

FINDING OF NO SIGNIFICANT IMPACT FOR THE MONTGOMERY CREEK 40-ACRE FEE-TO-TRUST PROJECT

AGENCY: Bureau of Indian Affairs

ACTIONS: Finding of No Significant Impact

SUMMARY:

The Pit River Tribe (Tribe) submitted a request to the Bureau of Indian Affairs (BIA) to transfer one parcel (APN 029-520-004) (project site) into federal trust on behalf of the Tribe to be used for the development of Tribal housing (Proposed Action). The project site is located in unincorporated Shasta County, adjacent to State Route 299 (SR-299), approximately 30 miles northeast of the City of Redding, California. The project site's northern boundary is Windy Point Road, and its western boundary is SR-299 (see EA Figures 1-1, 1-2, and 1-3). Based upon the entire administrative record including analysis in a March 2022 Environmental Assessment (EA), mitigation imposed, comments received on the EA, and consultation with the State Historic Preservation Officer (SHPO), the BIA makes a finding of no significant impact (FONSI) for the Proposed Action. This finding constitutes a determination the Proposed Action is not a Federal action significantly affecting the quality of the human environment. Therefore, in accordance with Section 102(2)(c) of the National Environmental Policy Act, 42 U.S.C § 4321 et seq., an Environmental Impact Statement (EIS) is not required.

PURPOSE AND NEED:

The purpose of the Proposed Action is to provide increased long-term cultural security through the development of Tribal housing. This would allow expansion of a housing base that is currently inadequate for Tribal needs. Additional details regarding the purpose and need can be found in EA Section 1.3.

ALTERNATIVES CONSIDERED:

Three alternatives are analyzed in the EA: the Proposed Action, a Reduced-Density Alternative, and a No Action Alternative. The Proposed Action is summarized above and includes the fee-to-trust transfer of one parcel of land totaling approximately 40 acres. The Tribe subsequently proposes to develop the parcel with approximately 32 houses on .69-1 acre lots. The Reduced-Density Alternative would also include the fee-to-trust transfer but would reduce the number of houses built to 12 on 2-3 acre lots. Under the No Action Alternative, no federal actions would occur, and the Tribe would not construct any housing. Additional details regarding the Proposed Action and Alternatives can be found in EA Section 2.

ENVIRONMENTAL IMPACTS:

Potential impacts to land resources, water resources; air quality; biological resources; cultural resources; socioeconomics; environmental justice; transportation; land use and agriculture; public services; noise; hazardous materials; and visual resources were evaluated in the EA, with the

following conclusions for the Proposed Action and Reduced-Density Alternative¹ (see EA Section 3 for detailed analysis and for specific mitigation measures):

Land Resources

Land resources impacts could occur during the construction and operation of the housing project. Mitigation measures detailed in EA Section 3.1 and 3.2 would ensure land resources impacts are less than significant.

Water Resources

Impacts to water resources would occur during construction and operation of the housing project. Mitigation measures detailed in EA Section 3.2 would ensure water resources impacts are less than significant.

Air Quality

Impacts to air quality would occur during construction and operation of the housing project. Mitigation measures detailed in EA Section 3.3 would ensure air quality impacts are less than significant.

Biological Resources

Impacts to biological resources would occur from the development of the housing project. Mitigation measures detailed in EA Section 3.4 would ensure impacts to biological resources are less than significant.

Cultural Resources

Impacts to cultural resources could occur from the development of the housing project. Mitigation measures detailed in EA Section 3.5 would ensure impacts to cultural resources are less than significant. The SHPO concurred with BIA's finding of no historic properties affected in a consultation that was completed May 15, 2020.

Socioeconomics

Impacts to socioeconomics would occur during the fee-to-trust transfer and during the construction/operation of the housing project. No significant socioeconomics impacts would occur.

Transportation and Circulation

Impacts to transportation and circulation would occur during construction and operation of the housing project. No significant transportation or circulation impacts would occur.

Land Use and Agriculture

Impacts to land use and agriculture would occur during construction and operation of the housing project. No significant impacts would occur.

¹ The No Action Alternative would generally not result in detrimental impacts to the environment, therefore the impacts and mitigation measures detailed here are generally not applicable (see EA for more details). As noted in the EA, the No Action Alternative would not meet the purpose and need of the action.

Public Services

Impacts to public services would occur from the operation of the housing project. No significant impacts would occur.

Noise

Noise and vibration impacts would occur during construction and operation of the housing project. No significant impacts would occur.

Hazardous Materials

Hazardous materials impacts could occur during construction and operation of the housing project. No significant impacts would occur.

Visual Resources

Impacts to visual resource would occur from the development of the housing project. No significant impact would occur.

