

D. Hergert Open Forum BOS 3/8/16



El Dorado
Community Health Centers

PLACERVILLE | DIAMOND SPRINGS | CAMERON PARK

WWW.EDCCHC.ORG

TEL (530) 621-7700

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February 23, 2016

El Dorado County Board of Supervisors
300 Fair Lane, Building A
Placerville, CA 95667

Subject: Request for Audit of Tribal Health Facility Funds

Dear Supervisors,

The full Board of Directors of the El Dorado County Community Health Centers would like to commend the El Dorado County Board of Supervisors for their commitment to support healthcare for County residents. For this purpose, in 2012, the Board of Supervisors entered into an Amended Memorandum of Understanding (MOU) with the Shingle Springs Tribe, and committed to the amount of \$2,600,000 per year. However, despite the good intentions of this funding effort, a number of issues have been brought to our attention surrounding the manner in which these County funds are used. The Amended MOU (attached) was voted on and passed based on incorrect information.

The County Counsel's November 7, 2012 letter supporting the Amended MOU (attached) used inaccurate statements such as: "The new Health Clinic is the only medical facility in the area which serves indigent and Medi-Cal patients." (emphasis added) If the County had done its due diligence, it should have been aware that other centers existed (especially, for example, since the County funded the El Dorado County Community Health Center start-up) and it would have known that several medical facilities were providing medical services to indigent and Medi-Cal patients in the County at that time.

If the board was aware there were other facilities providing such services, they would be obligated (both ethically and as fiduciaries) to provide the funds proportionately to all health facilities throughout the County to more equitably provide medical services to the intended county residents in need.

To determine how the County's funds were being spent, on which populations and for what purposes, - and to ensure compliance with the terms and intent of the Amended MOU - a formal request for an audit of the Tribe's expenditures of the funds it receives was made to County Auditor Joe Harn, on March 24, 2015, by Lori Parlin. However, Mr. Harn never performed the audit, nor did he respond to the request.

Months later, at the meeting of August 18, 2015, the Board of Supervisors also failed to comply with a formal public request that they direct Mr. Harn to perform the audit.

PLACERVILLE
4327 Golden Center Dr
Placerville, CA 95667

DIAMOND SPRINGS
4641 Missouri Flat Rd
Placerville, CA 95667

CAMERON PARK
3104 Ponte Morino Dr, Ste 110
Cameron Park, CA 95682

Under the terms of the MOU provisions, the tribe is required to annually perform: "each July 1 thereafter, the Tribe shall submit to the County an annual written summary detailing the expenditures made with the funds from the Qualifying Healthcare Contribution." This requirement has clearly not been met - the two short letters that the Tribe has submitted annually to the County (attached) state only that they spent the money on healthcare:

- The January 6, 2014 letter states; "...the Tribe received \$2,600,000 from the County to assist with the Tribes' health programs in 2013. The Tribe applied this Qualifying Healthcare Contribution to debt service on the Clinic building."
- The January 7, 2015 letter says; "...The Tribe applied this Qualifying Healthcare Contribution to general operation budgeted for the Shingle Springs Health and Wellness Center."

The descriptions in these letters do not begin to satisfy the requirement of "detailing of expenditures."

Therefore, as the largest supplier of primary healthcare services to the indigent and Medi-Cal population of the County, we are asking for a full audit by an independent auditor of the \$2,600,000 that has been given by El Dorado County to the Tribe each year since 2012. The purpose of the independent evaluation will determine if the \$2,600,000 of County funds was spent by the Tribe on healthcare for County residents as defined in the Amended MOU.

At the very least, the audit should:

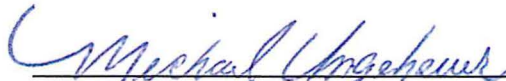
1. Account for services provided only to El Dorado County residents;
2. Document the expenditures (over and above reimbursements) for services to El Dorado County residents;
3. Document the number of El Dorado County uninsured residents treated and at what cost;
4. Document the number of El Dorado County Medi-Cal patients served;
5. Document the number of El Dorado County privately insured patients served;
6. Document the number of El Dorado County Medicare patients served;
7. Not include Casino employees that are not county residents;
8. Not include Tribal members since their full cost of medical treatment is guaranteed by U.S. treaty;
9. Not include debt payments for facilities beyond the actual space dedicated to health service.

The current Board of Supervisors has the fiduciary responsibility to make sure these funds are properly expended for the healthcare of County residents and assure that those costs are reasonable and usual. Based on the Tribe's lack of compliance and the Auditor's apparent failure to audit the funds, an independent audit is the only way to determine if the funds are being spent as intended.

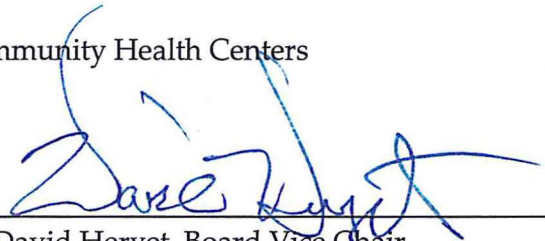
If the requested independent audit shows that these County monies were expended inappropriately by the Tribe, then the County should exercise its right to require the Tribe to comply with the terms as stated in Item 4 of the Agreement. The results of the independent audit will rectify the long overdue – and required - reporting that will allow the County to distribute these funds equitably among all of the providers of healthcare to El Dorado County residents.

