

CALIFORNIA COASTAL COMMISSION

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CD-0001-19

MAY 24, 2019

**APPENDIX A: Cover letter for May 13, 2019 supplemental
information from the Trinidad Rancheria**



May 13, 2019

Honorable Members of the Board of Commissioners
John Weber, Energy, Ocean, Resources and Federal Consistency Division
California Coastal Commission
45 Fremont Street, #2000
San Francisco, CA 94105

Re: Consistency Determination No. CD-0001-19

Dear Commissioners and Mr. Weber:

The Cher-Ae Heights Indian Community of the Trinidad Rancheria (“Tribe”)¹ has reviewed the California Coastal Commission (“Commission”) staff report for Consistency Determination No: CD-0001-19 (“Staff Report”), and I am providing the Tribe’s response and comments. The proposed federal actions addressed in the consistency determination are the approval of a Indian Loan Guarantee by the Bureau of Indian Affairs (BIA), Office of Indian Energy and Economic Development: Division of Capital Investment and a lease of a portion of the Trinidad Rancheria to from the Tribe to the Trinidad Rancheria Economic Development Corporation (TREDC), a corporation federally chartered pursuant to Section 17 of the Indian Reorganization Act (25 U.S.C. § 5124) for the construction and operation of a hotel to be located on the leased premises. As set forth in the Staff Report, the BIA submitted a consistency determination, dated February 11, 2019, to the Commission, which stated the BIA’s determination that the proposed federal action and related project is consistent to the maximum extent practicable with the California Coastal Management Program (CCMP).

The Staff Report recommends that the Commission object to the BIA’s consistency determination because of a lack of information regarding certain matters and because of concerns about the visual compatibility of the proposed project with the surrounding area. The Tribe understands the Commission’s need for additional information, and enclosed with this letter we provide substantial supplemental information to address the areas identified in the Staff Report as needing additional information. Further, although the Commission staff report does not request additional information regarding the visual compatibility concern, we have identified the need for clarification, and we are confident that with this new information, the Tribe, BIA, and Commission staff will be able to identify feasible mitigation measures that will resolve the concern. The Tribe, TREDC and our consultants look forward to working with the Commission staff over the next several weeks to review the new material enclosed with this letter and to discuss mitigation measures.

¹ For clarity, please note that in this letter we refer to our Tribe as “Tribe”, our land base as the “Trinidad Rancheria,” and our tribal members as the Cher-Ae Heights Indian Community.

In addition to the new information we are providing regarding the technical matters touched upon above, this letter addresses important aspects about the Tribe, the Trinidad Rancheria homeland, and our Cher-Ae Heights Indian Community, which the Commission should take into account as it considers the BIA's consistency determination in concert with the technical matters.

The Tribe applauds the Commission's recent adoption of the California Coastal Commission Environmental Justice Policy, and the Commission's explicit acknowledgment of the "painful history of genocide against Native American Tribes" and the Commission's honoring of the efforts of California's coastal tribes to "rebuild thriving living cultures. . ." The Tribe has worked with the Commission on several projects to protect the ecological and cultural resources located in Trinidad Harbor, while also developing a sustainable economy for the Tribe and the region and expanding access and recreational opportunities for the public. In order rebuild thriving culture and protect the ecological and cultural resources we hold so dear, we must create a sustainable economy and provide jobs for our members and other marginalized communities living in the region. As discussed more fully below, the Tribe's land base is very small and a significant portion of the eastern part of the Trinidad Rancheria was sacrificed to accommodate the State of California's construction Highway 101, which brought economic benefits to the region but bypassed the Trinidad Rancheria and further impoverished the Cher-Ae Heights Indian Community.

The ancestors of the Cher-Ae Heights Indian Community have lived in this region since time immemorial. However, in order to preserve our culture and access the benefits of this unique coastal region, which is home to many of our cultural resources, our Tribe needs a stable economy and our community members need local employment. Similarly, other economically disadvantaged people who have lived in this region for generations, need jobs and a healthy economy. As the Commission has so appropriately recognized, the benefits of the California coast must be available to all communities, not just the wealthy and privileged. The Tribe is committed to undertaking future projects to protect ecological and cultural resources in the Trinidad Harbor region, and we are also committed to supporting a tribal and local economy that provides employment and other economic opportunities to build our community resources so that our Tribal members may continue to live in our homeland and enjoy traditional and customary access to the coast.