PUBLIC AVAILABILITY:

A Notice of Availability for the EA and the unsigned FONSI has been provided to agencies, organizations, and interested parties starting March 23, 2022, for a period of 30 days. A total of two comments were received during the review period. These comments have been reviewed and taken into consideration in the drafting of this FONSI. Although no comment affected any of the significance conclusions in the EA, responses to comments and errata sheets have been attached to this FONSI to be fully responsive to the comments received.

DETERMINATION:

It has been determined that the proposed Federal action to take approximately 40 acres of fee land into federal trust for the purpose of developing housing does not constitute a major federal action that would significantly affect the quality of the human environment. Therefore, in accordance with Section 102(2)(c) of the National Environmental Policy Act, 42 U.S.C § 4321 et seq., an Environmental Impact Statement is not required. This determination is supported by the findings described in this FONSI and the analysis contained in the entire administrative record, including the March 2022 EA, comments received on the EA, consultation with the SHPO, and the mitigation imposed. This fulfills the requirements of NEPA as set out in the Council on Environmental Quality Regulations for Implementing NEPA (40 C.F.R. 1500–1508), and the BIA NEPA Guidebook (59 IAM 3-H, August, 2012).

Approved:

Date:

Regional Director
Bureau of Indian Affairs, Pacific Region

EXHIBIT A

COMMENTS AND RESPONSES TO COMMENTS

Comments received on the Environmental Assessment (EA) are listed in **Table A-1**. Copies of the comment letters are provided in their entirety on the following pages. Responses to the numbered comments are provided below in Sections 1.0 and 2.0.

TABLE A-1

LIST OF COMMENTERS

Letter Number	Agency/Organization	Name	Date Received
EPA			
F1	U.S. Environmental Protection Agency (EPA)	Connel Dunning	21-APR-22
DTSC			
S1	Department of Toxic Substances Control (DTSC)	Gavin McCreary, Project Manager	08-APR-22

Responses to comments are organized below. All comment letters were reviewed; similar and identical letters and/or comments were grouped together and responded to in a single response. A requested change to the EA is included as an errata sheet in **Exhibit B** of the FONSI. Changes are provided in underline/strikeout for clarity.

Comment Letter F1



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105-3901

April 21, 2022

Amy Dutschke
Regional Director
Bureau of Indian Affairs
Pacific Regional Office
2800 Cottage Way
Sacramento, California 95825

Subject: Draft Environmental Assessment for the Proposed Montgomery Creek 40-Acre Fee-to-Trust Project, Montgomery Creek Rancheria, Pit River Tribe

Dear Amy Dutschke:

The U.S. Environmental Protection Agency has reviewed the Draft Environmental Assessment for the subject project. The following comments are provided pursuant to the National Environmental Policy Act, Council on Environmental Quality regulations (40 CFR Parts 1500-1508), and our NEPA review authority under Section 309 of the Clean Air Act.

The Draft EA evaluates the potential environmental effects from the transfer of one parcel of approximately 40 acres of tribally owned land into federal trust status for the Pit River Tribe for the purpose of providing increased long-term cultural security of the Tribe through the development of Tribal housing. The proposed fee-to-trust property is in unincorporated Shasta County, adjacent to State Route 299, approximately 30 miles northeast of the City of Redding, California. We have the following comments for your consideration when finalizing the EA.

Water Well Regulatory Authority

The Draft EA states that “The Indian Health Service is currently in the process of approving the new well.” (p. 3-25). We note that the EPA, not the IHS, approves the use of a new well for a public water system on Indian reservations. Please revise the Final EA to state, “The Indian Health Service and the Tribe are currently in the process of obtaining approval from EPA to connect the new well to the existing public water system.”

-01

Intermittent Creek Avoidance

We appreciate the buffer identified along the drainage, identified as an intermittent stream on p. 3-15, in the Proposed Site Plan in Figure 2-1 and recommend retaining the buffer and related mitigation measures identified on p. 3-16 in the Final EA.

-02

Fire Risk

The location of the new housing development appears to be in an area of high fire risk and is identified by CalFire as a community at risk from wildfire.¹ We recommend defensible space be incorporated into the site design for fire safety, along with other fire safety measures related to building materials, landscaping, etc. See <https://www.fire.ca.gov/dspace/> and the suggestions for fire safety at: <https://www.readyforwildfire.org/wp-content/uploads/Homeowners-Checklist.pdf>.

-03

EPA appreciates the opportunity to review this Draft EA. When the Final EA is completed, please send one electronic copy to Karen Vitulano, lead reviewer for this project, at vitulano.karen@epa.gov. If you have any questions, please contact me at (415) 947-4167, or contact Karen at (415) 947-4178.