Sincerely,

The Board of Directors of the El Dorado County Community Health Centers



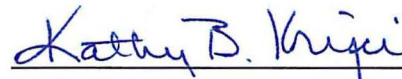
Michael Ungeheuer, Board Chair



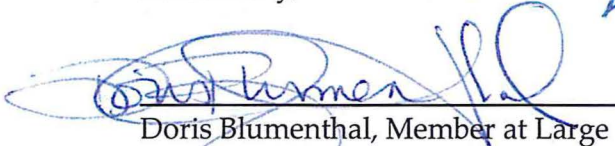
David Heryet, Board Vice Chair



Stan Stailey, Board Treasurer



Kathy Krejci, Board Secretary



Doris Blumenthal, Member at Large



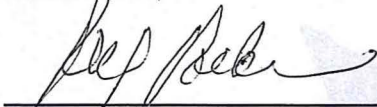
Nancy Campbell, Board Member



Mark Hicks, Board Member



John McCoy, Board Member



Rex Roden, Board Member



June Stailey, Board Member



Jim Zeek, Board Member

COUNTY COUNSEL
LOUIS B. GREEN

CHIEF ASS'T. COUNTY COUNSEL
EDWARD L. KNAPP

PRINCIPAL ASS'T COUNTY COUNSEL
PATRICIA E. BECK

DEPUTY COUNTY COUNSEL
JUDITH M. KERR
PAULA F. FRANTZ
MICHAEL J. CICCOPPI
DAVID A. LIVINGSTON

EL DORADO COUNTY
OFFICE OF
THE COUNTY COUNSEL



COUNTY GOVERNMENT
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330 FAIR LANE
PLACERVILLE, CA
95667
(530) 621-5770
FAX# (530) 621-2937

DEPUTY COUNTY COUNSEL
SCOTT C. STARR
TERI M. MONTEROSSO
LESLEY B. GOMES

November 7, 2012

Board of Supervisors
County of El Dorado
330 Fair Lane
Placerville, CA 95667

Honorable Board:

SUBJECT:

Proposed Amendment to the Memorandum of Understanding between the County of El Dorado and the Shingle Springs Band of Miwok Indians

RECOMMENDATION:

Supervisors Sweeney and Briggs recommend that the County enter into the proposed Amendment to the existing MOU, which has already been approved and executed by the Tribe.

REASON FOR RECOMMENDATION:

In 2006 the County and the Tribe entered into a Memorandum of Agreement (MOU) in settlement of the then-pending litigation which challenged the Tribe's proposed Red Hawk Casino on the Rancheria situated along Highway 50. The County had filed a lawsuit in Superior Court challenging the State's environmental analysis regarding the construction of a new interchange on Highway 50 which was necessary to build and operate the proposed casino. *El Dorado County v. California Department of Transportation*, Sacramento County Superior Court Case No. 03CS000003. The Rancheria was commercially landlocked so without the new interchange the casino could not be built or operated. The County was concerned about the many projected environmental impacts of the casino on the County, including traffic. The County had also filed a lawsuit in federal court challenging the lawfulness of the recognition of the Tribe by the Bureau of Indian Affairs. *El Dorado County v. Gale Norton*, E.D. Cal. CIV S-02-1818 GEB DAD. Only properly recognized tribes can operate casinos on Indian lands, so if that case was successful, the casino project would have to be abandoned. At the time of the settlement, that tribal recognition case was on appeal to the Ninth Circuit Court of Appeals, *El Dorado County v. Norton*, Ninth Circuit Case No. 05-15224. Once again, the County's concern was the environmental and other impacts of the proposed casino on the County and its citizens.

In order to settle the County's litigation which was preventing the construction of the interchange and the casino, the Tribe and the County agreed to a settlement by which the Tribe would pay money to the County which the County could use to mitigate the various expected impacts of the proposed casino, and in return the County would cease its litigation challenging the interchange and casino projects which would allow the projects to go ahead. To effectuate the settlement, the Tribe and the County entered into the "Memorandum of Understanding and Intergovernmental Agreement Between the County of El Dorado and Shingle Springs Band of Miwok Indians" in September 2006. In consideration for the various monetary payments by the Tribe to the County specified in the MOU, the County agreed to cease its efforts to oppose the Tribe's casino and interchange projects, and to refrain from assisting others in such an effort. The County has fully performed all of its obligations under the MOU. Among other things, the County dismissed its federal tribal recognition lawsuit, and in the Superior court CEQA case, the County assisted the Tribe in winning that case against the remaining private petitioner by formally taking the position that the MOU payments fully mitigated all impacts. As a result of the County's actions, the Tribe was able to construct the interchange and casino, which have operated successfully ever since.

Paragraph A of the MOU notes the existence of programmed 5.3 mile long High Occupancy Vehicle (HOV) project for mainline Highway 50, that would add carpool lanes in both directions from the Sacramento County line up to the vicinity of the casino. In paragraph A, the Tribe agrees to pay the County \$5.2 million per year for 20 years, an amount that was calculated to be sufficient to fund the expected cost of construction if a bond was obtained. After the MOU was signed, the bond market for Indian casino financed projects crashed, and there was no opportunity to put together a reasonable funding package that would produce the construction funds for the HOV project. The Tribe has made three annual payments as required by paragraph A, and some of it has been spent on engineering and other expenses related to the HOV project. It also turned out that the traffic on Highway 50 was less than originally projected, but the impact of the casino on other roads in the area of the casino was greater than projected. The federal government initiated several economic stimulation programs, including grant funding for road projects that were ready to go to construction. The County applied for and obtained funding from the federal government which has paid for the HOV project, which is currently under construction and projected to be completed this year.

The Board previously designated Supervisors Sweeney and Briggs to coordinate with the Tribe on various matters of mutual interest. During these discussions, the unexpected federal funding which the County directed to the HOV project was raised, as well as the impacts of the casino on roads other than Highway 50. The Tribe's newly built Health Clinic was also discussed. The new Health Clinic is the only medical facility in the area which serves indigent and MediCal patients, both tribal members and non-Indians, and it has seen an increased patient load recently in part because of the casino. It was proposed to amend the MOU to reflect the current reality, and subsequent negotiations have produced the proposed amendment to the MOU.

