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County has issues with tribe's 'in trust' effort

By [Chris Daley](#) [From page A1](#) | June 13, 2016
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Citing concerns for a potential loss of property taxes and lack of control over land usage, the El Dorado County Board of Supervisors recently directed its legal and administrative staff to take a stronger stand regarding the Shingle Springs Band of Miwok Indians' efforts to secure approximately 35 additional acres of land near the Shingle Springs Rancheria.

Spurred by public comments during the May 24 meeting, supervisors ordered a re-examination and possible re-write of a letter addressing the county's concerns to the Bureau of Indian Affairs. The tribe has applied to the BIA under the U.S. Department of the Interior to have two pieces of real property accepted into trust for the benefit of tribal members. The official purpose, as detailed in the applications, is to secure existing available housing on about 25 acres and provide additional residential options on another approximately 10 acres of undeveloped land. The undeveloped parcel is currently zoned RE-5, one dwelling unit per five acres. The application for the 10-acre parcel includes a request to develop one residence per acre creating 10 units rather than two.

"Ultimately, the county's interest is in ensuring, to the degree possible, that the use of the subject parcels remains as single family residential for the use of tribal members," the original letter reads in part. "The county understands that there exists a need for tribal housing and therefore also has an interest in securing a pathway to tribal housing. To that end, the county is seeking an understanding and agreement with the Shingle Springs Rancheria Band of Miwok Indians surrounding future land use decisions, such that should the identified parcels be identified for a use other than that which is currently proposed, a process would be followed by the parties, addressing the potential revised use. It is important to note that the tribe has adopted local building and fire codes."

The issue somewhat obscured in the language is that the tribe actually may have the authority to alter its intended purpose if the BIA approves its application allowing the tribe to take the property in trust. Once in trust, opponents fear the tribe's sovereignty overrides the county's ability to regulate much of what it does.

Speakers at the special board meeting specifically pointed out potential proposals for a motocross course and a shooting range rather than a full commitment to develop housing for tribe members.

The revised version of the original letter to the BIA advises, "Placement of the properties of either or both applications into trust will result in a loss of revenue to the county and related districts and agencies, as, if placed in trust, those properties would be removed from the tax roll."

Property tax loss to the county if the parcels are taken in trust are estimated at about \$23,500. Depending upon the kind of development that might take place, the county's letter describes its potential loss if the 10 undeveloped acres were to be built out with 10 units and taken in trust. The county would lose \$35,740 per unit or \$357,740 for all 10 in Traffic Impact Mitigation fees.

"Additionally, if taken into trust, the proposed development will not be responsible for the payment of other development impact mitigation fees to help offset the increased cost of providing public services to the development. Such development would no longer be subject to county rules and regulations," the letter continues.

While acknowledging that the addition of 10 more houses in the area "probably would not constitute a significant burden on public services ... development of the parcels to major commercial uses would generate significant impacts to adjacent residential parcels and to the road system," the letter notes.

The county further suggests that if the BIA accepts the parcels into trust, that acceptance could be conditional upon the residential development as described in the environmental assessment (the federal version of California's environmental impact report). Such condition would extend for at least 20 years.

"If the use is to be changed the tribe must comply with county land use regulations for the development of the parcels," according to the letter.

The letter concludes, in part, with a request that the tribe pay "any and all costs related to development of the subject parcels" that the county would otherwise have received if the parcels were not removed from the county's jurisdiction.

"The tribe has received the county's comment letter regarding our trust applications to the BIA," tribe Chairman Nicholas Fonseca wrote in an e-mail forwarded to the Mountain Democrat by the tribe's attorney AmyAnn Taylor. "It understands the concerns of the county and is working with the Board of Supervisors and CAO's Office to address those concerns. The tribe has worked hard to prepare plans for the applications and is excited to build housing for its tribal membership once approved."

Members of several local homeowners associations communicated independently with the BIA to further express similar concerns to those in the county's letter. Attorney Taylor told the Mountain Democrat last week that prior to receiving the revised copy of the letter she spent considerable time reviewing as many of the letters from individuals and HOAs as she could.

No timeline has been given as to when the Bureau of Indian Affairs is likely to process the trust applications.