff can sue a foreign state;

When the plaintiffs claim is based upon a COMMERCIAL ACTIVITY carried on in the United States by the foreign state

When the plaintiff's claim is based upon an act by the foreign state which is performed in the United States in connection with commercial activity outside the United States.

WHEN THE PLAINTIFFS CLAIM IS BASED UPON AN ACT BY THE FOREIGN STATE WHICH IS PERFORMED OUTSIDE THE UNITED STATES IN CONNECTION WITH COMMERCIALACTIVITY OUTSIDE THE UNITED STATES AND WHICH CAUSES A DIRECT EFFECT IN THE UNITED STATES



Traffic, Transit, Bicycling, Directions

K. Wagner
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BO's
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<https://www.google.com/maps/@38.5611761,-121.2452611,708m/>

1 of 1

