

CALIFORNIA COASTAL COMMISSION

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October 30, 2020

Amy Dutschke
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Bureau of Indian Affairs
2800 Cottage Way, Room W-2820
Sacramento, CA 95825

Subject: Consistency Determination CD-0004-19, loan guarantee and lease of trust land for Cher-Ae Heights Indian Community of the Trinidad Rancheria proposal to construct and operate a five-story hotel

Dear Ms. Dutschke:

This letter is in response to your September 10, 2020 letter regarding the above-referenced project, in which you provided information related to the water supply for the hotel proposed by the Cher-Ae Heights Indian Community of the Trinidad Rancheria (Trinidad Rancheria). This information is in response to the Commission's condition incorporated into its concurrence with the BIA consistency determination (CD-0004-19) for the project at its August 2019 hearing. This condition specified that the BIA provide the Executive Director with evidence that water for the hotel would be supplied by the City of Trinidad, or an alternate source that would be consistent with Section 30250(a) of the California Coastal Act, accompanied by an analysis of effects to coastal resources from such an alternative. As described in this letter, my conclusion is that based on the provided information, the proposed water source for the hotel is not consistent with Section 30250(a) of the Coastal Act, and that the Commission's condition has not been met. In addition to providing the reasoning for this conclusion, this letter also describes the information that would be necessary to support a conclusion that a proposed water source relying upon wells is consistent with Section 30250(a).

Background

The Commission conditionally concurred with the BIA consistency determination at its August 2019 hearing. At the time of this hearing, the Rancheria was uncertain how water would be supplied to the hotel. Consequently, to find the proposed hotel consistent with

Section 30250(a) of the Coastal Act¹, the Commission included the following condition in its concurrence:

- 1. Water.** *Prior to construction, the BIA shall provide evidence that the City of Trinidad is able to and is agreeing to provide water to the proposed hotel from the City's water supply, or other water supply acceptable to the Executive Director. This evidence could take the form of a contract from the City, a letter of intent to complete a contract, or a similar expression of agreement from the City to provide water for the proposed hotel. Alternately, provide a description of how water would be provided from a water source that would be consistent with Section 30250(a) of the Coastal Act, accompanied by an analysis of effects to coastal resources (pursuant to Chapter 3 of the Coastal Act) that implementing such an alternative would entail.*

On September 10, 2020 the BIA provided a letter in response to this condition, incorporating by reference the Final Environmental Assessment (Final EA) and Finding of No Significant Impact for the proposed project. The letter describes the proposed water source for the hotel as two wells on Trinidad Rancheria property that are described as able to supply 9,500 gallons per day, and identifies a water studies report included as Appendix H of the Final EA (titled “Limited Evaluation of Water Supply”, hereafter referred to as the Limited Evaluation report) as a further source of information.

On September 18, Commission staff posted this letter on the Commission’s web site, along with links to the Final EA and the Limited Evaluation report, and sent a notice of their availability to interested parties, requesting comment by October 19. In response, the Commission received approximately 250 comments. Public comments raised concerns related to the proposal for hotel water supply (for example, providing anecdotal evidence that wells in the Trinidad area run dry at times), as well as additional issues that the Commission had previously reviewed. Approximately 30 comments voiced support for the proposed hotel, including a letter from the Trinidad Rancheria with an attached petition signed by 321 people supporting the proposed hotel.

Because the Commission in its August 2019 concurrence found the proposed hotel consistent with Coastal Act policies regarding scenic and visual resources, habitat and biological resources, cultural resources, and hazards, and because Commission staff is not aware of changes to the proposed project that would affect these findings, this letter focuses on determining if the Commission’s condition regarding water has been met.

¹ Section 30250(a) states in part that “...new development shall be located within, contiguous with, or in close proximity to, existing development areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services...”

