

**Subject:** RE: Webex meeting invitation: City Council - Regular Meeting  
**From:** cityclerk@trinidad.ca.gov  
**Date:** Thu, Apr 16, 2020 12:52 pm  
**To:** "baycity@sonic.net" <baycity@sonic.net>  
**Cc:** "Trinidad Clerk" <cityclerk@trinidad.ca.gov>

Hi Patti,

Message received and will be included in the public record for Tuesday's meeting.

...and thank you for the kind words, all around.

I'm glad you were able to listen and watch. You weren't the only person having trouble figuring out how to navigate the technology. It seems like we'll be having at least our next few meetings using this platform, so let me know if there's anything I can do to help, even if it means scheduling a test meeting between the two of us so we can get you all set up.

Gabe

----- Original Message -----

**Subject:** Re: Webex meeting invitation: City Council - Regular Meeting  
**From:** "baycity@sonic.net" <baycity@sonic.net>  
**Date:** Tue, April 14, 2020 9:44 pm  
**To:** Trinidad City Clerk <cityclerk@trinidad.ca.gov>  
**Cc:** Miller Dwight <trinidad.miller@gmail.com>, smladwig@gmail.com, Jack West <jandjwest@yahoo.com>, Tom Davies <tomkat4@suddenlink.net>, Trinidad City Manager <trinidadcitymanager@gmail.com>

Thank you for setting this up, Gabe. Your sales tax pages were most illuminating. I heard all of the meeting but could not get audio on my computer. Looked at you all on my PC but listened on my I Phone. Richard Clompus made the best comment after Jacque, Shirley and Robert's presentation: "How do we make this work?" He referred to the Rancheria as partners, which they are. So refreshing. Their presentation was compelling, even poignant. The Rancheria people are wonderful community cooperators. For Dwight, I'm sure no harm was intended in singling out 529 Trinity, but referring to the Trinidad Spa property as a possible "emergency shelter" for ten or more people was terrifying. It was frustrating not to be able to comment. Over all, thank you for making this awkward meeting run as smoothly as you could. Warm regards,  
Patti Fleschner

On 4/13/2020 7:25 PM, Trinidad City Clerk wrote:

Meeting Notice:

City Council - Regular Meeting  
\*\*\*\*\*  
Tuesday, April 14, 2020, 6:00pm  
Format: Webex Videoconference or Teleconference

The City of Trinidad invites you to participate in the April 14, 2020, 6:00pm Regular Meeting of the City Council by video conference using the

April 14, 2020

Reference: Agenda Item #3 – Request/Proposal for Water Service for the Proposed Hotel Project

Attention: Mayor Steve Ladwig and Council Members,

Please consider removing from tonight's agenda item # 3: Discussion/Decision regarding Trinidad Rancheria's Request/Proposal for Water Service for the Proposed Hotel Project. This request is made for the following reasons:

This issue represents perhaps the most important issue for the citizens of Trinidad for generations to come. Our water supply is severely limited and fragile as evidenced by the technical information developed by City staff over the last year. This issue deserves more than a cursory review; it deserves the kind of attention that was given to the water policy reviews earlier this year. The City Council and Planning Commission held special meetings, some jointly, with this issue as the only discussion item, to review and obtain public comments.

The Rancheria presentation material has not been made available prior to the meeting. The public has had no opportunity to review and digest the proposal. Once again, this represents an extremely important and difficult decision for the City Council and the citizens of Trinidad and it deserves every opportunity for a transparent and thorough review prior to any commitment, implied or otherwise. Surely the Tribal Council and staff of the Trinidad Rancheria understand the sensitivity of this issue and the importance it has for everyone in the Luffenholtz water shed. Trinidad's water supply belongs to the Citizens of the City, not to any government. Therefore, the citizens need every opportunity for review and access to all the information available in a timely manner.

Additionally, item # 2 of the agenda is Discussion/Decision regarding Draft Water Policy. This policy has not been approved and yet it is on this agenda at the same time as a request for water is being considered located outside of the proposed water service zones. The City's official position as stated by the City Manager in response to the BIA FONSI in March was: "The City has yet to adopt a policy for considering applications for our limited resource and is not able to effectively evaluate any requests should they be sent to the City as this time." This appears to be an example of getting the cart before the horse. Therefore, based on the official position of the City and until the water policy is finalized and approved, there should be no discussion, proposals or requests for water.

The process for approval of the water policy is unclear. How does the City Council approve the policy? Is it by proclamation or adoption? Does this policy require California Coastal Commission review prior to implementation, and does it have to be added to the General Plan? Please clarify so the public has a clear understanding of the process and timeline for approval.

When the Planning Commission forwarded the draft water policy to the City Council, the single recommendation was that the City Attorney review the policy prior to approval. There is no indication that this action has been completed. If so, please provide the City Attorney's analysis of the policy to

the public for review. If it has not been completed, please take no action on the water policy until it is completed, and the public has an opportunity to review it.

Finally, this agenda contains a large number of issues for discussion, many of which are complex. By staff's own admission "This will be the City's first attempt at hosting a public meeting via video conference, so bear with us as we navigate this technology on a public meeting scale." No doubt this is a challenge, but to discuss this number of agenda items in one evening is unfair and overly complicated for the public. While we are in these challenging times, please consider reducing the number of future agenda items to allow adequate public participation.

Sincerely,

Richard Johnson

159 Baker Ranch Road

## Trinidad City Clerk

---

**From:** Sarah Lindgren-Akana <mzlindgren79@gmail.com>  
**Sent:** Tuesday, April 14, 2020 8:13 PM  
**To:** Trinidad City Clerk  
**Subject:** Public Comment

Hi,

I would like to request these water discussions be held in public not in government to government meetings. Those are essentially private meetings about public resources regardless of whether decisions are made or not.

Sarah Akana

Sent from my iPhone

## Trinidad City Clerk

---

**From:** Ted Pease <tedpeasemedia@gmail.com>  
**Sent:** Tuesday, April 14, 2020 8:15 PM  
**To:** Trinidad City Clerk  
**Subject:** Question for Rancheria

Is it correct that the rancheria is requesting the full amount of the hotel's daily water needs — 9,500 gallons/day? What about its own wells? Will they not be able to produce any water on their own for the hotel?

---

### Ted Pease

Pease Media

Trinidad, Calif. 95570

707-677-5222 • 707-502-5806 cell

[tedpeasemedia@gmail.com](mailto:tedpeasemedia@gmail.com)

- [Today's WORD on Journalism](#)
- [PeezPix Photography](#)

---

Editorial Services • PeezPix Photography • Integrated Marketing Communication



## Trinidad City Clerk

---

**From:** David G Hankin <david.hankin@humboldt.edu>  
**Sent:** Tuesday, April 14, 2020 7:49 PM  
**To:** Trinidad City Clerk  
**Subject:** Fwd: One last comment on system water loss

Gabe - Would you be willing to do me a really big favor and also forward this email to Trever? Perhaps I should meet with her sometime. I regard myself as fairly knowledgeable about these issues and Eli was kind enough for me to meet in person for about an hour and half with Patrick Sullivan to discuss his (baffling) production/demand study. I will fairly certain that I am correct in my assertions, but it's clear that Trever either disagrees or defers to GHD. I'd be more than happy to discuss/talk about these issues :)

Dave

----- Forwarded message -----

**From:** Trinidad City Clerk <[cityclerk@trinidad.ca.gov](mailto:cityclerk@trinidad.ca.gov)>  
**Date:** Tue, Apr 14, 2020 at 1:03 PM  
**Subject:** RE: One last comment on system water loss  
**To:** David G Hankin <[david.hankin@humboldt.edu](mailto:david.hankin@humboldt.edu)>  
**Cc:** <[citymanager@trinidad.ca.gov](mailto:citymanager@trinidad.ca.gov)>, Ryan DeSmet <[rdesmet@trinidad.ca.gov](mailto:rdesmet@trinidad.ca.gov)>, Steve Allen <[Steve.Allen@ghd.com](mailto:Steve.Allen@ghd.com)>, Dave Grover <[dgrover@trinidad.ca.gov](mailto:dgrover@trinidad.ca.gov)>, Dwight Miller <[dmiller@trinidad.ca.gov](mailto:dmiller@trinidad.ca.gov)>, Dwight Miller <[trinidad.miller@gmail.com](mailto:trinidad.miller@gmail.com)>, Jack West <[jwest@trinidad.ca.gov](mailto:jwest@trinidad.ca.gov)>, Jack West <[jandjwest@yahoo.com](mailto:jandjwest@yahoo.com)>, Steve Ladwig <[sladwig@trinidad.ca.gov](mailto:sladwig@trinidad.ca.gov)>, Tom Davies <[tomd.kathleenl@gmail.com](mailto:tomd.kathleenl@gmail.com)>, Tom Davies <[tdavies@trinidad.ca.gov](mailto:tdavies@trinidad.ca.gov)>

Hi Dave.

Message received, forwarded to the Council, and will be included in the public comment record for the meeting tonight.

