



County of El Dorado
Air Quality Management District

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Dave Johnston
Air Pollution Control Officer

#3

May 11, 2016

Bureau of Indian Affairs
Pacific Region Office
2800 Cottage Way
Sacramento, CA 95825

LATE DISTRIBUTION
DATE 5/24/16
BOS 5/24/16

**RE: Shingle Springs Rancheria Fee to Trust Project, APN 319-100-20 & -21
– AQMD Comments**

Dear Sirs:

The El Dorado County Air Quality Management District (AQMD) reviews new project proposals for consistency with District Rules, the Clean Air Act, the California Environmental Quality Act (CEQA), and applicable policies of the El Dorado County General Plan.

As mentioned in the *Environmental Assessment (EA)* (Shingle Springs Band of Miwok Indians, May 2016), the western portion of El Dorado County is in non-attainment of the state Ambient Air Quality Standards (AAQS) for Particulate Matter 10 micrometers (PM₁₀), and the federal AAQS for PM_{2.5} (2.5 micrometers) in size. Additionally, the western portion of the County is in non-attainment of both the 1-hour and 8-hour state AAQS for ozone, and in severe non-attainment of the 8-hour federal AAQS for ozone. The two ozone precursor pollutants most responsible for ozone resulting from this project are Volatile Organic Compounds (VOC, also known as Reactive Organic Gases or ROG) and Nitrogen Oxides (NO_x).

AQMD has reviewed the proposed 10 single family dwellings ranging from 1,236sf to 1,904+sf in a proposed 10-lot residential subdivision of 10.18 acres, and the associated EA, and respectfully suggests consideration of the following comments regarding potential air quality impacts.

Comments:

Page 3-7 indicates that AQMD maintains air quality monitoring stations throughout the region. The sites in El Dorado County are actually owned and maintained by the California Air Resources Board (CARB).

Page 3-13 states;

“The CEQ recommends that agencies consider 25,000 metric tons of carbon dioxide equivalent (MT CO₂E) emissions on an annual basis as a reference point below which a quantitative analysis of greenhouse gas is not recommended unless it is easily

accomplished based on available tools and data. When using this reference point, the CEQA notes "agencies should keep in mind that the reference point is for purposes of disclosure and not a substitute for an agency's determination of significance under NEPA." A project that emits less than 25,000 MT CO₂E would result in a less than significant impact."

This paragraph is contradictory stating that the 25,000 MTCO₂E reference point is "...for purposes of disclosure and not a substitute for an agency's determination of significance under NEPA," but then states "A project that emits less than 25,000 MTCO₂E would result in a less than significant impact."

Also in that paragraph, there appears to be an error in "...the CEQA notes..." which refers to the state California Environmental Quality Act. Suggest stating "... the CEQ notes..." which would refer to the previously mentioned Council of Environmental Quality.

AQMD is not concerned about the incremental greenhouse gas (GHG) emissions increase related to the project as it falls well below the Sacramento Regional GHG thresholds AQMD recommends to determine GHG emissions impact significance. As stated in Section 4.3 of the EA, using the California Emissions Estimator Model (CalEEMod), this project would result in 142.7 MTCO₂e construction GHG emissions and annual operational emissions of 160 MTCO₂e. This is well below the recommended project-specific GHG threshold of 1,100 MTCO₂e/yr, therefore, the impacts of GHG emissions from this project would be less than significant.

Using the CalEEMod results for criteria pollutants provided in the EA, the project's emissions of NO_x and ROG are not expected to exceed the construction and operational emissions thresholds of 82 lbs/day found in the AQMD's *Guide to Air Quality Assessment: Determining Significance of Air Quality Impacts under the California Environmental Quality Act, February 2002*. With implementation of the following recommended new development standard conditions, the proposed project's emissions impacts would be less than significant.

Future Development:

AQMD recommends consideration of the following standard conditions reasonably applicable to proposed project emissions:

1. Asbestos Dust: Current county records indicate this subject property is located within the Asbestos Review Area. Suggest an Asbestos Dust Mitigation Plan (ADMP) Application with appropriate fees be submitted to and approved by the AQMD prior to project construction if County grading permit thresholds are exceeded or if the project moves more than 20 cubic yards of soil. (Rules 223 and 223.2). Recommend the project adhere to the regulations and mitigation measures for fugitive dust emissions asbestos hazard mitigation. Mitigation measures for the control of fugitive dust should comply with the requirements of Rule 223 and 223.2.
2. Paving: Project construction will involve road development. Recommend adherence to AQMD Cutback and Emulsified Asphalt Paving Materials (Rule 224).