Proposed water supply

The Final EA states that maximum water demands for the hotel (i.e., with its 100 rooms fully occupied) would be approximately 14,184 gallons per day (gpd); typical occupancy is anticipated to be 70%, which would result in an average water demand of 9,929 gpd.

The Limited Evaluation report appended to the Final EA presents the results of analyses on two wells that would supply water to the hotel, based on well pump tests that occurred between late November and late December of 2019. The Limited Evaluation concludes that the estimated water yield from Well #1 would be "...3 [gallons per minute] gpm or less for the long term, although calculation of long-term yield using the pump testing data suggests the long-term yield is less than 1 gpm" and elsewhere calculates that the long term yield from this well would be 0.8 gpm. The Limited Evaluation also concludes that "...[t]he long term yield from Well #2 is approximately 5 to 6 gpm". Combining these estimates, the Limited Evaluation report thus indicates an estimated total water yield from the two wells ranging from 5.8 gpm to 9 gpm, or approximately 8,352 gpd to 12,960 gpd. The Limited Evaluation also states that:

Taken together, the two wells may be able to supply the Project's estimated demand of 9,500 gpd²... If the demand is actually higher than this estimate or if groundwater levels are lower than observed during the testing period (November and December 2019), however, the two wells likely would not be able to supply the new Hotel. We recommend that the Project have a back-up water supply.

The BIA's September 10 letter states that the two drilled wells would provide an estimated 9,500 gallons of water per day, described as "sufficient" to meet the water demand. Additionally, this letter states that "[t]he Tribe has identified two viable options for emergency and unforeseen natural events including the development of a third well or incidental trucking."³ The Trinidad Rancheria also states that it has entered into negotiations and planning with the Humboldt Bay Municipal Water District to provide future water service⁴, which will result in a Memorandum of Understanding for a feasibility study for water partnership. No further information about a third well or incidental trucking is provided.

The BIA's letter also addresses the potential for water drawdown associated with the two wells to affect existing water supply wells located in the immediate vicinity. The BIA letter summarizes the Limited Evaluation report's analysis indicating that the estimated cone of depression would extend 20 feet beyond Well #1 and 50 feet beyond Well #2. Based on this analysis and the location of the two wells, the BIA concludes that other existing wells are not within these cones of depression, suggesting no adverse effects.

² The Limited Evaluation states that this estimated demand figure was supplied by the Trinidad Rancheria.

³ In its comment letter, the Trinidad Rancheria includes similar language.

⁴ The Humboldt Bay Municipal Water District presently has a service area extending to McKinleyville.

Finally, the BIA concludes that the amount of water recharge available for the aquifer (estimated in the Limited Evaluation to be 174 acre-feet of water per year) greatly exceeds the demand that would be incurred as a result of the proposed hotel (estimated to be 11 acre-feet per year), and that as a result there would be no significant effects to coastal resources from the construction and operation of the hotel.

Analysis

Following analysis of the information provided in the BIA letter and the Final EA, I conclude the following:

1. Based on the information in the Final EA and its supporting documentation, as well as a review of general sources of information such as the 2019 California Green Building Code, which includes water usage rates for showers, sinks, faucets, etc., the hotel water demand estimates (14,184 gallons per day at maximum occupancy, and 9,929 gallons per day at typical occupancy) are reasonable for the hotel as proposed.
2. The Limited Evaluation indicates that the two wells would not provide sufficient water for the hotel at full occupancy, even assuming the most optimistic water yield (i.e., the maximum yield from the wells is 12,960 gpd, but the hotel requires 14,184 gpd at full occupancy). Furthermore, the hotel could experience a water shortfall at times of typical occupancy if actual water production is at the lower end of the estimated range.
3. The timing of the pump tests that form the basis for the water yield calculations raises additional concerns about the potential water yield. The pump tests used to support the water yield calculations occurred from November 22 through December 20, 2019, following the beginning of the rainy season. Throughout Humboldt County, water yield tests for proposed wells are typically required to occur in the dry season of late summer into early fall, to assess the potential for wells to produce water during periods of low or no precipitation which occur in this area annually⁵. The Limited Evaluation does not address the timing of the pump tests nor provide an analysis of how the water yield might fluctuate annually.
4. There is no information regarding a potential third well – its location, potential yield, or potential effect on coastal resources and/or existing wells. Thus, it cannot be considered as part of a viable alternative under Section 30250(a) of the Coastal Act.

