

**NOTICE OF FINDING OF NO SIGNIFICANT IMPACT FOR THE SHINGLE SPRINGS RANCHERIA RESIDENTIAL 10.18+/- FEE-TO-TRUST PROJECT PROPOSED BY THE SHINGLE SPRINGS BAND OF MIWOK INDIANS**

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**AGENCIES:** Bureau of Indian Affairs

**ACTIONS:** Finding of No Significant Impact

**SUMMARY:**

The Shingle Springs Band of Miwok Indians (Tribe) submitted a request to the Bureau of Indian Affairs (BIA) for approval to transfer two parcels totaling 10.18+/- acres of fee land into federal trust on behalf of the Tribe to be used for residential uses. A portion of the site would be used as an extension of an access road (Honpie Road extension) in order to access the new residences. The project site is located in western El Dorado County, California immediately east of the existing Shingle Springs Rancheria north of Highway 50 (HWY 50). Regional access to the site is provided via HWY 50, while local access is provided by Honpie Road, which will terminate on the project site. The two parcel site (Assessor's Parcel Nos. 319-100-20 and 319-100-21) is located within Section 29, Township 10 North, Range 10 East, of the Shingle Springs, California 7.5 minute USGS quadrangle.

Based upon the analysis documented in the Environmental Assessment (EA), 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 Tribe is requesting BIA approval of a fee-to-trust action pursuant to 25 C.F.R. Part 151 that would result in the subsequent development and operation of the Shingle Springs Rancheria Residential Project on approximately 10.18 acres.

The Tribe's purpose for the request is to facilitate Tribal self-determination and allow the Tribe to exercise sovereignty over lands currently owned in fee-title, and to help alleviate the shortage of on-reservation housing for the Tribe. Owning the project site in fee-title does not allow the Tribe to exercise its complete authority over the land, because with such ownership, the Tribe would have oversight from external local governmental bodies. Additionally, the autonomy provided by the fee-to-trust action would allow for greater self-sufficiency.

There is a current need to alleviate the shortage of on-reservation housing for the Shingle Springs Tribe. The Tribe has 41 residences on the Rancheria, of which more than one-third are overcrowded with multi-generations living in the homes. The Tribe has a housing waiting list of over 90 Tribal member

families, several of them whom are homeless. The majority of the Tribal members that do not live on the Rancheria live in the greater Sacramento area or Southern California because of jobs or lack of low income housing in El Dorado County. Living a far distance from the Rancheria, leaves these tribal members unable to participate in Tribal and family activities and meetings held on the Rancheria – particularly cultural activities and ceremonies which are vital to the Tribe and its people. In order to most effectively meet this housing need, the Tribe has determined that housing properties should be located on or adjacent to the Rancheria, with land suitable for development and utilities on-site or adjacent.

#### **DESCRIPTION OF THE PROPOSED ACTION:**

The Proposed Action consists of the transfer from fee to trust of 10.18+/- acres of land in El Dorado County, California. A foreseeable consequence of BIA approval of the Proposed Action would be the construction and operation of the Shingle Springs Residential Project, which includes the following elements:

- Ten two- to four-bedroom modular residential units (each measuring between 1,236 – 1,904+/- square feet) on ten newly created parcels measuring 0.90 to 0.94 acres each,
- Extension of Honpie Road to access each parcel and residential unit,
- Biofiltration swales to offset impervious areas, and
- Extension of potable water and wastewater lines within the Honpie Road extension right-of-way.

#### **ALTERNATIVES CONSIDERED:**

The BIA considered one alternative to the Proposed Action, the No Action Alternative, which is described in the EA and summarized below. The EA refers to the No Action Alternative as “Alternative A.”

Alternative A - Under the No Action Alternative, the land would not be taken into trust and no housing units or road extensions would be developed. The property would remain in its current state and remain vacant. The No Action Alternative would not allow the Tribe to provide residential housing for their members on the vacant lots.