Gabriel Adams

Trinidad City Clerk

707.677.0223

[www.trinidad.ca.gov](http://www.trinidad.ca.gov)

**From:** David G Hankin <[david.hankin@humboldt.edu](mailto:david.hankin@humboldt.edu)>  
**Sent:** Tuesday, April 14, 2020 10:27 AM  
**To:** Trinidad City Clerk <[cityclerk@trinidad.ca.gov](mailto:cityclerk@trinidad.ca.gov)>; Steve Ladwig <[sladwig@trinidad.ca.gov](mailto:sladwig@trinidad.ca.gov)>; [jwest@trinidad.ca.gov](mailto:jwest@trinidad.ca.gov); [dmiller@trinidad.ca.gov](mailto:dmiller@trinidad.ca.gov); [dgrover@trinidad.ca.gov](mailto:dgrover@trinidad.ca.gov); [tdavies@trinidad.ca.gov](mailto:tdavies@trinidad.ca.gov)  
**Subject:** One last comment on system water loss

Greetings, Gabe and Council Members -

I'd like to make one last attempt to try to get the City of Trinidad to explicitly recognize system water loss in its water policies and deliberations concerning future deliveries and additional customers. This comment may be too late to include for this evening's meeting. If so, I ask that it be included for the next meeting.

Many thanks. Comment attached as a WORD file (has a table), just a page long with a bit of following explanation.

Dave Hankin



Virus-free. [www.avast.com](http://www.avast.com)

## Trinidad City Clerk

---

**From:** Elaine Weinreb <elainejw@yahoo.com>  
**Sent:** Monday, April 13, 2020 8:45 PM  
**To:** cityclerk@trinidad.ca.gov  
**Subject:** Public Comment on Trinidad City Council Meeting April 14, 202 Agenda Item IX-3

April 13, 2020

To the Trinidad City Council:

In reading the agenda and board packet for the meeting of April 14, 2020,

I was startled by the following:

“Discussion Agenda Item # 3 No material was presented. Discussion/**Decision** regarding Trinidad Rancheria’s Request/Proposal for Water Service for the Proposed Hotel Project **No staff report was submitted for this item. The Rancheria will present information during the meeting.**”

This is an important item, which has been under discussion for months. How can you possibly make a decision based on new material which will be presented for the first time at the meeting? You have not had time to study this material. Moreover, the **public** will not have had a chance to study this material, either.

This sounds suspiciously like a Brown Act violation, and should the Council proceed with a decision at this time based on such incomplete information, I will proceed with filing a complaint.

Elaine Weinreb

J. Bryce Kenny  
Attorney at Law  
P.O. Box 361  
Trinidad, California 95570  
Telephone: (707) 442-4431  
Email: jbrycekenny@gmail.com

April 14, 2020

Trinidad City Council  
409 Trinity St.  
Trinidad, CA 95570

By electronic mail

Re: April 14, 2020 Agenda Item 2 Draft Water Policy Re: Connections Outside  
City Limits

Dear Councilmembers:

I submit these comments on behalf of myself, as a thirty-nine-year resident of the city, and on behalf of the Humboldt Alliance for Responsible Planning.

First, I would emphasize that the estimated 43,000 gpd<sup>1</sup> of Remaining Capacity of the water plant does not take into consideration the ability of Luffenholtz Creek to continue to provide enough water for the plant to treat. As the engineering studies referred to in the staff report show, the existing data for the creek is currently insufficient to make long-term projections into the future with respect to stream flows. In addition, the amount of water demand in the future of riparian owners upstream from the plant is not known, but should be expected to increase with additional development. Similarly, downstream flows from the plant, required for

---

<sup>1</sup> Table 1 on page 3 of 8 shows the figure to be 48,000 gpd, but staff comments on page 4 of 8 explain that because of leakage in the system, the number is probably closer to 43,200. The Table should probably be amended to reflect the lower number.

fish and wildlife, are mandated by the state. Climate change could drastically alter the characteristics of Luffenholtz Creek.

For that reason, we recommend that the policy be amended to eliminate the City Council Exception, on page 8 of 9. That section has the potential to allow an exception that "swallows the rule," with no clear justification for it.

This assumes, of course, that the policy was created not to satisfy any particular applicant, but rather as a general planning tool. This is the explanation that the City Council has given the public.

The chance of there being enough water to serve a connection that is not within a Priority Service Area, without jeopardizing water system capacity needed to serve Coastal Act Priority uses within Area C, seems very small. Areas A and B are slated for higher priority, because they are easily annexed and can provide the benefits of that, as explained by staff, of more orderly growth, increased housing stock that can be used to satisfy state requirements, and a greater base of residents to serve on the Council, and on boards and commissions.<sup>2</sup> It would make more sense to limit that water for applications outside the priority areas that are in need because of health and safety reasons, and would be consistent with the need to be very careful to avoid over-allocation of the resource.

All of these facts counsel in favor of a very conservative approach so that the city does not get in the situation of over-allocating the water that is actually available for domestic use.

In addition, because the Municipal Code contains a section on the provision of water by the city, the policy, once finalized, should be adopted by resolution as an amendment to the Water Ordinances. That is the customary practice when public hearings have been held and comments received, as they were here, and when the new policy will have the force of law.

Further, because under the Coastal Act, development includes a "change in the intensity of the use of water, or of access thereto," these new policies should become part of the General Plan update, to be certified by the Coastal Commission.

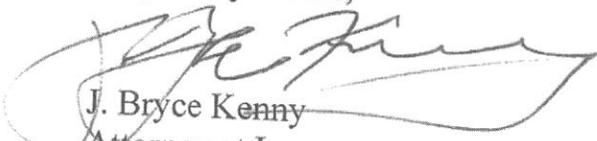
Finally, as the Planning Commission recommended, the policy should be reviewed by the City Attorney before finalization.

---

<sup>2</sup> It is noted that there are currently two vacant positions on the Planning Commission.

Thank you for your time and attention, and please do not hesitate to contact me with any questions or concerns.

Very Truly Yours,



J. Bryce Kenny  
Attorney at Law

J. Bryce Kenny  
Attorney at Law  
P.O. Box 361  
Trinidad, California 95570  
Telephone: (707) 442-4431  
Email: jbrycekenny@gmail.com

April 14, 2020

Trinidad City Council  
409 Trinity Street  
Trinidad, CA 95570

Re: April 14, 2020 Agenda Item No. 3 Rancheria Request for Water Service for Hotel

Dear Councilmembers:

I submit these comments on behalf of myself as a thirty-nine-year resident of the City and on behalf of the Humboldt Alliance for Responsible Planning (HARP).

1. The Agenda Item Should be Continued

As the council is aware, the issue of providing water for the proposed Rancheria hotel has been very controversial and the subject of much public testimony. Now that they are apparently formally asking for water, the item should be continued until the "shelter in place" requirements have been lifted, and the city can hold a regular public hearing where people can participate directly, rather than by video conference.

There cannot possibly be any hurry in getting this request dealt with now rather than later. It is well known that the American economy will likely be experiencing a depression on the scale of the 1929 crash. It has been reported that the travel and hotel industries are in free fall, with no end in sight.

In HARP's comments to the BIA on the Finding of no Significant Impact documents recently made public, we suggested that the need for and viability of the project, aspects which require consideration under the National Environmental Policy Act, should be completely reconsidered in light of current events. There is no possible justification for a quick decision on the request for water.

Moreover, since the Rancheria has elected not to submit any written materials to staff for inclusion in a report to the Council, the public is at an unfair disadvantage by being unable to know what it is supposed to comment upon. That is further reason to continue the item, and require that the applicant submit in writing at least a summary of what they will present in advance of the hearing.

2. There is no Adopted Water Policy in Proper Form

Second, there is no final policy against which to evaluate a request for water. The policy has to be put into the form of a resolution amending the current Water Code. It has not yet been approved by the City Attorney. Rules with the force of law have to be developed in a certain way, so that everyone has advance notice of what they are expected to follow in the future.

3. The Findings Required Under the City Council Exception Cannot be Made

Assuming that the city has the bad judgment to adopt the policy and then apply it at the same meeting, there is no way that a "City Council Exception" can be granted, because the necessary findings cannot be made. Page 8 of 9 lists findings 1(a) and (b) and 2 through 5 that must be made and supported by substantial evidence. No. 3 provides a good example. "The new connection will not remove water system capacity needed to serve Coastal Act priority uses within Area C." As the engineering studies which are part of the administrative record show, and the Findings incorporated into the policy state, "There is limited data available for creek flow at the treatment plant and very limited data for extractions of water from the creek up-and downstream for the City's diversion." In other words, no one knows how much water will be in Luffenholtz Creek in 5 or 10 years, or how much users up and down-stream from the water plant will use in the future, thereby reducing the amount that is available for the city.

Since we do not know what the Rancheria may submit in the way of material that could be considered evidence to support the findings that they want, it is impossible to address it in advance. But if they provide evidence that their two new wells are better than they anticipated, that should be viewed with great skepticism.

HARP hired certified hydrologist Matthew Becker to evaluate the material previously provided about those two wells. Dr. Becker's report is attached hereto,

in which he concludes that it is very unlikely that the wells will be able to produce anywhere near enough water for the hotel.