The proposed Amendment affects only paragraph A of the MOU. Under the Amendment, the Tribe will continue to pay \$5.2 million per year, but the amount will increase by 2% every year beginning in December 2017, for the duration of the agreement. These payments can be used by the County not just for the HOV project but for any "qualifying public improvements" including but not limited to road improvements and maintenance, which are located near the casino as

designated on a map made Exhibit A to the Amendment. The County agrees to pay the Tribe an annual payment of \$2.6 million per year, increasing by 2% every year beginning in December 2017, to be applied to the health programs at the Tribal Health Clinic which serves both tribal members and non-tribal persons. The Amendment specifically recites that all of the other terms and condition in the MOU remain in full force and effect.

The consideration for the Amendment is that both parties resolve any uncertainty concerning the continuation of the payments in paragraph A once the HOV lane project is completed, and both parties benefit from the County's ability to use that annual payment for "qualifying public improvements" in the vicinity of the casino, including roads that have been impacted by casino-related traffic which will allow easier access to the casino. The Tribe and its members will benefit from the public improvements funded with the money paid pursuant to paragraph A and thus the proposed Amendment will benefit all parties. The amendment furthers the parties' mutual interests in the same manner as the original MOU, and thus the amendment is supported by the same consideration as the original MOU.

FISCAL IMPACT:

The County will continue to receive the \$5.2 million annual payment from the Tribe under paragraph A, except that the amount will increase at 2% per year starting in 2017, and the payments will continue for the duration of the Tribe's compact with the State. The use of those funds will no longer be limited to the Highway 50 HOV project but can be used by the County for any "qualifying public improvement" projects located within the delineated geographic area near the casino, which will allow the County to mitigate the impacts of the casino more broadly than the original MOU. No particular projects are specified at this time. The County will spend \$2.6 million annually, increasing at 2% per year in 2017, towards the tribal health clinic, which has been impacted by the casino and which serves all citizens of El Dorado County. All of the other payments from the Tribe to the County in the 2006 MOU will remain in full force and effect and are not changed by the proposed amendment.


ACTION TO BE TAKEN FOLLOWING APPROVAL:

The Chairman will execute duplicate originals of the "Amendment of Memorandum of Understanding and Intergovernmental Agreement Between the County of El Dorado and Shingle Springs Band of Miwok Indians." One original will be given to the Tribe and the other will be filed by the Board Clerk.

Very Truly Yours,

LOUIS B. GREEN
County Counsel

By: _____


Edward L. Knapp
Chief Ass't. County Counsel



**SHINGLE SPRINGS BAND
OF MIWOK INDIANS**

Shingle Springs Rancheria
(Verona Tract), California
5168 Honpie Road
Placerville, CA 95667
Phone: 530-698-1400
shinglespringsrancheria.com

RECEIVED
BOARD OF SUPERVISORS
EL DORADO COUNTY

2014 JAN 12 AM 10:30

COPY SENT TO BOARD MEMBERS
FOR THEIR INFORMATION

DATE 1-12-15

January 7, 2015

El Dorado County Board of Supervisors
330 Fair Lane
Placerville, CA 95667

Re: Qualifying Healthcare Contributions

Dear El Dorado County Board of Supervisors:

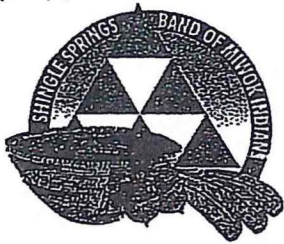
This letter is being sent to inform you on how the Shingle Springs Band of Miwok Indians ("Tribe") has allocated the 2014 Qualifying Healthcare Contribution it received from El Dorado County ("County").

In accordance with the Amended Memorandum of Understanding and Intergovernmental Agreement between the Tribe and County, the Tribe received \$2,600,000 from the County to assist with the Tribe's health programs in 2014. The Tribe applied this Qualifying Healthcare Contribution to the general operating budget for the Shingle Springs Health and Wellness Center.

The Tribe is thankful for the County's continued support of the Tribal health program. This support makes it possible for the Tribe to serve its members and the people of El Dorado County. I personally thank you for your support, and look forward to our continued relationship.

Sincerely,

Nicholas Fonseca
Chairman



**SHINGLE SPRINGS BAND
OF MIWOK INDIANS**

Shingle Springs Rancheria
(Verona Tract), California
5168 Honpie Road
Placerville, CA 95667
Phone: 530-698-1400
shinglespringsrancheria.com

January 6, 2014

El Dorado County Board of Supervisors
330 Fair Lane
Placerville, CA 95667

Re: Qualifying Healthcare Contributions

Dear El Dorado County Board of Supervisors:

This letter is being sent to inform you on how the Shingle Springs Band of Miwok Indians ("Tribe") has allocated the 2013 Qualifying Healthcare Contribution it received from El Dorado County ("County").

In accordance with the Amended Memorandum of Understanding and Intergovernmental Agreement between the Tribe and County, the Tribe received \$2,600,000 from the County to assist with the Tribe's health programs in 2013. The Tribe applied this Qualifying Healthcare Contribution to debt service on the Clinic building.

The Tribe is thankful for the County's continued support of the Tribal health program. This support makes it possible for the Tribe to serve its members and the people of El Dorado County. I personally thank you for your support, and look forward to our continued relationship.

Sincerely,

Nicholas Fonseca
Chairman

March 24, 2015

The Honorable Joe Harn
Auditor-Controller, El Dorado County
County Government Center
360 Fair Lane
Placerville, CA 95667

Re: Shingle Springs Band of Miwok MOU annual summary

Dear Mr. Harn:

The residents of El Dorado County are requesting you to perform an audit of the \$2,600,000 that El Dorado County donates annually to the Shingle Springs Band of Miwok Indians for Qualifying Healthcare Contributions per Resolution 2012-74 dated October 20, 2012, a copy of which is attached for your reference.