In addition to Alternative A, the EA also considered, but rejected, a reduced density alternative. Under the Reduced Density Alternative, the two parcels would be brought into trust and used for residential purposes at a reduced density when compared to the Proposed Action, but consistent with El Dorado County zoning. The current El Dorado County Zoning for the parcels is rural estate, which allows for one unit per five acres of land. This would allow for a maximum density of two units for the project site. This alternative, while consistent with adjacent County zoning, would not fulfill the essential project

objective of providing additional housing for Tribal members; therefore, this alternative was eliminated from further consideration.

**ENVIRONMENTAL IMPACTS:**

An EA, documenting and analyzing the potential impacts of the Proposed Action and No Action Alternative, was completed in May 2016. The EA was distributed for public review on May 9, 2016. The comment period closed on June 8, 2016. The BIA received no comments on the EA. As part of the EA, potential effects 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. No significant effects to land resources (topography, geology and soils, seismicity, and mineral resources) would result (see EA Sections 3.1, 4.1.1 and 5.1);
- B. No significant effects to water resources (surface water and drainage, flooding, groundwater, and water quality) would result (see EA Sections 3.2, 4.2.1 and 5.2);
- C. Compliance with measures identified in EA Section 5.3.1 would ensure a less-than-significant effect from naturally occurring asbestos (see EA Sections 3.3.1, 4.3.1 and 5.3.1);
- D. No significant effects to air quality resulting from construction, operation, and greenhouse gas would result (see EA Sections 3.3, 4.3 and 5.3);
- E. Compliance with measures identified in EA Section 5.4(a) would ensure a less-than-significant effect to Valley Elderberry Longhorn Beetle, CRLF, and active nests (see EA Sections 3.4, 4.4.1 and 5.4);
- F. No significant effects to biological resource natural communities, wetlands and waters of the U.S., special-status species, and wildlife movement/corridors would result (see EA Sections 3.4, 4.4.1 and 5.4);
- G. Compliance with measures identified in EA Section 5.5(a) would ensure a less-than-significant effect to cultural resources (see EA Sections 3.5, 4.5.1 and 5.5);
- H. Compliance with measures identified in EA Section 5.6(a) would ensure a less-than-significant effect to socio-economic school and service funding effects (see EA Sections 3.6, 4.6.1 and 5.6);
- I. No significant effects to socio-economic population and housing effects or environmental justice effects would result (see EA Sections 3.6, 4.6.1 and 5.6);

- J. No significant effects to transportation and circulation (ramp merge/diverge operations, intersection operations, pedestrian and bicycle facilities and transit service) would result (see EA Sections 3.7, 4.7.1 and 5.7);
- K. No Significant effects to land use and agriculture (land use and agriculture) would result (see EA Sections 3.8, 4.8.1 and 5.8);
- L. Compliance with measures identified in EA Section 5.9.6 would ensure a less-than-significant effect to fire protection/emergency medical service effects (see EA Sections 3.9.6, 4.9.1, 5.9.6);
- M. No significant effects to water supply; wastewater service; solid waste service; electricity, natural gas and telecommunications; and law enforcement would result (see EA Sections 3.9, 4.9.1 and 5.9);
- N. Compliance with measures identified in EA Section 5.10 would ensure a less-than-significant effect to operational noise (see EA Sections 3.10, 4.10.1 and 5.10(a));
- O. No significant effects to construction noise would result (see EA Sections 3.10, 4.10.1 and 5.10);
- P. No significant hazardous materials effects would result (see EA Sections 3.11, 4.11.1 and 5.11);  
and
- Q. No significant effects to visual resources would result (see EA Sections 3.12, 4.12.1 and 5.12).

#### **SUMMARY OF 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).

*Air Quality*

- The Tribe shall implement an Asbestos Dust Control Plan. The Tribe shall finalize the plan before beginning any construction-related ground disturbance activity occurs. Upon approval of the Asbestos Dust Control Plan by the Tribe, the contractor shall ensure that the terms of the plan are implemented throughout the construction period.