To the extent that the Rancheria requests that the city just provide the "shortfall" between what its wells can produce and what the hotel needs, that concept should be rejected. That is because once the city water is connected, the hotel does not need the wells, and the city would have no way of knowing how much is coming from the wells and how much is being provided by its water. It should be assumed that if the city allows the water connection, it will be expected to supply all of the water necessary for the hotel.

With climate change increasing, it is not possible to know what Luffenholtz Creek will be able to produce in the coming years. With additional studies, it may be possible in the future to know with reasonable certainty, but definitely not now.

The city has itself twice submitted comments on the project requesting that an Environmental Impact Statement be completed, citing concerns, among others, of traffic and visual impacts. How can finding No. 5 be made, that provision of the water will not "...negatively impact the city, coastal resources.....or the rural character of the Trinidad area"? That would require findings that go completely against what the city has already expressed. We incorporate by reference the materials cited in the comment letter from Richard Harris on this topic.

At this juncture, there is no substantial evidence in the record to support any of the findings that are necessary for a City Council Exemption.

4. The City Must do a Municipal Services Agreement (MSA) Before Providing any Water to the Hotel

For the provision of municipal services such as water to a tribe that plans on building or already has a casino, a Municipal Services Agreement is usually negotiated. That was the case in County of Amador v City of Plymouth (2007) 149 Cal.App.4<sup>th</sup> 1089.<sup>1</sup> The Court of Appeal held that entering into such an agreement without satisfying the requirements of the California Environmental Quality Act (CEQA) rendered the MSA void.

---

<sup>1</sup> Interestingly, all of the council members who approved that MSA were subsequently recalled from office. 149 Cal.App.4<sup>th</sup> at 1094.

As applicable here, the city knows that the water will be used to supply a proposed 100 room six story Hyatt Hotel just outside of the city limits, and that the patrons will, among other things, increase the amount of traffic and parking demand within the city. That is just one example of impacts that have not been addressed by the National Environmental Policy Act (NEPA) analysis, which was the subject of the recently released Finding of no Significant Impact (FONSI). That analysis only addressed traffic impacts to Scenic Drive and the intersection which leads into the city. Further, CEQA provides stricter review than NEPA, so satisfying one does not mean that the other has been satisfied.

There are likely other impacts that would be identified in a CEQA analysis. If the city commits to providing water for the hotel without complying with CEQA, the action would be susceptible to court challenge.

Further, any MSA entered into with the Rancheria must include a waiver of its immunity from suit, so the agreement can be enforced, if necessary. That is simply good business. The Rancheria can sue the city, why should it not work the other way too? The federal courts have consistently pointed out that persons having business dealings with tribes are free to negotiate a waiver of immunity.

Thank you for your time and attention, HARP is counting on you to take care of the interests of your constituents. While it is difficult to say "no" to a neighboring and familiar group, in the final analysis, their economic interests do not align with the quality of life interests of the majority of city residents or the community at large.

Very Truly Yours,

  
J. Bryce Kenny  
Attorney at Law

**Date:** March 19, 2020  
**To:** Rachel Doughty, Greenfire Law  
**From:** Matthew Becker, PhD  
**Subject:** Review of FONSI Regarding Trinidad Rancheria Hotel Project

### Introduction

I am a Professor of Geological Sciences and the Conrey Endowed Chair of Hydrogeology with the Department of Geological Sciences at California State University Long Beach. I can be reached at (562) 985-8983 or matt.becker@csulb.edu. I reviewed specific documents related to the Finding of No Significant Impact (FONSI) by the Bureau of Indian Affairs with regard to plans to build a hotel adjacent to the Casino operated by the Cher-Ae Heights Indian Community of the Trinidad Rancheria (Tribe). My review focused entirely on the proposed plan to install two new wells to supply water for the proposed hotel. I reviewed documents to determine if (1) the newly drilled Well #1 and Well #2 would likely supply the needed 10,000 gal/day water requirement of the hotel and (2) whether the wells could potentially draw water discharged in the proposed expanded leach field.

### Background

The proposed development is situated above Pleistocene marine terrace sediments which overlay Franciscan Complex (Jurassic-Cretaceous aged) shales and sandstone bedrock (Crawford and Assoc., 2016). The terrace deposits grain size ranges from silt to coarse gravels. The bedrock is weathered but competent. Based upon soil borings conducted on the property, the Pleistocene deposits form a thin (5-30 ft) mantle above the bedrock. A shallow (10-15 ft deep) active landslide extends upslope of Scenic Drive to near the southwest corner of the proposed hotel. According to Crawford and Assoc (2016), groundwater is a major contributor to slope instability. I found no discussion of how the leach field might affect the stability of this slide.

Groundwater is shallow in the marine terrace deposits and responds rapidly to rainfall, indicating locally recharged water. This groundwater is likely perched above the bedrock and a semi-confined groundwater system may be present in the bedrock at greater depth. Water in bedrock would move through almost entirely through fractures.

### Well Development

Two wells were drilled to supply water to the proposed hotel. Well #1 ("Louie's Property") was drilled west of the Casino Parking lots while Well #2 ("Sundberg Property") was drilled closer to the shore, southwest of the parking lots (Figure 1). The descriptions of the wells, well logs, and aquifer tests are found in the report by Lawrence and Associates (2019) included as an Appendix H of the FONSI. Well #1 has a total depth of 80 feet below ground surface (bgs), with bedrock encountered at a depth of 26 bgs. The well was screened between 53 and 73 ft bgs in the bedrock. Well #2 has a total depth of 35 ft bgs with bedrock encountered at 32 ft bgs. This well was screened between 22 and 32 ft bgs in gravelly marine terrace deposits.

Aquifer tests were performed on both wells to assess the potential yield and area of influence of the wells. Two types of tests were performed at each well: a "step test" in which the well was pumped at varying discharge rates while declining water levels (drawdown) was observed, and a "constant-rate test" in which the well was pumped at a longer period using a discharge rate found to be sustainable in the step tests. This is a standard process for evaluating newly drilled production wells.



Figure 1 Aerial image of the study area showing selected observation wells (OW) and the production wells (Well #1 and Well #2). Contours (fmsl) show the groundwater potential surface interpolated from OW water levels in March 2019. The leach field is outlined in yellow.

Well #1, completed in bedrock, was found to be the less prolific of the two wells. When the water level in the well dropped below about 40 ft bgs drawdown increased rapidly, indicating that flow to the well is dominated by water movement in conductive fractures. This response is typical of bedrock wells. The well may respond very differently in times of drought if the local water levels are reduced in response to limited recharge by precipitation. Lawrence and Associates (2019) indicate that "It may be that this well will sustain pumping rates of 3 gpm (gallons per minute) or less for the long term. It will not sustain pumping rates of 5 gpm or higher for the long term." I concur with this assessment with the caveat that even 3 gpm may not be sustainable in drought years.

Well #2 was able to sustain 6 to 10 gpm discharge with gradual drawdown. More rapid drawdown was observed with a discharge of 13 gpm. When water levels dropped from an initial level of 17 ft bgs to 22 ft bgs, drawdown increased rapidly. Unlike the case in the bedrock well, this rapid drawdown was likely because the top of the screen is at this depth. Drawdown below 22 ft bgs decreases the available area of extraction of the well. Consequently, drawdown in this well must not exceed 5 ft for the well to operate effectively. This severely limits the potential of this well. In times of drought, the static water level may be below the 17 ft bgs tested. For example, the water level in borehole B3 was found to increase by nearly 4 ft over a two-week period in October 2016 in response to heavy rainfall. It is not unreasonable to assume that the static water level in Well #2 could approach the depth of the screened interval in dry periods, rendering the well unusable. The long-term yield of Well #2 was estimated to be 5 to 6 gpm, under the conditions tested. This seems highly optimistic.

The projected need for water in the hotel is 10,000 gallons per day (gpd) or about 7 gpm. Under the tested hydrologic conditions, Well #1 is projected to make up to 3 gpm and Well #2 up to 6 gpm under tested conditions, for a total potential supply of 9 gpm. These estimates are based upon extrapolations of drawdown in response to 24-hour pumping test. Such extrapolations are risky, because the extent of drawdown has not the opportunity to extend far from the pumping well. If the transmissivity (ability to transmit water) decreases away from the well, drawdown will increase at the well, reducing production. Borings across the site indicate variable grain sizes so it is not unlikely that the gravel deposits in which the well is completed are local. Figure 2 gives a perspective view of the site (2x vertical exaggeration) which illustrates how Well #2 is located on marine terrace of limited lateral extent. Deposits are likely to be of very different character up hill and downhill of this terrace.

### **Capture of Leachate by Well #2**

Groundwater flows generally from high water levels to low water levels or, more precisely, high hydraulic potential to low hydraulic potential. A contour of water levels measured in wells, therefore, is often used to indicate the direction of groundwater flow in the subsurface. I interpolated water levels reported by SHN Engineering (2019) to determine the natural direction of flow through the property. The observation wells (OW) and water levels in production wells Well #1 and Well #2 used for this purpose are shown in Figure 1. Contours were computed using an interpolation program that employed a radial basis function as an exact interpolator.