3. **Painting/Coating:** The project construction may involve the application of architectural coatings, which should adhere to AQMD Rule 215 Architectural Coatings.
4. **Open Burning:** Suggest that burning of wastes resulting from "Land Development Clearing" be permitted through the AQMD. Only dry vegetative waste materials originating from the property should be disposed of using an open outdoor fire (Rule 300 Open Burning).
5. **Construction Emissions:** During construction, all self-propelled diesel-fueled engines greater than 25 horsepower should be in compliance with the California Air Resources Board (ARB) Regulation for In-Use Off-Road Diesel Fueled Fleets (§ 2449 et al, title 13, article 4.8, chapter 9, California Code of Regulations (CCR)). The full text of the regulation can be found at ARB's website here: <http://www.arb.ca.gov/msprog/ordiesel/ordiesel.htm> An applicability flow chart can be found here: http://www.arb.ca.gov/msprog/ordiesel/faq/applicability_flow_chart.pdf Questions on applicability should be directed to ARB at 1-866-634-3735.
6. **Portable Equipment:** All portable combustion engine equipment with a rating of 50 horsepower or greater should be registered with the California Air Resources Board (CARB). A copy of the current portable equipment registration should be with said equipment. The applicant should provide a complete list of heavy-duty diesel-fueled equipment to be used on this project, which includes the make, model, year of equipment, daily hours of operations of each piece of equipment.

In addition to these standard conditions, AQMD recommends the following conditions to maintain consistency with the County's General Plan.

APPLICABLE AIR QUALITY-RELATED GENERAL PLAN POLICIES AQMD RECOMMENDATIONS & CONDITIONS

El Dorado County's General Plan¹ contains two goals specifically addressing air quality: 1) Strive to achieve and maintain ambient air quality standards established by the U.S. Environmental Protection Agency and the California Air Resources Board, and 2) Minimize public exposure to toxic or hazardous air pollutants and air pollutants that create unpleasant odors. The General Plan establishes objectives and policies to guide land use development within the County to reach these goals. The General Plan policies AQMD believes are applicable to the proposed project are listed below:

OBJECTIVE 6.7.2: VEHICULAR EMISSIONS

Reduce motor vehicle air pollution by developing programs aimed at minimizing congestion and reducing the number of vehicle trips made in the County and encouraging the use of clean fuels.

Policy 6.7.2.5 Upon reviewing projects, the County shall support and encourage the use of, and facilities for, alternative-fuel vehicles to the extent feasible. The County shall develop

¹ El Dorado County General Plan: http://edcgov.us/Government/Planning/Adopted_General_Plan.aspx

language to be included in County contract procedures to give preference to contractors that utilize low-emission heavy-duty vehicles.

Recommended Action

Consistent with this General Plan policy and with the state's goal of 1.5 million zero-emissions vehicles on California roadways by 2025², AQMD encourages the applicant to consider the installation of Electric Vehicle Supply Equipment (EVSE) in the parking area to encourage the use of electric vehicles (EV). Resources for property owners concerning EVSE installation are available at: http://opr.ca.gov/s_zero-emissionvehicles.php and <http://www.pevcollaborative.org/policy-makers>.

Recommended Condition:

7. Electric Vehicle Charging – One & Two-Family Residential: Consistent with the Residential Mandatory Measures identified in the 2013 Cal Green Building Code §4.106.4.1, all one and two-family residential dwellings and townhomes should have, at a minimum, a listed raceway to accommodate a dedicated 208/240V branch circuit for future electric vehicle supply equipment (EVSE) for each dwelling unit. The raceway should not be less than 1 inch inside diameter, be securely fastened at the main panel, and terminate in close proximity to the proposed location of the charging end of the equipment. Raceways should be installed from the electrical service panel to the designated parking areas at the time of initial construction. The service panel should provide capacity to install a minimum 40A dedicated branch circuit. Please refer to Cal Green Building Stds Code §4.106.4 for specific requirements: http://www.iccsafe.org/wp-content/uploads/errata_central/5570S133.pdf

OBJECTIVE 6.7.4: PROJECT DESIGN AND MIXED USES

Encourage project design that protects air quality and minimizes direct and indirect emissions of air contaminants.