*Biological Resources*

- To avoid potential disturbance to VELB, the Tribe will implement the following:
  - Perform a pre-construction presence/absence elderberry shrub survey according to USFWS (1999) protocol.
  - If found to occur onsite:

The Tribe shall provide a minimum setback of at least 20 feet from the drip line of each elderberry plant containing stems measuring 1.0 inch or greater in diameter at ground level. The setbacks shall be fenced and flagged to identify equipment and materials encroachment into the setback zone. Fire fuel breaks (disked land) may not be included within the 20-foot setback. Where encroachment within the 20 foot setback zone is unavoidable, the Tribe shall provide compensatory mitigation at a 50 percent ratio of the standard requirements identified in the table below.

MINIMIZATION RATIOS FOR VALLEY ELDERBERRY LONGHORN BEETLE

Location	Stem Diameter	Exit Holes	Elderberry Seedling Ratio	Associated Native Plant Ratio
Non-Riparian	Stems ≥1" & ≤3"	No	1:1	1:1
		Yes	2:1	2:1
Non-Riparian	Stems >3" & <5"	No	2:1	1:1
		Yes	4:1	2:1
Non-Riparian	Stems ≥5"	No	3:1	1:1
		Yes	6:1	2:1
Riparian	Stems ≥1" & ≤3"	No	2:1	1:1
		Yes	4:1	2:1
Riparian	Stems >3" & <5"	No	3:1	1:1
		Yes	6:1	2:1
Riparian	Stems ≥5"	No	4:1	1:1
		Yes	8:1	2:1

This table corresponds to Table 1 from the Conservation Guidelines for the Valley Elderberry Longhorn Beetle (USFWS 1999).

- Construction contractors shall be briefed on the need to avoid damaging the elderberry plants and the possible penalties for not complying with these requirements.

- Work crews shall be instructed about the status of the beetle and the need to protect its elderberry host plant.
- No insecticides, herbicides, fertilizers, or other chemicals that might harm the beetle or its host plant shall be used in the buffer areas, or within 100 feet of any elderberry plant with one or more stems measuring 1.0 inch or greater in diameter at ground level.
- Mowing of grasses/ground cover shall occur only from July through April to reduce fire hazard. No mowing shall occur closer than five feet to elderberry plant stems. Mowing must be done in a manner that avoids damaging plants (e.g., avoid stripping away bark through careless use of mowing/trimming equipment).
- Trimming of elderberry stems less than one inch in diameter may occur between September 1 and March 14. The recommended period for trimming is between November through the first two weeks in February when the plants are dormant and after they have lost their leaves.
- In cases where removal of elderberry shrubs or their stems measuring one inch or greater (removal or trimming) is unavoidable, these impacts shall be compensated for by salvaging and planting the affected elderberry shrubs and planting additional elderberry shrubs and associated native riparian plants according to the ratios specified in Table 4-1. Mitigation planting shall occur, to the maximum extent practicable, in areas adjacent to the impact area and/or located to fill in existing gaps in riparian corridors.
- To avoid disturbance to CRLF, the following avoidance measure shall be implemented:
  - To prevent inadvertent entrapment of a CRLF during construction, all excavated, steep-walled holes or trenches more than 2 feet deep will be covered at the close of each working day with plywood or similar material, or provided with one or more escape ramps constructed of earth fill or wooden planks. Before such holes or trenches are filled, they will be thoroughly inspected for trapped animals. If at any time a trapped listed animal is discovered, the on-site biologist will immediately place escape ramps or other appropriate structures to allow the animal to escape, or the USFWS will be contacted by telephone for guidance. The USFWS will be notified of the incident by telephone and email within one working day.
- To ensure that there are no impacts to protected active nests, the following mitigation measures will be implemented:
  - Conduct a pre-construction nesting bird survey of all suitable habitats on the project within 14 days prior to the commencement of construction during the nesting season (February 1-August 31).