Because the shallow groundwater is likely perched on bedrock, and because the topography dips steeply toward the ocean, the contours show a very strong hydraulic gradient in the direction of the shoreline. Surface topography was not considered in the contouring, but the contours tend to follow topography indicating that groundwater likely intersects the surface at low points as springs, seeps, or by enhanced evapotranspiration. This is not surprising as water levels are only a few feet below ground surface in the upper observation wells (e.g. OW-5 and OW-6).

The groundwater level (hydraulic potential) contours indicate that the leachate field is generally, but not directly, up-potential from Well #2. However, the mapped groundwater ridge in the vicinity of OW-8 has a strong influence on this interpretation. Small changes in the OW-7, OW-8 water levels could divert water to the southwest. Figure 2 shows the same groundwater contour map in perspective view, with a factor of two vertical exaggeration in topography. The perspective view illustrates that the leach field is situated on a local topographic divide in which water may runoff either to an eastern drainage or a western drainage. The eastern drainage routes groundwater to the ocean without intersecting Well #2. The western drainage routes groundwater to the capture zone of Well #2. An expansion of the leach field to the west will make runoff in the western drainage more likely. If leachate finds its way to this drainage, it could potentially be captured by Well #2.

It is not clear if this well has been permitted for water supply. Water quality information is not provided and plans for treating the water are not detailed. This is an unusually shallow well for providing water to such a large number of people. Well head protection may be an issue given clear potential for runoff from parking lots upslope from the well site.

### **Summary**

The reviewed documents associated with the FONSI suggest that Wells #1 and Wells #2 are not a reliable sole-source of water for the proposed hotel. In times of drought, supply from these wells could possibly provide only a fraction of the 10,000 gpd required for the proposed hotel. There is some potential for treated wastewater discharged to the leach field to be captured by Well #2, although available water level data indicate this is not likely under current hydrogeologic conditions. Generally, a long residence time of leachate in groundwater leads to removal of pathogens along the travel path. However, residence times were not evaluated as part of this study. The Casino is currently located in an area of active slide that may be stimulated by increase in groundwater levels. The geotechnical implications of increased leachate volumes should be investigated.

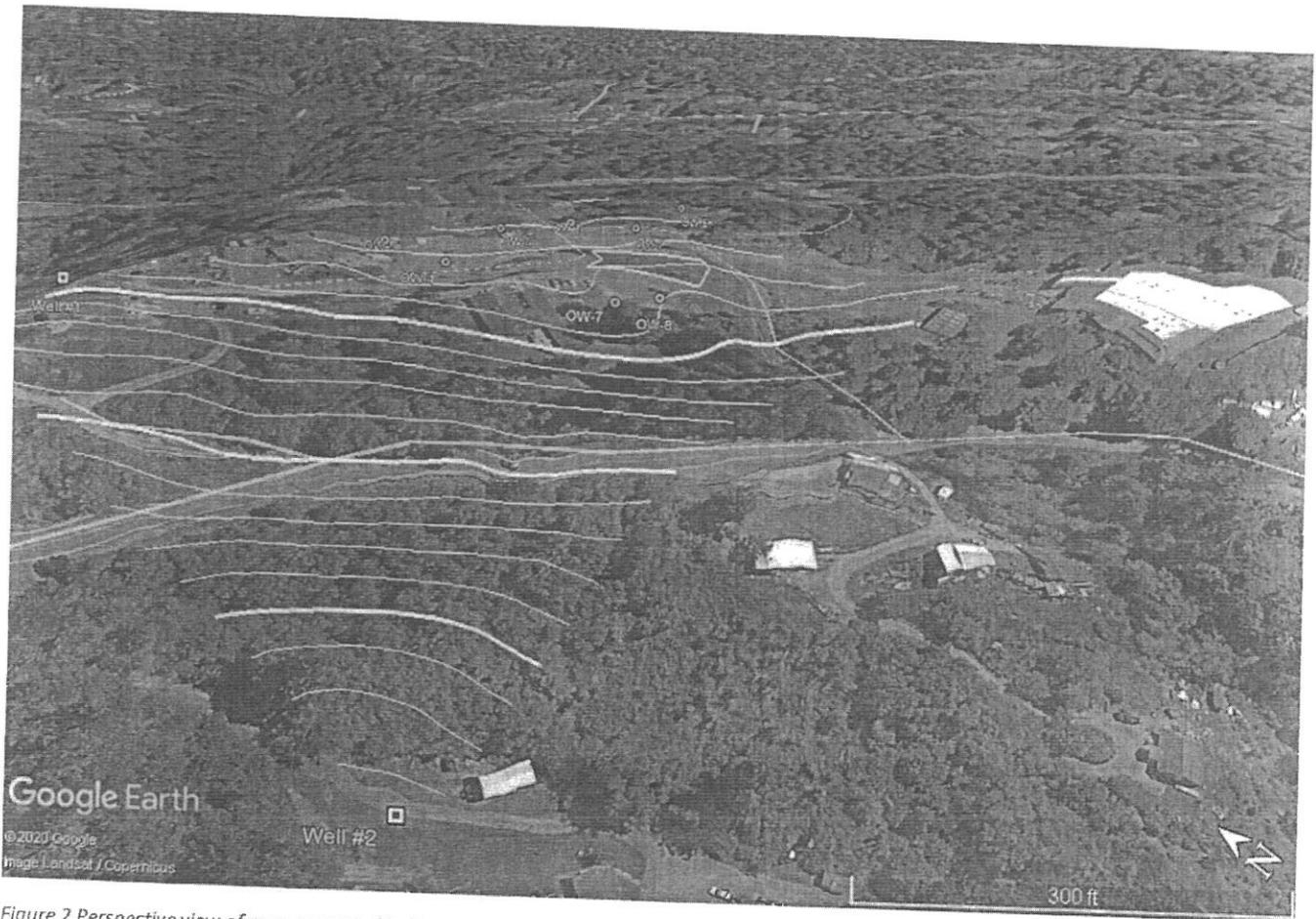


Figure 2 Perspective view of map presented in Figure 1. Vertical exaggeration is a factor of two.

**References:**

- Crawford and Associates, 2016, DRAFT GEOTECHNICAL FEASIBILITY AND PRELIMINARY DESIGN REPORT, Trinidad Rancheria Cher-Ae Heights Hotel, Report prepared for the Trinidad Rancheria Economic Development Corporation, November 8, 2016.
- Lawrence and Associates, 2019, LIMITED EVALUATION OF WATER-SUPPLY EVALUATION, TRINIDAD, RANCHERIA HOTEL PROJECT, TRINIDAD, CALIFORNIA, Report prepared for Chief Executive Officer, Trinidad Rancheria, December 30, 2019.
- SHN Engineering, 2019, Cher-Ae Heights Hotel, Wastewater Treatment System Basis of Design, Revision 1, Report prepared for Travis Olson, Wright Group, May 13, 2019 (Appendix D in California Coastal Commission Staff Report, CD-0004-19, Filed 7/10/2019).

## Trinidad City Clerk

---

**From:** Don Allan <donallan51@gmail.com>  
**Sent:** Monday, April 13, 2020 4:19 PM  
**To:** Gabriel Adams  
**Subject:** 4-14-20 Council meeting

Hi Gabe - I have looked at the agenda for tomorrow's council teleconference meeting and was concerned to see the Rancheria's request for water listed under "DISCUSSION/ ACTION ITEMS". From previous council meetings where the Rancheria's hotel plans and expected water request to the City have been discussed, we know that this is a very controversial subject. It needs robust public input and that is not possible in a teleconference. There were also no materials presented supporting the Rancheria's application so the public has no idea what the request is. Given the uncertainty of the future water flows in Luffenholtz Creek and limitations of the delivery system, and the ongoing process of the City developing its water hookup policy and studying the capacity of the plant to deliver sufficient water under current and future conditions, it seems premature to be entertaining a request for a large commercial user that could be using up to 14,000 gallons per day. If this is an informational only item, please revise the agenda so it is clear that no action is being proposed at this time. Before a decision is made on the Rancheria's request the City needs to ensure that it has sufficient capacity to provide new connections in the prioritized areas as recently developed under the Water Policy and for anticipated secondary unit requests within the City. Therefore considering the Rancheria's application for water for the hotel is premature and unsupported by documentation. I encourage you to change the agenda item to reflect that it is informational only and no action will be taken at this time. Please pass my comments along to the Council members.

Don Allan,  
Westhaven

## Trinidad City Clerk

---

**From:** Trinidad City Clerk <cityclerk@trinidad.ca.gov>  
**Sent:** Monday, April 13, 2020 1:13 PM  
**To:** 'Kimberly Tays'  
**Subject:** RE: April 14, 2020, Agenda Item 2: Draft Water Policy

Hi Kim.

Message received, forwarded to the Council, and will be included and archived as public comment received for tonight's meeting.

Gabriel Adams  
Trinidad City Clerk  
707.677.0223  
[www.trinidad.ca.gov](http://www.trinidad.ca.gov)

**From:** Kimberly Tays <kimkat067@gmail.com>  
**Sent:** Sunday, April 12, 2020 10:19 PM  
**To:** City of Trinidad <Cityclerk@trinidad.ca.gov>; Eli Naffah <citymanager@trinidad.ca.gov>  
**Subject:** April 14, 2020, Agenda Item 2: Draft Water Policy

Please forward this email to the Trinidad City Council for consideration at the teleconference meeting this Tuesday, April 14, 2020.