Policy 6.7.4.6 The County shall regulate wood-burning fireplaces and stoves in all new development. Environmental Protection Agency (EPA)-approved stoves and fireplaces burning natural gas or propane are allowed. The County shall discourage the use of non-certified wood heaters and fireplaces during periods of unhealthy air quality.

Recommended Condition:

8. Wood-burning devices: The installation of open hearth wood-burning fireplaces and all non-EPA certified wood-burning devices should be prohibited. All wood-burning stoves, inserts, and

² 2013 ZEV Action Plan: [https://www.opr.ca.gov/docs/Governor's_Office_ZEV_Action_Plan_\(02-13\).pdf](https://www.opr.ca.gov/docs/Governor's_Office_ZEV_Action_Plan_(02-13).pdf)

pellet stoves installed should be certified to the most current EPA standard. <http://www.epa.gov/residential-wood-heaters/final-new-source-performance-standards-residential-wood-heaters>. Please refer to EPA's "List of EPA Certified Wood Stoves", <http://www.epa.gov/burnwise/epa-certified-wood-stoves>. Fireplaces burning exclusively natural gas or propane (i.e., sealed units), or are purely electric are preferable.

OBJECTIVE 5.6.2: ENCOURAGE ENERGY-EFFICIENT DEVELOPMENT

Encourage development of energy-efficient buildings, subdivisions, development, and landscape designs.

Recommended Conditions:

9. Solar / Photovoltaic Equipment: All new residential homes should incorporate solar photovoltaic equipment, or at a minimum, be pre-wired for the installation of roof-mounted solar photovoltaic systems in order to reduce the impact on the electrical grid and reduce emissions from electricity generation and other forms of energy consumption.
10. Exterior Electrical Outlets: Electrical outlets should be provided along the front and rear exterior walls of residential homes to allow for the use of electric landscape maintenance tools.

AQMD Rules and Regulations are available at the following internet address: www.edcgov.us/airqualitymanagement.

AQMD thanks you for the opportunity to comment on this proposed project. If you have any questions regarding this letter, please contact our office at (530) 621-7501.

Respectfully,



Adam Baughman
Air Quality Engineer
Air Quality Management District

GRASSY RUN HOMEOWNERS' ASSOCIATION

5555 Grassy Run Court
Placerville, CA 95667

April 25, 2016

Hon. Amy Dutschke, Regional Director
Pacific Regional Office
Bureau of Indian Affairs
U. S. Department of the Interior
2800 Cottage Way
Sacramento, CA 95825

Re: Applications of Shingle Springs Rancheria Band of Miwok Indians
to have seven parcels of real property accepted into Trust
Application #1: 25 +/- acres
Application #2: 10.18 acres

Dear Ms. Dutschke:

I am the Chairman of the Legal Affairs Committee of the Grassy Run Homeowners' Association (GRHA). Grassy Run is a community located immediately adjacent to the Shingle Springs Rancheria, bordering it on its east and north boundaries. GRHA and I have learned of the referenced "land into trust" applications. On behalf of GRHA, and on my own behalf as a parcel owner and resident of Grassy Run, I respectfully submit the following comments for your consideration, and request that the matters discussed herein be included as requirements in such action as the Government (BIA) may take with regard to each and both of the two referenced applications.

1. Each and both of the referenced applications recites that the proposed use of the seven parcels of land (plus one easement) intended to be placed into trust status is for homes (either presently existing or to be constructed) for tribal housing. Neither GRHA nor I have any objection to those parcels being placed into trust for that specific use and purpose. But because four of those seven parcels border directly upon several occupied residential parcels within Grassy Run, one of which includes my own, GRHA and I request that any action and document placing the subject parcels into trust be limited to that specified use and purpose only, and that said parcels not be given trust status for any other type of use or purpose.

2. The 10.18 acre parcels application, #2, references a Judgment recorded on September 16, 2008 in the El Dorado County Official Records, a copy of which is included with the Tribe's application. That Judgment was entered by the United States District Court, Eastern District of California, pursuant to a

Stipulation for Entry of the same, in settlement of litigation between the Shingle Springs Band of Indians (the Tribe) and GRHA involving the use of the Grassy Run roads, that had been pending for some twelve (12) years. A copy of that Judgment is included in the application as the document relating to Parcel 2, Schedule B, Section II, Exception 9, Documents.