- If active nests are found, a no-disturbance buffer around the nest shall be established. The buffer distance shall be established by a qualified biologist in consultation with the CDFW and/or USFWS. The buffer shall be maintained until the fledglings are capable of flight and become independent of the nest tree, to be determined by a qualified biologist. Once the young are independent of the nest, no further measures are necessary. Pre-construction nesting surveys are not required for construction activity that begins outside the nesting season.

### *Cultural Resources*

- If buried cultural resources such as flaked or ground stone, historic debris, building foundations, or human bone are inadvertently discovered during ground disturbing activities, work would stop in that area and within 60 feet of the find until a qualified archaeologist can assess the significance of the find and, if necessary, develop appropriate treatment measures in consultation with the appropriate agencies.
- If human remains of Native American origin are discovered during Project construction, it would be necessary to comply with laws relating to the treatment and disposition of Native American burials, which fall within the jurisdiction of the NAHC (California Public Resources Code [PRC] Section 50970. If any human remains are discovered or recognized in any location other than a dedicated cemetery, there would be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains until:
  - The El Dorado County coroner has been informed and has determined that no investigation of the cause of death is required; and
  - If the remains are of Native American origin,
    - the descendants of the deceased Native Americans have made a recommendation to the project proponent for means of treating or disposing of, with appropriate dignity, the human remains and any associated grave goods as provided in PRC Section 5097.98, or
    - the NAHC was unable to identify a descendant or the descendant failed to make a recommendation within 24 hours after being notified by the commission.

According to the California Health and Safety Code, six or more human burials at one location constitute a cemetery (Section 8100) and disturbance of Native American cemeteries is a felony (Section 7052). Section 7050.5 requires that construction or excavation be stopped in the vicinity of discovered human remains until the coroner can determine whether the remains are those a

Native American. If the remains are determined to be Native American, the coroner must contact the NAHC.

#### *Socioeconomic Conditions*

- The Tribe shall provide reasonable in-lieu developer fees and taxes to the El Dorado County Office of Education (EDCOE) to mitigate recognized effects to the affected school districts. The Tribe shall consult with EDCOE to determine the amount and schedule of payments to reasonably mitigate developer fee and tax loss to the affected districts and increased student enrollment in the affected districts' schools. Current estimates of these fees are provided in Appendix 8 of the EA.

#### *Fire Protection/Emergency Medical Services*

- The construction plans and specifications for the Proposed Action will include the following notes:
  - All construction equipment will include spark arresters 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 shall be cleared of dried vegetation or other materials that could serve as fire fuel. To the extent feasible, the contractor shall keep these areas clear of combustible materials in order to maintain a firebreak.

#### *Noise*

- All HVAC units installed as part of the Proposed Action shall be placed a minimum of 120 feet from the property line within APNs: 319-100-20 and 319-100-21. Alternately, additional analysis may be performed that demonstrates to the satisfaction of the Tribe that noise levels from HVAC would not exceed the standards included in Table 6-2 of the County Noise Element.

#### **RESPONSE TO EA COMMENTS:**

The EA was distributed for public review on May 9, 2016. The comment period closed on June 8, 2016. Several comments were received on a Notice of Application, which was published on April 7, 2016. The BIA received no comments on the EA.

#### **PUBLIC AVAILABILITY:**

All persons and agencies on the initial EA mailing list will receive a copy of the FONSI. Copies of the EA and FONSI are available for public review on the Tribe's website at <http://www.shinglespringsrancheria.com/>, and at the El Dorado County Library, 345 Fair Lane,

Placerville, CA 95667. General information for the El Dorado County Library can be obtained by calling (530) 621-5540.

**DETERMINATION:**

After review and independent evaluation, the BIA has determined that the proposed federal action, to approve the Tribe's request to acquire the proposed 10.18-acre site into trust for the purpose of developing Tribal housing, 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 and the mitigation imposed. Therefore, an Environmental Impact Statement is not required and the BIA is issuing this FONSI.

Issued in Sacramento, California this 19<sup>th</sup> day of August, 2016.



Regional Director

Bureau of Indian Affairs, Pacific Region

U.S. Department of the Interior