It is stated in Section 2 of the Amendment of Memorandum of Understanding that "the Tribe shall submit to the County an annual written summary detailing the expenditures made with the funds from the Qualifying Healthcare Contribution." This is especially significant since our county is currently in a financial crisis and must know how every dollar of our budget is spent.

An excerpt from the attached January 6, 2014 letter from Nicholas Fonseca, Chairman, states, "The Tribe applied this Qualifying Healthcare Contribution to debt service on the Clinic building." An excerpt from the attached January 7, 2015, letter from Nicholas Fonseca, Chairman, states, "The Tribe applied this Qualifying Healthcare Contribution to the general operating budget for the Shingle Springs Health and Wellness Center."

The letters do not meet any standards of a detailed summary of expenditures, and do not give the County or El Dorado County taxpayers enough information to assess whether the \$2,600,000 is a worthwhile investment of County funds. At the very least, detailed summary should include the number and category of patients served,

We look forward to your audit of these monies on or before July 1st and your recommendation to the Board of Supervisors regarding the 2015-2016 county budget and funding of the Qualifying Healthcare Contribution.

Sincerely,

Lori Parlin
El Dorado County resident
Shingle Springs Community Alliance
info@ShingleSpringsCommunityAlliance.com

cc: El Dorado County Taxpayers Association
El Dorado Council
Citizens for Sensible Development in El Dorado Hills
Green Valley Alliance
No San Stino
Save Our County



SHINGLE SPRINGS BAND OF MIWOK INDIANS

Shingle Springs Rancheria, (Verona) Tract, California
5281 Honpie Road, Placerville CA 95667
P.O. Box 1340, Shingle Springs CA 95682
(530) 676-8010 office; (530) 676-8033 fax

RESOLUTION 2012-74

SUBJECT: AUTHORIZATION FOR ENTRY INTO AMENDMENT OF MEMORANDUM OF UNDERSTANDING AND INTERGOVERNMENTAL AGREEMENT WITH THE COUNTY OF EL DORADO.

WHEREAS, the Shingle Springs Band of Miwok Indians ("Tribe") is a federally recognized Indian tribe eligible for the special programs and services provided by the United States to Indians because of their status as Indians and is recognized as possessing powers of self-government; and

WHEREAS, the Shingle Springs Band of Miwok Indians Tribal Council ("Tribal Council") is the duly-elected governing body of the Shingle Springs Band of Miwok Indians and is authorized to act on behalf of the Tribe; and

WHEREAS, the Tribe and El Dorado County ("County") are parties to that certain Memorandum of Understanding and Intergovernmental Agreement between the County of El Dorado and Shingle Springs Band of Miwok Indians dated September 28, 2006 ("MOU"); and

WHEREAS, the Tribe and County desire to amend the MOU to reallocate certain amounts currently paid by the Tribe to the County to certain other mutually agreed upon uses; and

WHEREAS, the Tribal Council has reviewed the attached Amendment to Memorandum of Understanding and Intergovernmental Agreement Between the County of El Dorado and Shingle Springs Band of Miwok Indians and supports entry into it in order to reallocate the money in a mutually beneficial way; and

WHEREAS, the Tribal Council authorizes the limited waiver of sovereign immunity in connection with any dispute with the County that may arise under the attached Amendment, but only to the extent set forth in the Amendment.

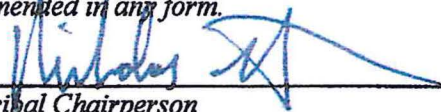
NOW, THEREFORE, BE IT RESOLVED that the Tribal Council authorizes the Chairman to enter into the attached Amendment to Memorandum of Understanding and Intergovernmental Agreement Between the County of El Dorado and the Tribe, and authorizes the Chairman or his designee to execute any and all documents and agreements necessary as may be required to give effect to the transactions, herein contemplated, and to take such other actions as may hereby be necessary and appropriate to carry out the obligations thereunder.

BE IT FURTHER RESOLVED that the Tribal Council hereby agrees to a limited waiver of its sovereign immunity in connection with any dispute with the County that may arise under the attached Amendment, but only to the extent set forth in the Amendment.

BE IT FURTHER RESOLVED that this resolution shall take effect immediately.

CERTIFICATION

As a duly-elected official of the Shingle Springs Band of Miwok Indians, I do hereby certify that, at a telephone meeting duly called, noticed, and convened on the 20th day of October, 2012 at which time a quorum of 6 FOR, 0 AGAINST, 1 ABSTAINED, and said resolution has not been rescinded or amended in any form.



Tribal Chairperson

10/20/12

Date

ATTEST:



Tribal Secretary

10-20-12

Date

AMENDMENT OF MEMORANDUM OF UNDERSTANDING AND
INTERGOVERNMENTAL AGREEMENT BETWEEN THE COUNTY OF
EL DORADO AND SHINGLE SPRINGS BAND OF MIWOK INDIANS

THIS AMENDMENT OF MEMORANDUM OF UNDERSTANDING AND
INTERGOVERNMENTAL AGREEMENT BETWEEN THE COUNTY OF
EL DORADO AND SHINGLE SPRINGS BAND OF MIWOK INDIANS
("Amendment") is dated October 20 2012 for purposes of reference only, and is made
between the County of El Dorado ("County") and the Shingle Springs Band of Miwok
Indians, a federally recognized Indian tribe ("Tribe").

RECITALS:

A. The County and the Tribe are parties to that certain Memorandum of
Understanding and Intergovernmental Agreement between the County of El Dorado and
Shingle Springs Band of Miwok Indians dated September 28, 2006 ("Memorandum of
Understanding").

B. The County and the Tribe desire to amend the Memorandum of
Understanding to reallocate certain amounts currently paid by the Tribe to the County to
certain other mutually agreed upon uses.