Among other things, the provisions of Paragraph 3(d) of the Judgment provide for the use of the Rancheria roads. on an emergency basis, in the event of the temporary or permanent closure for any reason beyond the control of Grassy Run of all of the Grassy Run roads providing access from Grassy Run to county or other public roads, during the period of time when such access is not available through the Grassy Run roads. GRHA and I request that compliance with the referenced Judgment, and particularly with the provisions of Paragraph 3(d) thereof, be included as a requirement in any document or other action granting trust status to the subject parcels, and that with such requirement the Secretary determine that elimination of said provisions to the extent that they affect title to the subject parcels is neither required nor permitted.

Paragraph 3(d) of the Judgment is a reflection of a similar right on behalf of the members of the Tribe and residents of the Rancheria as that set forth in Paragraph 3(c) of the Judgment. There is mutuality to this request.

3. By letter dated February 19, 2008, the Tribe's Chairman, Nicholas Fonseca, requested that your office approve an Agreement for Resolution of Litigation, which had been approved by the Tribal Council on February 9, 2008, pursuant to the Tribe's Resolution 2008-3. On May 6, 2008, your office issued a document entitled "Approval of Agreement for Resolution of Litigation." GRHA and I request that compliance with that Agreement be included as a requirement in any document or other action granting trust status to the subject parcels, and that with such requirement the Secretary determine that elimination of said provisions to the extent that they affect title to the subject parcels is neither required nor permitted. Copies of the Agreement, the described letter, and the described document, are attached hereto as Exhibits A, B and C, respectively.

4. In addition to responding to your office's Invitation for Comments on the subject applications, the requests set forth in paragraphs 2 and 3 above are also made pursuant to (a) the provisions of 81 F.R. 10477, amending and revising 25 C.F.R. §151.13, effective April 15, 2016, and (b) the provisions of the Pacific Region's Land Acquisition Requirements, and in particular Paragraph 9(b) thereof, requiring a Resolution from the Tribe acknowledging that the reference to the Judgment in the title exceptions presented to your office in Application #2 will remain on title and that such right will not interfere with the intended use of the subject property.

Further, GRHA and I also request that the Tribe be required to present to you a Resolution addressing, with particular reference to the the Judgment and the Agreement, the matters specified in Paragraphs 3(d) and 4 of the Pacific Region's Land Acquisition Requirements, and committing to compliance

therewith, and that a copy of such Resolution be transmitted to both GRHA and the undersigned at the addresses set forth below.

And further, GRHA and I also request that your office make a determination that the rights of GRHA and its members, including myself, under the Agreement and the Judgment are not adversely affected or impacted by any of the provisions of 25 C.F.R. Part 169.

In summary, GRHA's and my concern is that the transfer of legal title from the Tribe to the United States of America in Trust for the Tribe will not constitute a basis for any assertion, either by the Government or the Tribe, that such transfer enables the Tribe to avoid or evade the requirements of, and its obligations under, the Agreement, the Stipulation and the Judgment. It is our request that (i) the Tribe be required to execute, (ii) that the BIA issue, and (iii) that we obtain, written commitments so stating. And if that request cannot be granted or accomodated, then GRHA and I must rrespectfully but regretfully object to the Tribe's applications.

5. The Distribution List for each and both of the subject applications includes two non-governmental individuals (Chrysan Dosh and Carol Louis), neither of whom resides in locations immediately adjacent to the Rancheria, but does not include either GRHA or me. GRHA and I each separately request that each and both of us be included in any and all future distribution lists for matters pertaining to the subject applications, and for any and all other matters and actions by or involving the Tribe for which public distribution lists are established by BIA (including but not limited to notices issued pursuant to the National Environmental Policy Act of 1969), at the following addresses:

Grassy Run Homeowners' Association
5555 Grassy Run Road
Placerville, CA 95667

Richard W. Nichols
5361 Reservation Road
Placerville, CA 95667

Very truly yours,

For Grassy Run Homeowners Association

Richard W. Nichols, Legal Affairs Chairman

Richard W. Nichols, Individually

bcc: Hon. Michael Ranelli
Supervisor, District Four
El Dorado County