-04

Sincerely,

**CONNELL
DUNNING**

Digitally signed by
CONNELL DUNNING
Date: 2022.04.21
16:30:59 -0700

for Jean Prijatel
Manager, Environmental Review Branch

cc: Agnes Gonzalez, Chairperson, Pit River Tribe
Gregory Wolfen, Environmental Director, Pit River Tribe

¹ https://frap.fire.ca.gov/media/10291/commatrisk_19_ada.pdf. See also <https://egis.fire.ca.gov/FHSZ/>



Jared Blumenfeld
Secretary for
Environmental Protection



Department of Toxic Substances Control

Meredith Williams, Ph.D.
Director
8800 Cal Center Drive
Sacramento, California 95826-3200



Gavin Newsom
Governor

Comment Letter S1

SENT VIA ELECTRONIC MAIL

April 8, 2022

Mr. Chad Broussard
Bureau of Indian Affairs, Pacific Region
2800 Cottage Way
Sacramento, California 95825
Chad.Broussard@bia.gov

ENVIRONMENTAL ASSESSMENT FOR PIT RIVER 40 ACRE PROPERTY
FEE-TO-TRUST – DATED MARCH 2022 (STATE CLEARINGHOUSE NUMBER:
2022030692)

Dear Mr. Broussard:

The Department of Toxic Substances Control (DTSC) received an Environmental Assessment (EA) for the Pit River 40 Acre Property Fee-to-Trust (Project). The Lead Agency is receiving this notice from DTSC because the Project includes one or more of the following: groundbreaking activities, work in close proximity to a roadway, work in close proximity to mining or suspected mining or former mining activities, and importation of backfill soil.

DTSC recommends that the following issues be evaluated in the EA:

1. The EA should acknowledge the potential for historic or future activities on or near the project site to result in the release of hazardous wastes/substances on the project site. In instances in which releases have occurred or may occur, further studies should be carried out to delineate the nature and extent of the contamination, and the potential threat to public health and/or the environment should be evaluated. The EA should also identify the mechanism(s) to initiate any required investigation and/or remediation and the government agency who will be responsible for providing appropriate regulatory oversight. -01
2. If any sites within the project area or sites located within the vicinity of the project have been used or are suspected of having been used for mining activities, proper investigation for mine waste should be discussed in the EA. DTSC -02

recommends that any project sites with current and/or former mining operations onsite or in the project site area should be evaluated for mine waste according to DTSC's 1998 [Abandoned Mine Land Mines Preliminary Assessment Handbook](#).

-02
Cont'd

3. If any projects initiated as part of the proposed project require the importation of soil to backfill any excavated areas, proper sampling should be conducted to ensure that the imported soil is free of contamination. DTSC recommends the imported materials be characterized according to [DTSC's 2001 Information Advisory Clean Imported Fill Material](#).

-03

4. If any sites included as part of the proposed project have been used for agricultural, weed abatement or related activities, proper investigation for organochlorinated pesticides should be discussed in the EA. DTSC recommends the current and former agricultural lands be evaluated in accordance with DTSC's 2008 [Interim Guidance for Sampling Agricultural Properties \(Third Revision\)](#).

-04

DTSC appreciates the opportunity to comment on the EA. Should you need any assistance with an environmental investigation, please visit DTSC's [Site Mitigation and Restoration Program](#) page to apply for lead agency oversight. Additional information regarding voluntary agreements with DTSC can be found at [DTSC's Brownfield website](#).

If you have any questions, please contact me at (916) 255-3710 or via email at Gavin.McCreary@dtsc.ca.gov.

Sincerely,



Gavin McCreary
Project Manager
Site Evaluation and Remediation Unit
Site Mitigation and Restoration Program
Department of Toxic Substances Control

cc: (via email)

Governor's Office of Planning
and Research
State Clearinghouse
State.Clearinghouse@opr.ca.gov

Mr. Dave Kereazis
Office of Planning & Environmental Analysis
Department of Toxic Substances Control
Dave.Kereazis@dtsc.ca.gov

SECTION 1.0: EPA

- F1-01 Comment noted. Commenter notes that the EPA, not the IHS, approves the use of a new well for a public water system on Indian reservations. An update to Section 3.9.1 Water Supply is included as errata sheets in **Exhibit B** of the FONSI which states: “The Indian Health Service and the Tribe are currently in the process of obtaining approval from EPA to connect the new well to the existing public water system.” The commenter references a Final EA. Based on the comments received and lack of changes necessary to the Proposed Action, environmental setting, environmental consequences, or mitigation measures, a Final EA is unwarranted. Accordingly, the requested revision has been included as an errata sheet in **Exhibit B** of the FONSI.
- F1-02 Comment regarding the retention of the buffer and mitigation measures, as identified on p. 3-16, in the EA is noted.
- F1-03 Comment noted. As stated on p. 3-27 and p. 3-29 of the Final EA, a fire break plan would be developed and stored in the Pit River Tribal Housing Office to address the potential increase in wildfires due to increased residential use. The firebreak plan shall include general firebreaks locations within residential development and appropriate vegetation clearing parameters. Firebreaks shall be inspected on a biannual basis with maintenance conducted where feasible.
- F1-04 As noted above, a Final EA is unwarranted. The BIA will notify the EPA when the FONSI is signed by the Regional Director.