Dear Trinidad City Council:

Please accept this email as my public written comments on the above agenda item.

I am opposed to any plans to grant City of Trinidad water to the Trinidad Rancheria, because the hotel is terribly out of character with the Trinidad area. If the hotel is built, it will degrade the natural beauty of the area, create blight on a highly visible bluff, create excessive light pollution and traffic problems in Trinidad and on Scenic Drive, and exacerbate erosion and bluff stability problems.

It is unfair to the public that the Trinidad Rancheria is bringing forth a presentation during COVID-19 when the City is unable to hold a regular meeting. Also, it is unfair that the Rancheria did not provide any written materials for the public to read in preparation for the teleconference meeting on Tuesday. This feels like a deliberate attempt to, once again, shut out the public from a meaningful dialogue on a project that will forever change the look and feel of the Trinidad area.

I believe it would be a serious mistake for the City of Trinidad to grant water for the Trinidad Rancheria's hotel for many reasons: (1) Once the City agrees to provide water for the hotel, it will be difficult (if not impossible) to control or place limitations on the water that is used by the Rancheria; (2) If the Rancheria ends up needing more water for its hotel than stated during the Coastal Commission hearings, this could threaten the community's water supply; (3) The City cannot predict how climate change or future droughts will impact the flow of Luffenholtz Creek; (4) It is doubtful the City would have the money needed to go to court if the Rancheria's hotel ended up using more water than stated and threatened the City's water supply; (5) The Trinidad Rancheria is a sovereign nation, which could present serious problems for the City if it needed to go to court to protect its water supplies for its citizens and the community at large.

The Rancheria has not proven a sufficient, additional source of water for their hotel. They presented a video at the Coastal Commission hearing showing a newly-discovered source of water from a well on their property, but the water flow looked pretty weak, and we do not know how development of that source of water will impact the wells of nearby residents.

The City of Trinidad should postpone this meeting until a regular meeting can be held at Town Hall and the Trinidad Rancheria provides information on their presentation ahead of the meeting for the citizens to read and consider.

Thank you,  
Kimberly Tays

## Trinidad City Clerk

---

**From:** Trinidad City Clerk <cityclerk@trinidad.ca.gov>  
**Sent:** Monday, April 13, 2020 12:23 PM  
**To:** 'David G Hankin'  
**Cc:** Dave Grover; Dwight Miller; Jack West; Steve Ladwig; Tom Davies; citymanager@trinidad.ca.gov  
**Subject:** RE: Public Comment: Agenda Item 3

Hi Dave.

Message received, forwarded to the Council, and will be included and archived as public comment received for tonight's meeting.

Gabe

**From:** David G Hankin <david.hankin@humboldt.edu>  
**Sent:** Saturday, April 11, 2020 6:30 PM  
**To:** Trinidad City Clerk <cityclerk@trinidad.ca.gov>  
**Subject:** Public Comment: Agenda Item 3

Hi Gabe -

I've sent the email note below directly to Steve Ladwig and those also to Tom Davies and Dwight Miller. I should probably have instead just sent it to you and asked you to include it as public comment for the upcoming meeting on the 14th of April.

Many thanks.

\*\*\*\*\*

### **Public Comment from David Hankin, Westhaven:**

TCC Members -

I've just learned that the Rancheria will apparently be making some kind of presentation/request for hotel water at next Tuesday's meeting. However, I noticed that there were no materials or any copy of a formal request included in the TCC agenda packet. Therefore, Council members will be unable to consider/ponder the merits or implications of this request in advance of the meeting.

In my role as President of the Board of our little CSD in Westhaven, my fellow Board members have agreed with me that we will not entertain taking action on items that are on a meeting agenda but for which supporting materials are not available in Board meeting packets, especially if these materials are complex in nature (e.g., long documents or presentations which require thoughtful study). We have agreed that it is inappropriate for the Board to make decisions when it is not possible for that decision to be an informed one. In such cases, we postpone taking action until a following meeting (usually the next one) to allow Board members to thoughtfully consider the implications of their actions. We make exceptions for items that are trivial in nature (e.g., just one paragraph of written information to consider) or are of an emergency nature (e.g., last meeting we adopted a coronavirus "leniency" policy concerning water shut-off due to non payment).

Given the additional fact that the Rancheria's apparent request will immediately follow TCC discussion and possible adoption of draft water policies, the lack of packet materials for a Rancheria request for water would mean, for WCSD, that any action on such a request would, as a matter of principle, be postponed to a following meeting. If the TCC does not have such a policy, it might consider adopting a similar policy to ensure thoughtful and informed decision-making when TCC actions are taken.

Just my two cents. I was surprised that there was no formal request and no supporting materials in the agenda packet.

Dave Hankin



Virus-free. [www.avast.com](http://www.avast.com)

Comment for TCC meeting, 14 April 2020, Agenda item 2: of draft water policies  
 Submitted, by David Hankin, Westhaven  
 Subject: One last attempt at conveying the importance of system water loss.

In the GHD 01 May 2019 report to the City of Trinidad on “Water Treatment Plant Production Rate Test and Analysis”, GHD attempted to estimate the difference between water that theoretically “could be produced” at the treatment plant and compared those figures, on a monthly basis, to the amount of water that had actually been released from the plant. The amount of water that was actually released was interpreted as “demand” and the difference between what “could be produced” and monthly demand was viewed as “excess available surplus”. This analysis suggested that the minimum monthly available surplus was approximately 48,000 during the month of June (see Figure 6 of the report), assuming that pumping could take place 18 hours a day during June. (Note that June is not the month of peak “demand” because GHD assumed that the plant could be operated for 20 hours per day during July and August, thereby generating a larger available surplus even though demand is larger during July/August than during June.)

The GHD analysis is not without merit, but was flawed by its failure to explicitly account for system water loss and to express “demand” in terms of *metered water delivered to customers*. In a report submitted by GHD to Trinidad on 02 October 2019, titled “City of Trinidad water demand and loss analysis”, GHD reported that system water loss had ranged from 8.9% - 40.1% from Sept 2012 - August 2019 and averaged 26.6%. System water loss (resulting from leaks in the many miles of pipe in the distribution system) is the difference between water produced (released from the treatment plant) and water actually delivered to customers (and billed to customers), as in the following word equation:

$$\text{Water delivered to customers} = \text{Water Released from Treatment Plant} - \text{System Water Loss}$$

The 48,000 gpd estimated “available surplus production” presented in the GHD report is measured in terms of water released from the treatment plant, *not in terms of water that can actually be delivered to customers*. This has generated repeated confusion and has caused repeated presentation of a table which compared water released from the plant to estimated future needs of services areas measured instead by actual demand (water required to be delivered to potential customers). That same table (Table 1 of the water policy agenda document for this meeting) has once more been reproduced. Assuming an optimistic future system loss rate of 15%, the excess capacity available for new customers would be  $(1-.15)*48,000 \text{ gpd} = 40,800 \text{ gpd}$ . Thus, Table 1 should instead look like this (assuming 15% system water loss):

Table 1 (corrected for water loss): Remaining Water Production After Build-Out

Area	Additional Total Build-Out Peak Demand (gpd)	Excess water available for delivery to new customers
Water Treatment Plant	NA	40,800
City Limits	20,269	20,531
ADUs (inside City)	4,968	15,563
Service Area A	3,382	12,181
Service Area B	6,682	5,499
Option 1: Service Area C	12,500	-7,001
OR		
Option 2: Service Area C	10,100	-4,601

My apologies for yet another comment on this very simple but very important issue. Any assessment of water available for delivery to potential future customers must explicitly account for system water loss.

.....

This comment was motivated by the following text in the water policy agenda document (at page 4) prepared for the 14 April 2020 meeting

"Table 1 shows the water demand of the priority areas after full build-out in relation to the remaining treatment capacity of the water plant. Since this table was created, it was pointed out that the 48,000 gpd capacity at the water plant is raw water treatment that doesn't account for potential losses in the system. I spoke with the City Engineer's office about this issue, and the existing system losses are static and would not be expected to increase with increased volume. In addition, any new lines would be expected to have minimal loss. However, backflushing the filters and other processes that occur at the water plant could result in a loss of up to about 10%. Therefore, the plant capacity is likely closer to 43,200 gpd during peak usage."

Note that the text above once more fails to account for *system* water loss (due to leaks in distribution system pipes), *after* water has been released from the plant. I have no idea how the City Engineer arrived at a value of 43,200 gpd as a better measure of "plant capacity". But if this is a more realistic measure of theoretically available surplus water that can be released from the plant, then it must again be reduced by system water loss. It makes absolutely no sense to assume that there is no water loss from the plant to potential new lines (e.g., a new northern extension to CALFIRE) because the water has to flow through the existing distribution system before it would reach the new pipes!