After our ancestors were driven off their lands, the Trinidad Rancheria land base (our reservation land) was established by the United States to provide a sustainable homeland for our Tribe. The Tribe protects the ecological and cultural resources on our Rancheria, but we must able to develop other portions of our Rancheria to provide for our government operations, Tribal housing, and our Tribal economy. Our proposed hotel project, located in the developed and "urbanized" portion of the Trinidad Rancheria, is consistent with the applicable provisions of the Coastal Act and our Community Development Plan, and we are confident that working together

we can advance this project and our Community development in a manner that is consistent with the Coastal Act and the Commission's mission.

Background of the Cher-Ae Heights Indian Community of the Trinidad Rancheria

The Cher-Ae Heights Indian Community of the Trinidad Rancheria is a federally recognized Indian tribe. Tribe has ancestral ties to the Yurok, Wiyot, Tolowa, Chetco, Karuk and Hupa peoples, but our members are primarily of Yurok decent and our Tribe has been recognized by Congress and the State as a Tribe of historic Yurok origin. Pursuant to a 1906 act of Congress (34 Stat. 333), the Secretary of the Interior, in 1908, acquired 60 acres of land on the coastal bluffs and shore of Trinidad Bay near the village of Tsurai, for the use of what the Department of the Interior referred to as the Trinidad Band.² In 1917 the Secretary of the Interior approved Federal recognition of the Tribe and formally established the Trinidad Rancheria to provide a homeland for our Tribe.³ The mission of our Tribal government, as stated in our Comprehensive Community-Based Plan, is to “preserve and promote our culture and traditional beliefs; improve quality of life and self-sufficiency; uphold tribal sovereignty; create positive partnerships; and protect the environment in order to provide a healthy community, honor our elders and guide our youth.”

In 1962, to accommodate the current layout of Highway 101, the United States permitted the new highway alignment to bisect the Trinidad Rancheria, which left a nine-acre portion of the north eastern corner of the Rancheria on the eastern side of Highway 101. The BIA subsequently disposed of the north eastern portion of the Rancheria because it was landlocked by the highway and an adjacent land owner who refused to give the Tribe right-of-way to access that portion of our Rancheria. Due to the construction of Highway 101, the Trinidad Rancheria was reduced by almost 25 percent (from 60 acres to 46.5 acres). The remaining portion of the Trinidad Rancheria, a large portion of which is undevelopable, must provide for the tribal government, tribal housing, and our tribal economy.⁴

In 2013, Trinidad Rancheria conducted a Community Economic Development Survey (CEDS) through our work with the U.S. Department of Health and Human Services. This study revealed that Tribal Members were living at a poverty level of income, over 60% were unemployed, and

² Department of the Interior Report of the Commissioner of Indian Affairs to the Secretary of the Interior for the fiscal year ended June 30, 1915. (Washington: Government Printing Office 1915). See p. 30 <http://images.library.wisc.edu/History/EFacs/CommRep/AnnRep1517/reference/history.annrep1517.i0001.pdf>. With regard to the Trinidad Rancheria, Table 30 of this report indicates that 60 acres were purchased in Humboldt County for the Trinidad Band.

³ See Coastal Zone Information Center, U.S. Department of Commerce, Federal and State Indian Reservations and Indian Trust Areas 159 (1974) (“Report of Indian Reservations and Trust Areas”). Although this report also indicates that the Rancheria was in the process of being terminated under the Rancheria Act (P.L. 85-671), the Trinidad Rancheria did not accept the proposed termination, and the Trinidad Rancheria was never terminated.

⁴ Through economic development and self-sufficiency, the Tribe was able to purchase additional land for tribal housing, located in Westhaven and McKinleyville, but these parcels are for residential use.

that the median income was \$34,063.⁵ The CEDS strategy called out as one of the goals of the Tribe, “To develop Tribal enterprises and supporting infrastructure to pursue and or enhance recreational and eco-tourism opportunities.”⁶ The Tribe’s casino, though quite small, provides approximately 200 jobs to the region. In addition, the Tribe’s operation of the Trinidad Pier helps support small fishing and recreational boating businesses in the region. The Tribe’s CEDS study highlighted the opportunity to supplement our casino, and support increased coastal recreation and eco-tourism activities, by providing hotel accommodations. The Tribe has developed a strategic plan that seeks to build from the natural, cultural, and recreational assets and opportunities of Trinidad and the surrounding area. The hotel project is another way for the Tribe to support our Tribal members and to provide continued support to the general welfare of the Tribe, through job creation and funding general welfare programs.