THEREFORE, for good and valuable consideration, the receipt and sufficiency of
which are acknowledged, the County and the Tribe agree as follows:

AGREEMENT:

1. Qualifying Public Improvement Projects. In lieu of making the HOV
Payment required under Section A of the Memorandum of Understanding, the Tribe will
hereafter make one (1) payment annually of Five Million Two Hundred Thousand
Dollars (\$5,200,000) to the County for the duration of the Agreement to be used by the
County for public improvements located within the designated boundaries as depicted on
the attached map of El Dorado County, including, but without limitation, to road
improvements and/or maintenance ("Qualifying Public Improvements"). Attached at
Exhibit A is a map of El Dorado County defining the location of the Qualifying Public
Improvements. The first payment of Five Million Two Hundred Thousand Dollars
(\$5,200,000) is due on December 1, 2012, with remaining payments due on the same date
for each of the following years through the duration of the Agreement. Such payment
shall be increased by two percent (2%) every year, beginning on December 1, 2017.

2. Qualifying Healthcare Contributions. In consideration of the increased
expenses to the Tribe's Health Program for caring for non-Indian citizens of the County,
the County shall pay the Tribe an annual contribution of Two Million Six Hundred
Thousand Dollars (\$2,600,000) to be applied to the Tribe's health programs that service
both tribal and non-members and may be used for, among other things, behavioral health

services, outreach services, dental care services, insurance costs and reimbursement of medical expenses (“**Qualifying Healthcare Contributions**”). Such contribution shall be increased by two percent (2%) every year, beginning on December 14, 2017. The County shall make its first Qualifying Healthcare Contribution to the Tribe on or before December 14, 2012, with remaining payments due on the same date each of the following years through the duration of the Agreement. In no event will the County be obligated to make such payment before the Tribe makes its Qualifying Public Improvements payment. Commencing July 1, 2013, and each July 1 thereafter, the Tribe shall submit to the County an annual written summary detailing the expenditures made with the funds from the Qualifying Healthcare Contribution.

3. Miscellaneous. Except as amended by this Amendment, all of the other terms and conditions set forth in the Memorandum of Understanding shall remain in full force and effect. This Amendment may be executed in one or more counterparts.

4. Limited Waiver of Sovereign Immunity. The Tribe hereby agrees to waive its sovereign immunity (and any requirement of exhaustion of tribal remedies) in connection with any dispute vis-à-vis the County that may arise under this Amendment, and consents to the jurisdiction of certain courts solely for purposes of enforcing the terms of this Amendment. To that end, the Tribe consents only to the jurisdiction of the U.S. District Court in the Eastern District of California (and all relevant courts of appeal), or alternatively, to the jurisdiction of the Superior Court of California (and all relevant courts of appeal), for judicial resolution of disputes with the County over this Amendment. The County and the Tribe agree that jurisdiction and venue for any such dispute shall be in any superior court other than El Dorado County Superior Court unless it is determined by another superior court, *sua sponte* and without motion or suggestion by the County, that the action must be heard in El Dorado County Superior Court. The County agrees to jurisdiction and venue in Sacramento County Superior Court and will not assert that jurisdiction and venue lie in El Dorado County Superior Court unless there is no other superior court that will accept jurisdiction and venue for the matter. The waiver is also limited to amounts due under the terms of this Amendment, and in no instance shall the waiver be read to extend to allow judicial enforcement of any kind against any assets of the Tribe, other than the Revenue Stream of its Gaming Project. (Revenue Stream is defined as net profits due and owing to the Tribe that are derived from the operation of the Gaming Project after all costs of operation, repayment of debt service, payments to the State under any Compact, and payments to the Tribe for any necessary governmental functions associated with the operation of the Gaming Project have been made.) The Tribe also does not agree to waive any aspect of its sovereign immunity with respect to actions by parties other than the County.

IN WITNESS WHEREOF, the parties have executed and delivered this Agreement as of the date first above written:

COUNTY OF EL DORADO

John R. Knight
Chair, Board of Supervisors

Date

SHINGLE SPRINGS BAND OF
MIWOK INDIANS



Nicholas Fonseca


10/20/12
Date

APPROVED AS TO FORM:

Brady & Vinding

Michael V. Brady
Counsel for El Dorado County

Date

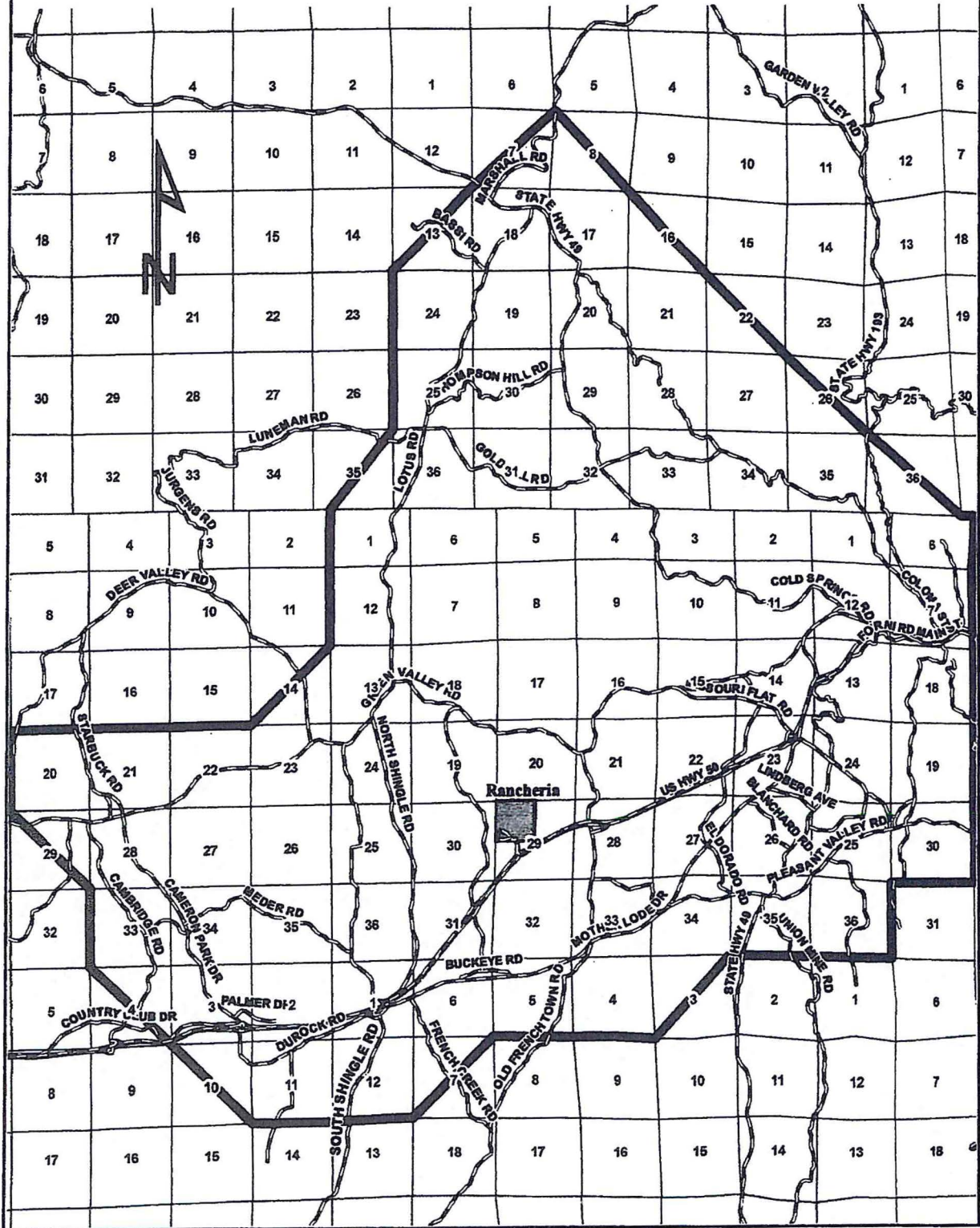


AmyAnn Taylor
Counsel for Shingle Springs
Band of Miwok Indians

10/20/12
Date

Exhibit A

Area of Use Map



COUNTY OF EL DORADO

John R. Knight
Chair, Board of Supervisors

Date

SHINGLE SPRINGS BAND OF
MIWOK INDIANS



Nicholas Fonseca

10/20/12

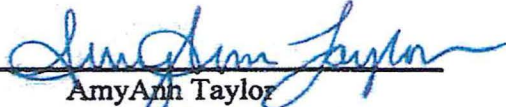
Date

APPROVED AS TO FORM:

Brady & Vinding

Michael V. Brady
Counsel for El Dorado County

Date



AmyAnn Taylor
Counsel for Shingle Springs
Band of Miwok Indians

10/20/12

Date

To echo words recently spoken by Glen Beck, “To remain silent in the face of evil, is evil itself.” “We the people” have been utterly and completely betrayed. The politicians “we the people” most trusted to look out for our best interests, protect our rights, and ensure that El Dorado County doesn’t slip into tyranny have cheated on us, lied to us, swindled us, deceived us, double-crossed us, and sold us to the highest bidder.

Time and again, they have shown in word and deed that their priorities lay elsewhere, that they care nothing about our plight, that they owe us no allegiance, that they are motivated by power and money rather than principle, that they are deaf to our entreaties, and that their oaths of office to uphold the Constitution mean nothing.

Incredibly, even in the face of their treachery and lies, the great majority of citizens persist in believing that politicians have the people’s best interests at heart. Despite the fact that we’ve been burned before, most citizens continue to allow themselves to be bamboozled into casting their votes for one candidate or another, believing that *this time* they mean what they say, *this time* they really care about the citizenry, *this time* will be different. Of course, they rarely ever mean what they say; they care about their constituents only to the extent that it advances their political careers.

This Board has proven we are as easily discarded the day after the elections as we were wooed in the months leading up to the big day. Those same politicians who were once so eager to glad-hand us for our votes will, upon being elected, retreat behind a massive, impenetrable wall that ensures we are not seen or heard from again—at least, until the next election. County Counsel and the mainstream media are largely to blame. Larry Weitzman nailed it in this article entitled ***“Below the Law - EDC Legal Counsel Giving Bad Advice.”***

Citizens have a right to know when government agencies and government officials have engaged in wrongdoing. Whether those individuals occupy a public office or are employed by a law enforcement agency is immaterial. If a government employee has

been charged with misconduct, it is the right of the taxpayer to know both the name of the individual and the charge against them. A few examples:

1. During the 2/23 BOS you heard about Sheriff D'Agostini's retaliation, obstruction of justice, refusal to meet or respond to constituent concerns about public safety issues within his jurisdiction referred to the Dept. of Justice & CSPOA.
2. Community Services Director Roger Trout has no oath of office on file, refuses to provide honest services, or respond to correspondence.
3. Vickie Sanders also has no oath of office on file. Vickie betrayed the public's trust during the 9/14/15 RMAC meeting attended by Mike Ranalli and Roger Trout, a deliberate set-up under the direction of Counsel Mike Ciccozzi and consultant Steve Peterson. The legal implications are enormous.
4. Following Ron Briggs' poor track record, Mike Ranalli refuses to correspond or answer community concerns about public safety in a "Come to Jesus" meeting with Sheriff D'Agostini, Roger Trout and CA State Parks personnel.
5. County Counsel's inability to appropriately track and respond to CPRAs as required by law.

Efforts to circumvent greater government transparency which, in the process, potentially shields government wrongdoing will only weaken that which makes our system of government strong: a system of checks and balances, public accountability, and government agencies and employees that are fully cognizant of the fact that they serve the taxpayers.