## Trinidad City Clerk

---

**From:** Richard Harris <rharrisjr1@gmail.com>  
**Sent:** Tuesday, April 14, 2020 12:44 PM  
**To:** citymanager@trinidad.ca.gov; cityclerk@trinidad.ca.gov  
**Cc:** smadrone@co.humboldt.ca.us; mike.wilson@co.humboldt.ca.us;  
john.weber@coastal.ca.gov; JHostler@trinidadrancheria.com; Amy.dutschke@bia.gov;  
David.hankin@humboldt.edu; jbrycekenny@gmail.com; rfjbr@gmail.com;  
jkalt@humboldtcounty.org; Klindgren69@gmail.com; tedpeasemedia@gmail.com  
**Subject:** Trinidad City Council Meeting, Tues, Apr. 14, 2020 / Discussion Agenda Item 3 /  
Opposition to Rancheria Proposal for Water service for Hotel Project  
**Attachments:** Ltr.Harris.Tdad.Ci.Ccil.Rancheria.Water.4.14.20.pdf;  
ExhibitsHarrisLtrTdadCiCouncil41420.pdf

Trinidad City Clerk Gabriel Adams  
Trinidad City Manager Eli Naffah

Attached above are pdf's of (1) my letter of opposition to the Trinidad Rancheria Proposal for Water Service for the Rancheria's proposed Hotel Project; and (2) Exhibits to my letter. Please print these out and enclose them in the City Council's agenda packet for Council's meeting this evening at 6 p.m. And please confirm receipt and that you have distributed to the Council. I am a former Trinidad resident (1970's), and have been a property owner at the Baker Ranch, adjacent to the Rancheria, since the 1970's. I will attend tonight's City Council meeting remotely -- by phone or zoom conference. Thank you, and

Best Regards  
-- Richard Harris  
San Francisco  
415-290-5718

**Richard H. Harris Jr., Esq.**

**1370 Masonic Ave.**

**San Francisco, CA. 94117**

**Telephone: 415-290-5718**

**Email: rharrisjr1@gmail.com**

**License No. 76704**

April 14, 2020

By e-mail

Trinidad City Council

City Hall

409 Trinity St.

P.O. Box 409

Trinidad, CA. 95570

Re: City Council Meeting, Tuesday, April 14, 2020, Agenda Item #3  
Opposition to Trinidad Rancheria Request / Proposal  
for Water Service for Proposed Hotel Project.

Dear City Council,

**The City of Trinidad should not agree to supply water to enable construction of the proposed Trinidad Rancheria Hotel Project, when the City is repeatedly on record objecting to the proposed Hotel's unmitigated significant adverse impacts on Trinidad water, roads, traffic congestion, and visual resources, and when details of the Rancheria's water request have not yet been publicly revealed, and when the City has not yet adopted a Water Policy, and when the Rancheria and BIA refuse to conduct the full Environmental Impact Statement analysis demanded by the City.**

In environmental review proceedings at the Bureau of Indian Affairs, the City of Trinidad has repeatedly objected that the proposed Rancheria Hotel threatens Significant Adverse Impacts on Trinidad's municipal water supply, traffic, roads, visual resources, and other Trinidad resources. The City's objections are consistent with overwhelmingly negative public opinion, as expressed in Trinidad residents' correspondence to the BIA and the California Coastal Commission in regulatory proceedings relating to the proposed Hotel.<sup>1</sup>

---

<sup>1</sup> Public correspondence to the Bureau of Indian Affairs and to the California Coastal Commission in separate but related public proceedings relating to the proposed Trinidad Rancheria Hotel Project has been overwhelmingly negative – especially so from Trinidad residents -- criticizing the project for foreseeable effects on local water supply, traffic congestion, and height, bulk and general incompatibility of the proposed 6-story, 100-room hotel on the coastal bluff overlooking Trinidad Bay and the small coastal town of Trinidad. See the public letters P-1 through P-53 in Exhibit B to the BIA's FONSI, March 2020, at pages 57-219: [https://trinidad-rancheria.org/wp-content/uploads/2020/03/FONSI%20TREDC%20Hotel\\_Final%20w-Exhibits\\_v3.pdf](https://trinidad-rancheria.org/wp-content/uploads/2020/03/FONSI%20TREDC%20Hotel_Final%20w-Exhibits_v3.pdf);

And see the public correspondence files in the following California Coastal Commission hearings:

(1) June 12, 2019, San Diego: <https://documents.coastal.ca.gov/reports/2019/6/W21a/w21a-6-2019-correspondence.pdf>

(2) August 8, 2019, Eureka: <https://documents.coastal.ca.gov/reports/2019/8/Th12b/Th12bdc8-2019-correspondence.pdf>

(3) Sept. 13, 2019, Newport Beach: <https://documents.coastal.ca.gov/reports/2019/9/Th13a/Th13a-9-2019-correspondence.pdf>

The Rancheria and BIA have refused to acknowledge that these impacts are “significant” and unmitigated, and have rejected the City’s demands that the BIA conduct and pay for a full Environmental Impact Study on the Hotel proposal. The absence of a full Environmental Impact Statement review under 40 CFR 1502 places all the risk and scientific uncertainty of obvious threats – such as uncertainties around the effects of drought and climate change on the City of Trinidad’s Luffenholtz Creek-based municipal water system – on little Trinidad and its residents and property owners. In these circumstances, it would be unwise, improper, and bad public policy for the City to enable the objectionable Rancheria Hotel Project by agreeing to provide it with City Water.

The Trinidad Rancheria Hotel Project has been the subject of a preliminary environmental review process at the Bureau of Indian Affairs at least since September 2018, when the BIA published a Draft Environmental Assessment (“Draft EA”) of the project.<sup>2</sup> The Environmental Assessment process under the National Environmental Policy Act is a limited review process under 40 CFR 1508.9, designed to determine whether there exist “significant” issues requiring a full Environmental Impact Statement.<sup>3</sup> In response to that Draft EA, the City of Trinidad filed with the BIA a letter dated October 22, 2018, signed by City Manager Daniel Berman, and captioned “Comments on the Environmental Assessment for Trinidad Rancheria Economic Development Corp. Hotel Development Project, etc.”<sup>4</sup> (Copy attached as **Ex. A**.) In that letter, the City of Trinidad identified “significant impacts” water supply, transportation and circulation, and to “visual resources in this state and nationally-recognized coastal view area”, and demanded a full Environmental Impact Statement process. (**Ex. A**, pp. 1-2.) As to the transportation/circulation issue, the City’s Oct. 22, 2018 letter said:

“... the proposed project would have significant traffic impacts to the Main St./Scenic Dr. intersection, the largest and most complex intersection in the City . . . The proposed mitigation for these impacts is the construction of a Cher-Ae Lane Hwy 101 interchange. The City believes this could only be an acceptable mitigation measure if the hotel project is begun concurrent with or subsequent to this new interchange. . . However the interchange is still in the planning stages. . . no funding is secured for construction, and final approvals for the project have not been completed. . . As currently proposed in the EA, the largest intersection in Trinidad would be significantly impacted with no mitigation for many years, and no real guarantee of mitigation at all. The EA therefore describes significant unavoidable impacts to Transportation and Circulation without acceptable mitigation.” (**Ex. A** at p. 4.)

“Construction of the interchange is speculative at this point; it is still in the design phase, it has not been funded, the environmental review has not been completed, and it has not been permitted. If it is constructed, it will not be for many years. . . Therefore, there will be significant traffic impacts from the project for an unknown length of time.” (**Ex. A** at p. 11)

---

<sup>2</sup> Environmental Assessment, Sept. 2018 (Draft), Trinidad Rancheria Economic Development Corporation Hotel Development Project: <http://reports.analyticalcorp.net/trinidad-rancheria/hotel-nepa/environmental-assessment.pdf>

<sup>3</sup> 40 Code of Federal Regulations (CFR) Part 1508.9 Environmental assessment: <https://www.law.cornell.edu/cfr/text/40/1508.9>

<sup>4</sup> Letter, Oct. 22, 2018, City of Trinidad to Amy Dutschke, Regional Director, Bureau of Indian Affairs: <https://drive.google.com/open?id=1MQ5p8-F23CEXgdmpZHrbyfwKKbgxh12z>

**As to visual resources**, the City's Oct. 22, 2018 letter objects that ". . . the proposed Hotel would impact the visual resources of this incredibly scenic area and would be clearly visible from Trinidad Head. . . The most obvious mitigation measures to address these impacts are to consider alternative locations. . . , alternative sizes and heights for the hotel, and to consider a less 'boxy' design. . . . Community residents have expressed significant concerns about visual resource impacts, and about the lack of clarity in the EA regarding the final appearance. . . . The current EA does not reflect [the Rancheria's] demonstrated commitment to sound design principles." (**Ex. A**, at pp. 6-7.)

"Two public meetings . . . attracted more than 100 attendees each. This is a very large number considering the rural nature of the affected environment. . . Most of the meeting attendees expressed concerns about the project as presented, making this project highly controversial." (**Ex. A**, at p. 10.)