As the Staff Report indicates, the Tribe owns the Trinidad Harbor businesses. The Tribe purchased the Trinidad pier in 2000 to restore our cultural connection to fishing and the harbor, and to support the commercial fishing and recreational boating opportunities in the region. The Tribe has driven protection of Trinidad Harbor, an Area of Biological Significance, and we have enhanced public access to the harbor and coast. In particular, since 2012, the Tribe has worked tirelessly to build a sustainable economy and protect the natural and cultural resources on the coast and particularly in Trinidad Harbor. As owners of the Trinidad Pier, the Tribe has completed several difficult projects to enhance public access, while simultaneously protecting the unique resources in the harbor. These projects include replacing the old pier, which raised environmental concerns, with an advanced pier specifically designed to protect the ecological resources, replacing old septic systems with a state-of-the-art wastewater treatment system, installing public restrooms for the people accessing the harbor and beach, and commencing a comprehensive stormwater mitigation project in the harbor parking lot, which currently in progress. In addition, the Tribe operates public restrooms at an annual cost of more than \$50,000, without any contribution from the local community.

The Tribe completed our Comprehensive Community-Based Plan in 2011, which sets out our vision for the community, and we have been working to implement the Plan since then. This blueprint provides a basis for structured growth that best serves the health, safety and general welfare of the Cher-Ae Heights Indian Community while at the same time envisioning a strategic approach for future development. During the early stages of Community Plan development, a theme emerged that would guide the Tribe: *soo-nee-hlek*, which is Yurok for “I dream.”

The construction of the hotel on the Tribe’s trust land is the beginning of the dream that will see the Community Plan come to life. The hope is that the hotel will be the tribal business to jumpstart other businesses, help fund a community center and additional tribal housing, and bring jobs to both the Tribe and surrounding communities. The hotel will bring the revenue

⁵ CEDS Economic Development Strategy 2014-2020 – Economic Characteristics, Table 1, Pg. 8.

⁶ CEDS – Goal 2 Develop Tribal Enterprises, Pg. 24.

needed to begin to address poverty, unemployment, job creation, and provide the internal capacity for the Tribe to improve the general welfare of the Tribal Members. In addition, and consistent with the Coastal Act, the hotel, as a visitor-serving land use that will provide shuttle service to Trinidad Harbor for guests, is vital to the economic health of the region. It will enhance public access to the coast and help support the regional economy by drawing additional tourists, who will have improved access to coastal recreational activities and enjoy shopping and eating in the City of Trinidad and neighboring towns.

The Cher-Ae Heights Indian Community has been a marginalized community since the non-Indian development of Trinidad Harbor and the City of Trinidad, and our community still suffers from very high unemployment and low income. The Trinidad Rancheria land base was acquired by the United States to provide a sustainable homeland for our people, and the proposed project will help achieve that goal, and it will support our efforts to protect the coast and enhance the public's access. Consistent with your Environmental Justice Policy, we encourage the Commission to take these circumstances and values into account when assessing this consistency determination.

Specific Issues Raised in the Staff Report

The specific technical issues raised in the Staff Report are addressed in detail in our enclosures. Below we underscore some important factors for the Commissions' assessment of these matters.

View Shed

The proposed hotel was designed to protect the scenic and visual qualities of the coastal area and to minimize alteration of the natural land forms. Unfortunately, some of the information in the Environmental Assessment gives a misimpression of the visual effect of the project. The TREDC and its contractors have prepared additional information to allow the Commission to more accurately assess the effect of the proposed hotel on the view shed, and we have worked with consultants to incorporate additional mitigation to make the project visually compatible with the surrounding area. This additional information and analysis is addressed in detail in our enclosed materials, and we look forward to reviewing that material with the Commission and your staff. Moreover, consistent with the Coastal Act, we have proposed to construct the hotel on previously developed land adjacent to the Rancheria's existing commercial and governmental development. Further, because of existing housing and the loss of the eastern portion of the Trinidad Rancheria caused by the 1962 realignment of Highway 101, it is not feasible to relocate the project to a different part of the Rancheria. We believe that we can work with Commission staff to protect the view shed, but the Commission should take into account the fact that the Tribe cannot move its land base or its project to a different location -- we must work with the small land base left to us.

Adequate Public Services

The Staff Report raises questions about the adequacy of certain public services such as water supply, wastewater treatment and traffic-related effects. The Tribe and TREDC have been working with consultants to address these issues, and enclosed with this letter, we provide substantial information to address those questions. As noted in the BIA's consistency determination, the proposed project is located in a previously developed portion of the Trinidad Rancheria adjacent to other commercial development, which is the clear preference set out in the Coastal Act (*see* Pub. Rec. Code § 30250). For such a development, the sole criterion in Section 30250 is whether this area is able to accommodate the proposed project. Because of the location of the proposed project, the project does not demand the expansion of existing public works facilities or consideration of the Coastal Act provisions regarding expanded public works facilities (Pub. Rec. Code § 30254).] The Tribe's proposed visitor-serving project is consistent with the Tribe's land use plan, and with conservation measures and improvements to the existing systems, we can demonstrate that this existing developed area is able to accommodate the proposed project. As discussed above, the Commission, consistent with its Environmental Justice Policy, should work with the Tribe and the BIA to agree on feasible measures supporting concurrence with the consistency determination for this Tribal project located on Tribal land, which cannot be moved to another location. While the Tribe is actively working with Caltrans to provide a highway interchange for the Trinidad Rancheria, which should have been provided in 1962 when the highway bifurcated the Rancheria, as discussed in our enclosed materials, the hotel project alone does not require the construction of the highway interchange.