Madam Clerk: Please enter these documents into the public record:

1. This transcript (4 minutes)
2. Weitzman article "Below the Law – EDC Legal Counsel Giving Bad Advice"
3. 11/12/14 agenda w/Robyn Drivon & Paula Franz (Larry Weitzman present)
4. 12/15/15 CPRA due 12/31/15 – Joe Harn incomplete reply

<http://www.laketahoenews.net/2016/02/edc-legal-counsel-giving-bad-advise/>

<http://www.mtdemocrat.com/print/?edition=2016-03-07&title=A4> — BELOW THE LAW

Opinion: EDC legal counsel giving bad advice

Published: February 19, 2016 By: [admin](#), In: [Voices](#), [1 Comment](#)

By Larry Weitzman

I have read hundreds of legal arguments in my life, maybe thousands, but on Feb. 5 I read one of the most specious and poorly supported “legal arguments ever” and it was from our newly appointed interim County Counsel Michael Ciccozzi. It was as if he were arguing before the Supreme Court of the United States and he cited a small claims court decision from Ryegate, Mont., as the legal authority behind his case. In this case, Ciccozzi was attempting to defend the employment contract of our interim CAO Larry T. Combs that appears to have violated important Government Code sections.

Combs’ contract problem stems from executing an employment contract that didn’t meet the requirements of CalPERS as explained in my [recent column](#). CalPERS has strict requirements to prevent double dipping of a CalPERS annuitant, such as Combs. It was public pressure from citizens who were outraged at public officials making \$200,000 a year in retirement benefits, like Combs, and then getting another similar job effectively doubling their income. Poor Mr. Combs because of the double dipping laws is only pulling down \$300K annually. Those requirements are spelled out in Government Code Sections 21221 (h) and 21224. Two of those requirements are that an open recruitment for CAO is required before signing such a contract and that the contract have an end date.

Printed below the fold on the front page of the *Mountain Democrat* on Feb. 5 and titled “CAO contract details questioned” the news story quoted Ciccozzi who cited “a more recent CalPERS publication (April 2015) titled ‘Employment After Retirement.’” Ciccozzi wrote that the more recent document “does not require that the employment requirements of a retired annuitant include a specified end date or that the appointment be during an open recruitment.”

First, I have rarely seen a more misleading statement by a lawyer with the intent to deceive the public. While he found a CalPERS 10 page, double spaced pamphlet which listed some of the requirements for employment of retired annuitants, it didn’t list them all. But it did list all CalPERS offices and phone numbers, allowing easy access for questions. It was not a legal document nor intended to be a legal document, and it, therefore, has no legal force. It did not supersede or replace Government Code Section 21221(h), which still has the requirements of an open recruitment being required before Combs’ hiring as well as an end date in the contract. The claim that Ciccozzi implies, by the informational pamphlet, since it is later in time than the CalPERS advisory circular or the code sections, that the law has been superseded by the pamphlet and code section requirement of having an open recruitment and no end date in the contract is no longer required. Nothing could be further from the truth, GCS 21221(h) et seq. is still the law.

For Ciccozzi, that becomes a multiple edged sword. Any real defense claiming there was an open recruitment ongoing at the time the contract was executed and having an end date is now out the window as Ciccozzi says the law didn’t require that according to his “pamphlet law” and Ciccozzi knows that. His statement becomes a tacit admission that the county did not have an open recruitment or end date as required by Government Code Section 21221(h), the law as codified before and after the date of the Combs’ contract and as set forth in the current California Code. Combs’ contract speaks for itself as to having an end date. It doesn’t have one.

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Trying to cover all his bases in the *Mountain Democrat* story, Ciccozzi said, “The contract will terminate when Combs reaches 960 hours in the fiscal year.” But if Combs works 959 hours in every fiscal year, it will never terminate so the contract is not of limited duration and still violates the code section. Code section 21221(h) still requires both contract requirements that Ciccozzi says don’t exist anymore even though he speaks with a forked tongue.

Ciccozzi’s cited pamphlet is not the law, was not published as a legal document and advised readers to call or check with the nearly dozen CalPERS offices throughout the state whose addresses are listed in the back of the pamphlet along with the CalPERS phone number listed prominently on every other page of the pamphlet and Ciccozzi must be aware of that.

Additionally, even after claiming an open recruitment is not required by his “pamphlet authority,” Ciccozzi states pursuant to the code section the interim appointment is to be made “during recruitment for a permanent appointment” and not necessarily during an open recruitment. Perhaps Ciccozzi should read EDC personnel rules, which say without question, “All recruitment announcements will be posted on the county’s website and other appropriate locations for a minimum of five days.” There was no posting on the county website or anywhere else for a permanent CAO on or before this contract was executed. His statements and/or emails as published in the *Mountain Democrat* are misleading and false. Ciccozzi’s only defense will be “it depends on what the definition of ‘is’ is.”

Ciccozzi now has acquired other problems and the Board of Supervisors needs to take notice. As a lawyer you swear an oath to uphold the law of the state. For whatever reason Ciccozzi chose to misstate the law, the purpose of which is obvious, i.e., to make it appear Combs’ contract is CalPERS compliant. But by doing so he also fails his employer, the EDC Board of Supervisors who need to know the law and their exposure.

With his statements in the *Mountain Democrat* the BOS has been misled about the law from their own highest ranking lawyer. That is unacceptable behavior and the BOS needs to deal with that immediately. Maybe Ciccozzi thinks that is what the BOS wants to hear or maybe he is attempting to cover for his ex-boss Robyn Drivon, who should have not approved the Combs’ contract considering the requirements of the law. It’s hard to say why Ciccozzi did what he did, but as to whatever he says in the future, will it be believable?

But whatever he says, he may have already violated his State Bar duty, part of which is “to support the Constitution and the laws of the United States and of this state.” Perhaps we will find out. This not the first time for Ciccozzi misstating the law. This just appears to be a persistent pattern of practice.

“Integrity without knowledge is weak and useless, knowledge without integrity is dangerous and dreadful.” — Samuel Johnson, (1709-1784) *Rasselas*, ch. 41

Larry Weitzman is a resident of Rescue.