**As to Water Supply and Wastewater issues**, the City's Oct. 22, 2018 letter says, among other things: ". . . the limiting factors [on water supply] are the operational capacity of the City's Treatment Plant, and the requirements to maintain minimum flows in the Creek during drought conditions. . . The City does not believe there is adequate basis to support the statement in Section 4.1.2 [of the September 2018 Draft EA] that there is adequate supply of surface water from Luffenholtz Creek to serve additional projects in the Region." (**Ex. A**, at p. 3.) And as to wastewater, the City's Oct. 22, 2018 letter points to ". . . inadequate information in the EA to determine whether there is leach field capacity to serve the project on the Rancheria's property, and there is no information about what regulatory agency would review and approve a leach field disposal system. . . it is not possible to adequately evaluate the potential impacts of wastewater disposal to bluff stability, ground water, or surface and ocean waters . . . Therefore the BIA cannot make a "finding of no significant impact". (**EX A**, at pp.5-6.)

Following the September 2018 Draft EA, the BIA's next step in the process was public release, in or about the first week of March 2020, of an undated draft Finding of No Significant Impact ("FONSI")<sup>5</sup>, released together with a Final Environmental Assessment.<sup>6</sup> In the draft FONSI, the BIA does not acknowledge that any of the impacts of the Proposed Hotel are "significant" so as to require the full and thorough review and scientific examination of an Environmental Impact Statement.

By letter dated March 20, 2020 to the BIA from City Manager Eli Naffah<sup>7</sup> (copy attached as **Ex. B**), the City of Trinidad objected that the FONSI and FINAL Environmental Assessment do not "adequately address" the "known impacts" to City resources, including water supply, transportation, traffic circulation, roads, and visual resources, as detailed in the City's October 22, 2018 letter to the BIA. Following is quoted text from pages 1-2 of the City's March 20, 2020 letter to the BIA.

---

<sup>5,4</sup> Bureau of Indian Affairs, Finding of No Significant Impact (Draft – Pending Signature) [https://trinidad-rancheria.org/wp-content/uploads/2020/03/FONSI%20TRED%20Hotel\\_Final%20w-Exhibits\\_v3.pdf](https://trinidad-rancheria.org/wp-content/uploads/2020/03/FONSI%20TRED%20Hotel_Final%20w-Exhibits_v3.pdf). (The FONSI is at pp. 1-11; the Final Environmental Assessment is at pp. 288-895.)

<sup>7</sup> City of Trinidad letter to BIA, objecting to Final Draft FONSI, Mar. 20, 2020 (Copy attached as Ex. B) <https://drive.google.com/open?id=1MdDsgybCZAObRRysTOCcKn4rhl28D0E0>

“The City of Trinidad remains concerned that the FONSI and the Final Environmental Assessment do not adequately address the impacts of the proposed Trinidad Ranchera . . . hotel project. The comments submitted to the BIA by the City on October 22, 2018 are not adequately addressed . . .

“One area of concern regards transportation, specifically the intersection of Main and Scenic, and traffic on Scenic. . . the hotel will increase trips in our area of concern. . . will have a significant impact on our local roads. . . the intersection of Main and Scenic is already operating in relatively poor condition, and . . . the hotel would reduce the poor ratings even further. . . The City has serious concerns regarding traffic impacts during construction and beyond. . .

“. . . the FONSI states that the project is consistent with local land use regulations. The City’s local land use regulations do not allow for construction of buildings over several stories, certainly not six stories. Therefore, the statement in the FONSI. . . that the project is generally with visual goals of the county and city land use regulations is whole inaccurate. Impacts to visual resources. . . would not be less than significant. . .

“Another area of concern is the source of the City’s water supply. . . The City has serious concerns regarding the availability of water from Luffenholtz Creek which is greatly impacted by drought and climate change. How can the FONSI. . . conclude that impacts to water resources would be less than significant. Clearly a finding of no significant impact is not warranted.

“The City has yet to adopt a policy for considering applications for our limited [water] resource and is not able to effectively evaluate any requests should they be sent to the City at this time. . . Without a formal request for water for the hotel project, with estimated amounts of water needed, and a sound water policy for considering such requests, the City remains concerned that the project needs to provide more information before City action can take place.”<sup>8</sup>

Because the FONSI released on March 6, 2020 is stamped “draft,” and because it is undated and unsigned, its draft status means that Federal Government has not yet made a final determination whether or not the Hotel Project should proceed through the full Environmental Impact Statement process, under 40 CFR 1502<sup>9</sup>. This decision is hanging fire as of April 14, 2020.

A practical effect of the BIA’s – and the Rancheria’s – refusal to acknowledge that the concerns of the City of Trinidad and its residents about the Hotel Project rise to the level of “significant impacts,” is that the BIA avoids the Environmental Impact Statement process under 40 CRF 1502, thus avoiding the expense of scientifically investigating and reporting on the impacts and their consequences and costs. And so the risks and uncertainties and costs are foisted upon the City of Trinidad and its residents. For example, the risk of too little water in the City’s Luffenholtz Creek-based municipal water system in times of global warming and periodic drought – without a full

---

<sup>8</sup> City of Trinidad letter to BIA, objecting to Final Draft FONSI, Mar. 20, 2020 (Copy attached as Ex. B), at pp. 1-2 <https://drive.google.com/open?id=1MdDsgybCZAObRRysTOCcKn4rh128D0E0>

<sup>9</sup> 40 Code of Federal Regulations (CFR) Part 1502, Environmental Impact Statement: <https://www.law.cornell.edu/cfr/text/40/part-1502>

Environmental Impact Statement review under 40 CRF 1502 – becomes risk and uncertainty and expense to be borne by Trinidad and Humboldt County residents and not by the Federal Government or the Rancheria.

This is unfair. And in the face of this unfairness, and in the face of the BIA's and Rancheria's refusal to conduct a full Environmental Impact Statement review process on issues identified as "significant" by the City of Trinidad, and in the face of overwhelming Trinidad public opinion against the Hotel Project as currently proposed, it would be folly for the City of Trinidad to enable the Rancheria Hotel Project by agreeing at this point to provide it with City water.

As a final note, the undersigned has been a property owner since the 1970's at the Baker Ranch, adjacent to the southeast of the Trinidad Rancheria. I submit these comments with all due respect to the City of Trinidad, the City Council, and my neighbors at the Rancheria.

Respectfully submitted,

*Richard Harris*

Richard H. Harris, Jr.

encls.

cc: (w/ encls)

Eli Naffah, City Manager, City of Trinidad  
Gabe Adams, City Clerk, City of Trinidad  
Supervisor Steve Madrone, Humboldt County Board of Supervisors  
Supervisor Mike Wilson, Humboldt County Board of Supervisors  
John Weber, California Coastal Commission  
Amy Dutschke, Regional Director, Bureau of Indian Affairs  
Jacque Hostler, CEO, Trinidad Rancheria  
David Hankin, Westhaven Community Services Dist.  
J. Bryce Kenny, Esq  
Richard Johnson  
Kelly Lindgren  
Jennifer Kalt  
Ted Pease

## Exhibits

To Richard Harris Letter, April 14, 2020  
To Trinidad City Council

A. Letter, October 22, 2018,  
City of Trinidad to Amy Dutschke,  
Regional Director, BIA

<https://drive.google.com/open?id=1MQ5p8-F23CEXgdmpZHrbyfwKKbgxhI2z>

B. Letter, March 20, 2020,  
City of Trinidad to Amy Dutschke,  
Dan Hall, BIA

<https://drive.google.com/open?id=1MdDsgybCZAObRRysTOCpKn4rhI28D0E0>



10/22/2018

Amy Dutschke  
Regional Director  
Bureau of Indian Affairs  
Pacific Regional Office  
Attn: Dan Hall  
2800 Cottage Way  
Sacramento, CA 95825

**RE: Comments on the Environmental Assessment for Trinidad Rancheria Economic Development Corp. Hotel Development Project, Cher-Ae Heights Indian Community of the Trinidad Rancheria, Humboldt County**

Dear Regional Director Dutschke,

The City of Trinidad appreciates this opportunity to provide comments to the Bureau of Indian Affairs on the Environmental Assessment for the Hotel Development Project, proposed by the Trinidad Rancheria Economic Development Corporation.

The City of Trinidad is an immediate neighbor to this proposed project, and some of the key impacts of the proposed project directly affect the City, including transportation, views, water supply and water quality. The City respects the Rancheria's longstanding efforts to advance economic development projects for the benefit of Rancheria members. The City and the Rancheria have a mutual respect for the protection and enhancement of our fragile coastal environment. The City offers these comments as part of the NEPA process to ensure that the impacts of the proposed project are fully described, a range of project alternatives and mitigation measures to address these impacts are considered, and that any final project avoids significant environmental impacts.

The City believes that an Environmental Impact Statement (EIS) is required for this project (1) because the EA identifies significant and potentially significant impacts that are not adequately mitigated, and (2) because the EA lacks the detail and technical data to support a finding of no

L2-01

A-1

significant impact in many sections. Key issues that the City believes make this draft EA inadequate for a FONSI determination include but are not limited to:

- 1) the absence of any committed water supply for the project, making it impossible to evaluate the potential impacts of the project to water resources, as well as any mitigation that may be needed to address them;
- 2) significant impacts to transportation and circulation are identified, but are not adequately analyzed or addressed by the proposed mitigation;
- 3) significant impacts to visual resources in this state and nationally recognized coastal view area that are not fully analyzed and addressed by the proposed mitigation;
- 4) inadequate information about the wastewater disposal capacity for the project, which makes it impossible to evaluate potential impacts to and mitigation for bluff stability, ground and surface water quality, and ocean water quality.