Hazard Analysis

The analysis of potential hazards is a technical matter, and enclosed with this letter are reports from the project engineers and geotechnical engineers addressing the questions raised in the Staff Report. As discussed above, the Tribe's available developable land is limited, especially in the existing developed area, and the enclosed materials detail the mitigation measures that will assure the stability and structural integrity of the project without substantially altering the natural landforms.

Conclusion

As we address the questions raised in the Staff Report, please keep in mind this hotel project is much more than just another construction project. This project is a dream for Trinidad Rancheria to address the needs of its Tribal members, to realize Self-Determination through economic development, and to create jobs for Tribal members. Our Tribe has faced insurmountable odds over the past century, but we have found a pathway forward to a better way of life through planning, environmental stewardship, community stewardship, and moving into the future in a good way. The Commission has expressly recognized the injustices and obstacles faced by the Tribes generally, and we are confident that the Commission will consider this project in light of the injustices imposed on our Tribe, including the taking of a portion of our Rancheria to

accommodate the realignment of Highway 101. Being true to who we are and to our vision statement “Honoring the Past, Living in the Present, Looking Towards the Future,” our Tribe will continue to persevere and work through the issues raised in the Staff Report, and we look forward to moving forward, in partnership, with the Commission.

Sincerely,



Garth Sundberg
Tribal Chairman
Cher-Ae Heights Indian Community of the Trinidad Rancheria

Attachments

Cc:

Trinidad Rancheria Responses to Coastal Commission Staff Report
Regarding Coastal Consistency Determination CD-0001-19

PROCESS, ALTERNATIVES, DESIGN, AND ECONOMICS

The Cher-ae Heights Indian Community of the Trinidad Rancheria, (Trinidad Rancheria) has been planning and working on the hotel project for over twelve years. The Tribe, as previously mentioned, completed a Comprehensive Community Development Plan (Master Plan), which discussed the conceptual commercial development of a hotel in 2011. This was the first step to making our dream come true. Since that planning event, the Tribe has searched for a pathway forward to realize this dream and accomplish this economic development milestone.

In this process, the Tribe also completed a Community Economic Development Survey which articulated the need for a hotel as an economic center and revenue generating foundational driver for success. The Tribe began meeting with developers in 2013 and brainstorming ways to bring the hotel to reality. The Tribe purposefully put this project on a deliberative tract and did not rush into any decisions because of the sensitivity of the environmental constraints of the proposed location as well as the type of hotel that would be built. Numerous studies were undertaken to determine the most efficient and economically feasible hotel proto-type. After diligent research, consultation and our right to exercise our sovereignty and self-determination, the tribe decided to move forward with a franchise hotel.

To further our community discussion regarding the hotel initiative, the Rancheria contracted with an independent lodging consultant to research the market support for the proposed hotel. The consultant's report included the following:

- Evaluation of the suitability of the site and surrounding area for a hotel;
- Evaluation of pertinent demographic and economic information for the market area;
- Identification of likely sources of lodging demand;
- Identification and evaluation of competitive lodging facilities;
- Projection of the lodging demand that a hotel at the subject location could reasonably expect to capture;
- Projections of revenue, operating expenses and fixed charges for the subject hotel for its first five full years of operation;
- Projections of the amount of incremental food, beverage, and gaming revenue expected to be generated by hotel guests;
- Analysis of the economic feasibility of the hotel project showing potential debt coverage; and
- Preparation of this final report documenting our findings, conclusions, recommendations, and projections for the hotel.

Based on this independent lodging consultant's analysis of the lodging demand that exists in the Humboldt/Del Norte region, the supply of hotels, and their evaluation of the competitive casinos, it was the lodging consultant's recommendation that an upper midscale hotel (3+-star quality) of approximately 100 rooms or more would be market justified at the Cher-Ae Heights Casino. A

hotel of this quality would be attractive to the Casino, leisure/recreational and commercial demand segments, and improve the Casino's attractiveness as a destination.