Finally, with respect to the potential for trucking water as a response to potential water supply shortfalls, Commission staff is not aware of an instance where the Commission has approved such an activity as a routine or planned-for primary or supplemental water

⁵ Humboldt County does not have direct jurisdiction in this instance, but it is useful to understand standard requirements in the area regarding the timing for assessing water yields from wells.

source for development. As the Commission's adopted findings for this project state, "Providing water is an essential aspect of accommodating development, particularly for a use such as the proposed hotel." Commission staff does not believe that trucking water on a routine basis or as a planned-for option to provide water to the hotel, is consistent with Section 30250(a) of the Coastal Act.

For these reasons, the information provided in the September 10 letter and the Final EA is not sufficient to conclude that the proposed water source for the hotel is consistent with Section 30250(a), nor does it provide sufficient analysis of potential effects to coastal resource, as specified by the Commission's condition in its concurrence with CD-0004-19.

Additional information

Assuming that wells would provide water for the hotel, the following information and analysis would be necessary to demonstrate that the BIA has met the Commission's condition regarding water⁶:

1. *Water yields from all proposed wells, individually and cumulatively, providing a sufficient amount of water for the hotel at peak capacity.* Such estimates should be based on pump tests for all wells associated with the proposed hotel conducted during the dry season. Depending on the results of water yield estimates, it may be relevant to incorporate further analysis of peak water needs and evaluate potential water storage capacity at the site.
2. *Location, yield, drawdown extent and recharge potential, and cones of depression associated with all proposed wells.* For all wells, potential yield and recharge during times of drought should be assessed, as groundwater levels are presumed to be directly related to precipitation trends given the geological formations in the area. Depending on the location of individual wells, it may be necessary to consider the cumulative effect of drawdown on modeled cones of depression. For example, if multiple wells tap into a single aquifer, this assessment would need to analyze the cumulative drawdown effect. Further, the assessment should specifically address the recharge potential of Well #2 (the Sundberg property). Based on the described geology (32 feet of marine terrace sediments on top of shale of the underlying Franciscan complex) and the shallow depth of the well (water at 16 feet below ground surface), it is possible that this well is tapping into an isolated, perched aquifer with a smaller recharge area than presented in the Limited Evaluation. This additional information is necessary to confirm the Limited Evaluation conclusions regarding the overall recharge potential.
3. *Evaluation of the potential coastal resource-related effects of the wells, including effects from a third well once its location is identified.* This evaluation should include an analysis of the potential effects of individual wells and their cumulative effects on

⁶ These information needs assume no changes in the proposed hotel affecting its water demand. If hotel water demand changes, these information needs could be revisited as appropriate.

coastal resources. For example, drawdown from the proposed wells could affect water levels and biological resources within McConnahas Mill Creek, located along the western border of the Trinidad Rancheria approximately 100 feet from Well #1 and connecting directly to Trinidad Bay.

I am also aware that during the development of this proposal, other sources of water for the hotel have been explored. If other water sources do become available, my staff are available to discuss supporting information that may be necessary to meet the Commission's condition as appropriate.

I appreciate our continuing cooperation and coordination on this proposal, and thank you for your staff's continued cooperation as we work together to resolve these important considerations. Please contact John Weber of my staff at (415) 904-5245 if you have any questions regarding this matter.

Sincerely,



John Ainsworth
Executive Director

cc: Dan Hall and Chad Broussard, BIA
Garth Sundberg and Jacque Hostler-Carmesin, Trinidad Rancheria