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Wednesday November 12, 2014 @ 10:00 AM

Robyn Drivon/Paula Franz

- I. CPRAs - FOIA
 - A. CAO - Ross Branch
 - B. Process - Coordination, logging, tracking
 - C. Spreadsheet Discrepancies
 - D. EDSO

- II. Brown Act – Bagley Keene Act Violations
 - A. BOS Agendas
 - B. Censoring/minimizing info.
 - C. Technical Difficulties

- III. Obstacles - Bureaucratic Shenanigans
 - A. Communication breakdown
 - B. Resolution 113-95 v. AB1234
 - C. Fees - Paper v. electronic copies or CD
 - D. Code/Law Enforcement inconsistencies
 - E. Diverted responses/lack of response

- IV. Solutions – Follow up
 - A. 10/21 CPRA presentation – publish CPRAs to government website?
 - B. Transparency/Accountability
 - C. Right-to-know v. media blackout

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Compass2Truth

Citizens Serving God in Truth and Liberty

P.O. Box 598
Coloma, CA 95613
melody.lane@reagan.com

December 15, 2015

To: El Dorado County Board of Supervisors
EDC Clerk to the Board

CA PUBLIC RECORDS ACT REQUEST

Pursuant to my rights under the California Public Records Act (Government Code Section 6250 et seq.), I ask to obtain the following:

- Documentation from the County Auditor identifying each of the outside law firms contracted by El Dorado County to supplement County Counsel's team of 14 lawyers; and
- The total annual dollar amount budgeted and/or allocated to each of those outside law firms, and
- The percentage of the county budget and/or General Funds annually allocated solely to Law and Justice.

If you determine that some but not all of the information is exempt from disclosure and that you intend to withhold it, I ask that you provide a signed notification citing the legal authorities on whom you rely.

To avoid unnecessary costs of duplication, electronic copies are acceptable and may be emailed to melody.lane@reagan.com. It is requested that your determination be made within 10 days as stipulated within the California Public Records Act, Government Code 6253(c).

Thanks for your anticipated cooperation and timely reply.


Melody Lane
Founder - Compass2Truth

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Due 12/31

Have replied if the I incomplete
1/6/16 from public reply

Melody Lane

From: Melody Lane <melody.lane@reagan.com>
Sent: Monday, January 04, 2016 8:25 PM
To: 'Joe Harn'; Robyn Drivon
Cc: 'Paula Frantz'; michael.ciccozzi@edcgov.us; Vern R Pierson
Subject: RE: Legal
Attachments: 12-24-15 CL FSC Response to Drivon.doc

Thanks for your email, albeit tardy response to the CPRA.

For clarification the intent of the CPRA was to garner the YTD total of both legal consultants AND legal services.

County Counsel is supposed to be on top of this as per our 11/12/14 meeting with Robyn Drivon and Paula Franz. Per Robyn, "*Molly is going to be a Nazi about the spreadsheet in term of timing (responsive to CPRAs.) But Paula and whoever it is as staff can help you in that translation.*"

Don't forget to include in your comprehensive reply the percentage of the county budget/General Fund annually allocated to Law & Justice. Vern Pierson should be able to help provide an answer to that question.

As a reminder Robyn's written response to the attached 12/24/15 inquiry is expected prior to departure from EDC employment.

Regards,

Melody Lane

Founder – Compass2Truth

When law and morality contradict each other the citizen has the cruel alternative of either losing his sense of morality or losing his respect for the law. ~ Frederick Bastiat ~

From: Joe Harn [<mailto:joe.harn@edcgov.us>]
Sent: Monday, January 04, 2016 5:08 PM
To: Melody Lane
Cc: Paula Frantz
Subject: Fwd: Legal

Melody,

I just became cognizant of your PRA dated 12-15-15. Here is a partial response.

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Melody Lane

From: Melody Lane <melody.lane@reagan.com>
Sent: Tuesday, January 19, 2016 12:01 PM
To: 'Joe Harn'; michael.ciccozzi@edcgov.us; Paula Frantz
Cc: 'Keely Giovannoni'; michael.ranalli@edcgov.us; Vern R Pierson; bosfive@edcgov.us; bosfour@edcgov.us; bosone@edcgov.us; bosthree@edcgov.us; bostwo@edcgov.us
Subject: RE: Legal Expenses 7/1/2015 to 12/31/2015

Mr. Harn, et al,

Thanks for your partial reply to the CPRA publicly submitted during the 12/15/15 BOS Open Forum which was due 12/31/15.

This whole episode of obtaining public information pertaining to total amount of taxpayer funds being spent on outside legal services is sounding more like Abbott & Costello's "*Who's on First*." Please refer to the attached correspondence for clarification.

As per Mike Ciccozzi's remarks during the 1/12/16 BOS meeting it is our understanding that there are now ~~9~~—*not 14*—lawyers representing EDC Counsel. Therefore it would also be appreciated if you or Mr. Ciccozzi would provide an explanation for the County Counsel game of musical chairs. This is information the public has a right to know prior to it being spoon-fed to the media. The identity of the Chief Information Officer would also prove most helpful. (Refer to the 12/24/15 letter to Robyn Drivon.)

Regards,

Melody Lane

Founder – Compass2Truth

Tolerance is the fertilizer that nourishes the tree of corruption. Patience is the weapon that forces deception to reveal itself.

From: Joe Harn [mailto:joe.harn@edcgov.us]
Sent: Tuesday, January 19, 2016 9:46 AM
To: Melody Lane
Cc: Paula Frantz; Keely Giovannoni
Subject: Legal Expenses 7/1/2015 to 12/31/2015

Melody,

It is my understanding that you made an inquiry regarding how much the County spent on outside law firms. Some of these law firms provide consulting services rather than "litigation" services.

Joe Harn