After additional pro forma analyses were commissioned, the Tribe knew it must ensure that the return on investment would be sufficient to not only cover the quarterly capital loan payments, but also return a profit to the Tribe. These profits are crucial to the Tribal Government and its membership, and will enable the tribe to address both severe unemployment on the reservation and the general welfare of tribal members.

Discussion did occur regarding building a hotel with fewer rooms to reduce the cost of the hotel, but research revealed the tribe would not realize the return on investment with a smaller hotel. After several years of deliberation, the Tribe decided to begin negotiations with the Hyatt Place Franchising, LLC and assembled a group of engineers and experts with a wealth of knowledge and experience in building hotels. In 2016-2018, the financial portfolio as well as the professional and technical team were formalized.

The proposed hotel will be located on the existing Cher-Ae Heights Casino property, with a majority of the rooms on the south side of the property facing the ocean. The Hotel site is located within previously developed commercial property and would include five floors above grade and one level below grade. The Rancheria has received a Letter of Intent and has been approved to move into the design phase of the hotel and to work toward the final agreement with Hyatt Place Franchising, LLC. Our Architects, TBE, and our Developer, Wright Inc., are working on design elements and requirements of the Hyatt Corporation and have received positive feedback on the preliminary design.

An additional consideration for our hotel choice was the absence of a Hyatt Hotel on the North Coast. The nearest Hyatt property is located in Santa Rosa, CA, a distance of 180 miles south. To the north the next nearest location is in Eugene, OR, a distance of 250 miles. The Tribe believes the Hyatt Hotel chain will produce a higher occupancy and a higher average daily reservation (ADR) due to the tourist traffic from the Greater Bay Area, Portland, and other travelers on road trips. The Hotel will be marketed as a stand-alone Hyatt Place, with a casino amenity. This contrasts to many casinos which market themselves as an entertainment venue, with a hotel amenity. Hyatt Place is branded towards casual business and leisure travelers, particularly families. The Rancheria site is expected to attract guests visiting the Redwoods National Forest, or traveling along the 101 Pacific Coast Highway. This will be one of the nicer accommodations, if not the nicest, within 30 miles of the greater Redwoods area. There may be additional guests staying at the hotel to use the Casino facilities, however studies have shown to not anticipate this to be the target market.

Site Constraints

As we have mentioned, the Tribe does not own additional lands within which the hotel can be built. We have shared in our cover letter and in other sections of our responses that the tribe lost land due to the bisecting of Tribal Lands with the construction of Highway 101. The Rancheria Parcel is 46.5 acres and is occupied by the Tribe's Casino, Tribal office buildings and Tribal member housing. The remaining acreage is exclusively Tribal member housing. Due to the size

of the existing land base, the Rancheria's only site location for the hotel is directly adjacent to and tucked behind the Casino. Because of the limited space on Rancheria trust lands, the only alternative was a multi-story hotel that could contain the necessary 100 rooms.

Time Constraints

There have been numerous requests to the Bureau of Indian Affairs (BIA) to, in turn, ask that the Coastal Commission hearing on this project be delayed until the August, 2019 meeting. The August meeting will be heard on the North Coast and would allow the local public to attend and comment. The BIA has already granted an extension of time to allow the Tribe to submit additional follow-up information for the Commission and would not likely grant another extension of time. One of the many mandatory and complex components of this project is the approval of a BIA Lease of Land from the Tribe to the Trinidad Rancheria Economic Development Corporation (TREDC). The lease application is what, in fact, triggered the environmental review of the project. Another extremely important piece of the project is the Rancheria's secured BIA Loan Guarantee. Because of timelines related to the BIA's authorization of the Lease application, the BIA's ability to hold the loan guarantee (through the end of the Federal fiscal year), and the processing of our Loan through Native American Bank, the Tribe and the BIA are not able to delay for an additional two months.

Conclusion

The Rancheria has thoughtfully responded to the concerns of local City of Trinidad residents, and the public in general, related to the design of the hotel. After numerous presentations and listening to public comment, we have committed to implement mitigations to the design that would protect the view shed. The Casino water tank, which sits directly behind the Casino and would be located next to the hotel, currently has a white roof top. The Rancheria plans to repaint all existing roof tops that currently might be considered to impact view, and the hotel roof top will be painted to blend into the natural environment.

The Rancheria will leave existing large trees in place to provide cover and protect views, and has committed to minimal tree removal. The Rancheria has also committed to replanting indigenous plants, shrubs and trees in order to limit the impact on the view caused by the construction of retaining walls, etc. that are necessary for the ingress and egress to the hotel. (Please see the updated Site Plan with existing trees and trees that will be removed.)