SECTION 2.0: DTSC

- S1-01 Comment noted. As discussed in Section 3.11.1, no historic or known incidences associated with hazardous materials were found to occur on the Property Site, and no evidence was observed during the field visit. As described in Section 3.11.2, with the implementation of the mitigation measures outlined no adverse impacts due to hazardous materials shall occur during construction. These measures include secondary containment for potentially hazardous materials, a spill prevention and countermeasure plan, proper vehicle and equipment maintenance, and a hazardous material storage and disposal plan. Further details are outlined on p. 3-32. Principal agencies regulating the generation, transportation, and disposal of hazardous materials are the USEPA and USDOT.
- S1-02 Comment noted. The NRCS Custom Soil Resource Report Soil Map did not identify any Mine or Quarry features within the Property Site, included in the EA as Attachment B. As stated in Section 3.1.5, there are no plans to mine the underlying coal.

- S1-03 Comment noted. Fill necessary for housing and infrastructure development will be from native soils. Should fill importation be required the Tribe would require verification of lack of contamination through either source control or certification with analytical data from the supplier.
- S1-04 Comment noted. As stated on p. 3-24, there are no known former or current agricultural operations occurring on or in the vicinity of the Project Site. As stated in Section 2.1 of the DTSC's Interim Guidance for Sampling Agricultural Properties (Third Revision), eligible agricultural properties include those that are "currently under cultivation with row, fiber or food crops, orchards, or pasture... and former agricultural properties" (DTSC 2008). Under this specification, the Property Site is not eligible by the guidance.

REFERENCES

DTSC, 2008. Adams, L. S., & Schwarzenegger, A. Interim Guidance for Sampling Agricultural Properties (Third Revision). Department of Toxic Substances Control (DTSC). Available online at: <https://dtsc.ca.gov/wp-content/uploads/sites/31/2018/09/Ag-Guidance-Rev-3-August-7-2008-2.pdf> Accessed June 28, 2022.

EXHIBIT B

Errata Sheets

In response to the comment received on the EA, the following page provides a correction to the discussion regarding federal agency roles in regards to approval of new potable water wells on Tribal lands.

Alternative B

Under Alternative B, impacts to land use and agriculture would be similar to those under Alternative A; however, with the development of less Tribal homes, the impacts to land use and agriculture would be reduced accordingly.

MITIGATION

Under Alternative B, mitigation measures and BMPs would be similar to those provided under Alternative A. No significant adverse impacts to land use and agriculture would occur due to implementation of the Reduced-Density Alternative.

Alternative C

Under the No Action Alternative, the project site would remain undeveloped and would continue to remain in the current state.

MITIGATION

No mitigation measures and BMPs would be required for Alternative C.

3.9 PUBLIC SERVICES

3.9.1 WATER SUPPLY

The project site does not have access to County water utilities; however, the Montgomery Creek Rancheria community public water system maintained by the PRTWD was updated to meet the needs of the adjacent Montgomery Project, and is located at the southeast corner of the Montgomery Project boundary, approximately 0.5 miles from the 40-Acre Property. The PRTWD currently operates two community public water systems, including XL Reservation and Montgomery Creek Rancheria, that provide drinking water to surrounding communities and aid in fire prevention. The Rancheria water system consists of one well with a capacity of 25 gpm and a 30,000-gallon storage tank. In support of the Proposed Project, the PRTWD developed a new well and pump and treatment house. The new well pump tests indicated adequate supply (minimal level drop after testing) with a capacity of 400 gpm. ~~The Indian Health Service is currently in the process of approving the new well.~~ The Indian Health Service and the Tribe are currently in the process of obtaining approval from EPA to connect the new well to the existing public water system. Additionally, to serve the Proposed Project, the existing 30,000-gallon storage tank would be upgraded to approximately 100,000 gallons and new distribution infrastructure would be developed.

3.9.2 WASTEWATER SERVICE

The 40-Acre Property is not served by a central wastewater treatment system. As with the Montgomery Project, each residence would require a separate septic system to treat and dispose of wastewater.

3.9.3 SOLID WASTE

Funded from a grant from the U.S. Department of Agriculture (USDA) and USEPA, the Tribe has developed a solid waste and recycling collection program, Pit River Solid Waste and Recycling (Pit River Tribe, 2018). A solid waste coordinator and technician service the Tribal homes and businesses, and the Tribe owns their own collection vehicles and bins. Refuse can be disposed of at the Round Mountain Station operated by Shasta County Public Works, approximately 4 miles southwest of the Rancheria. The