More detailed comments on these and other issues are provided below, with a discussion of the project in the context of NEPA guidance and requirements.

#### Detailed Comments

##### 1.3 – Location and Setting

The City of Trinidad, the Trinidad Rancheria, and the surrounding landscape and ocean are part of an incredibly beautiful, environmentally sensitive, and unique location. Consideration of environmental impacts needs to take this local context into account. The State has recognized the importance and need for protection of the abundant and productive kelp beds and nearshore rocky environment by designating the Trinidad Bay Area of Special Biological Significance (ASBS)<sup>1</sup> and State Water Quality Protection Area just offshore of the proposed project, and by designating this stretch of coastline as the Trinidad Head Critical Coastal Area (CCA)<sup>2</sup>. The Federal government has also recognized this area as a formal Gateway to the California Coastal National Monument (CCNM)<sup>3</sup>. Trinidad Head, with a direct view of the project site, is one of the only onshore portions of the Federal CCNM and was selected in part due to the public accessibility and the scenic visual resources of this area. The State ASBS and CCA designations both identify nutrient and bacteriological pollution as threats to this important ocean environment, and the ASBS includes strict regulations to prohibit any degradation of natural water quality.

1. [https://www.waterboards.ca.gov/water\\_issues/programs/ocean/asbs\\_map.shtml](https://www.waterboards.ca.gov/water_issues/programs/ocean/asbs_map.shtml)

2. [https://www.coastal.ca.gov/nps/Web/cca\\_pp\\_ncoast.htm](https://www.coastal.ca.gov/nps/Web/cca_pp_ncoast.htm)

3. <https://www.blm.gov/programs/national-conservation-lands/california/california-coastal>

This section of the EA (1.3) should briefly describe these state and national designations. The special setting for this project, perched on the bluff immediately overlooking this state and federally recognized coastal area, should be an important part of evaluating the environmental impacts of the proposed project. Figure 1.2 should be revised, or additional figures added, to identify the Trinidad Head ASBS, Trinidad Head CCA, and the federal CCNM.

L2-02  
(Cont.)

**Water Supply**

Water Supply is discussed in numerous sections of the EA, including 2.2.1, 3.2.4, 3.10.7, and 4.1.7. The following comments are relevant to all of those sections.

Water/wastewater volume: The project description states that the Hotel will generate 8,000 gpd of wastewater, but the water supply section states that the Hotel will use almost 19,000 gpd of potable water. This difference cannot be explained by reuse of treated wastewater. The water coming in and the water going out need to be in balance, and corrected numbers are needed to properly assess both water supply impacts and wastewater impacts. Without consistent and accurate information about the volume of water needed, and wastewater produced, there is no sound basis for evaluating the environmental consequences of the proposed project with regard to water supply or wastewater disposal.

L2-03

Water Source: The City's Water System is described as the preferred supply for the proposed project. The City has not received any application for new or expanded water service for the Hotel, and has made no commitment to provide potable water for the proposed Hotel. The EA does not propose any alternate water source for the project.

The percentages of 'available water supply' cited in the EA appear to be based on the maximum amount allowed to be withdrawn annually under our water rights to Luffenholtz Creek, but this maximum is not the limiting factor for the water system. The limiting factors are the operational capacity of the City's Treatment Plant, and the requirements to maintain minimum flows in the Creek during drought conditions. Current efforts by the City to generate updated information about system capacity and future needs, and to review water priorities and policy, are expected to continue for at least several months. The City's current priorities for any remaining water system capacity are first to ensure adequate supply for existing customers and second to retain capacity to service planned build-out within the City limits

L2-04

Cumulative Effects to Water Resources

The City does not believe there is adequate basis to support the statement in Section 4.1.2 that 'there is adequate supply of surface water from Luffenholtz Creek to serve additional projects in the Region... A prolonged effort to permit a major subdivision (the Moss Subdivision) in the Luffenholtz Creek watershed concluded that there was not adequate water to support new withdrawals during the dry season and required new development to avoid any new dry season

L2-05

A-3

## Comment Letter L2

use of Luffenholtz Creek. As described above, the City is going through its own evaluation of the capacity and priorities for our water system before making a decision on providing water service to the Hotel.

L2-05  
(Cont.)

In conclusion, the EA's findings that the City's water system can support the Hotel Project needs without significant impacts are premature. There is no basis for that determination in the EA. It is unclear from the EA where the Hotel Project would obtain water if the City decides it cannot provide the water. **Until a potable water source is secured, it is not possible to evaluate the potential impacts to that source, or mitigation measures that may be needed to address them. Therefore the BIA cannot make a 'finding of no significant impact' or FONSI regarding water supply based on this draft EA.**

L2-06

### 3.7.2 Transportation and Circulation

The City agrees with the EA that the proposed project would have significant traffic impacts to the Main St./Scenic Dr. intersection, the largest and most complex intersection in the City of Trinidad. The proposed mitigation for these impacts is the construction of a Cher-Ae Lane Hwy 101 interchange. The City believes this could only be an acceptable mitigation measure if the hotel project is began concurrent with or subsequent to this new interchange.

The City understands that the Rancheria is committed to pursuing the Cher-Ae Lane interchange project and continues to work towards that goal. However the interchange is still in the planning stages. Environmental permitting is just starting, no funding is secured for construction, and final approvals for the project have not been completed. This interchange project, unlike the Hotel project, involves both trust lands and non-trust land, and is therefore subject to CEQA and the California Coastal Act among other state and local laws. This substantially increases the timeline, regulatory requirements, and uncertainty about the outcome of this planned project.

Mitigation measures must be timely to the impacts they are intended to address, and they must be tangible measures that the project proponent commits to implementing. The interchange could only be considered acceptable mitigation if the Hotel project was developed concurrent with or after a new interchange is operational. As currently proposed in the EA, the largest intersection in Trinidad would be significantly impacted with no mitigation for many years, and no real guarantee of mitigation at all.

The EA therefore describes significant unavoidable impacts to Transportation and Circulation without acceptable mitigation measures for them. Alternative mitigation measures that address the identified impacts and are timely to those impacts should be developed in consultation with CalTrans and the City of Trinidad, where those impacts will be realized, and where the likely mitigation measures will need to be implemented. Without this analysis included in the EA, the

L2-07

A-4

BIA has no basis for determining the environmental consequences of the proposed project. Until adequate mitigation measures are identified, the BIA cannot make a 'finding of no significant impact' or FONSI regarding transportation and circulation resources.

L2-07  
(Cont.)

**Wastewater Treatment**

There is inadequate information in the EA to determine whether there is leachfield capacity to serve the project on the Rancheria's property, and there is no information about what regulatory agency would review and approve a leachfield disposal system. Responsible independent agency review and approval of any final wastewater disposal system should be a basic mitigation measure. The federal trust status of the project site makes it unclear what agency would provide that review and approval; this should be clarified in the EA or EIS.

L2-08

The Preliminary Wastewater Feasibility Report (Appendix A) describes significant uncertainty about the current state of the community dispersal field, and about the expansion of that dispersal system which the Hotel project would require, including the following statements:

"The community dispersal field was designed with a capacity of 10,000 gallons per day. However, with plugging believed to have been caused by the discharge of Casino wastewater to the field before the treatment plant was completed, the actual long-term capacity of the dispersal field at this time is not known. The existing dispersal field should be cleaned and then the capacity should be evaluated through field investigations and hydraulic stress testing to determine the actual operations capacity."

"...it is critical that this capacity is verified." (Referring to the existing system capacity)

"A site survey should be the first order of work to confirm the Cher-Ae facility has the capacity to support the proposed hotel."

L2-09

The report also refers to soils on the Rancheria property as "marginal" for septic disposal, and that the existing system lacks the designation of a reserve area, which is a standard requirement for leachfields.

The report concludes with the following statement: "I cannot stress enough the need to determine if there is additional dispersal capacity on the site and where the resource is on the Rancheria. The size and location of these areas will have a significant impact on the design and associated cost with the dispersal component of the system."

Overall, Appendix A shows that (1) the capacity of the existing leachfield is unknown, (2) no onsite testing has been done to verify there is adequate room for expansion of the leach area (and

A-5

Comment Letter L2

the amount of expansion area is unknown, since the existing capacity is unknown), and (3) there is no reserve area in a location with "marginal soils" where a dispersal field is expected to fail eventually. Further, the EA does not explain the discrepancy between the projected water use of almost 19,000 gpd, and the projected wastewater flows of 10,000 gpd.

L2-09  
(Cont.)

L2-10

Without additional information about the capacity of the site to accept the project wastewater, and clarity on the actual volume of wastewater to be disposed of, it is not possible to adequately evaluate the potential impacts of wastewater disposal to bluff stability, ground waters or surface and ocean waters, or the mitigation measures that may be needed to address those impacts. This is especially true considering the proximity of the project site to the Trinidad Bay ASBS, SWQPA, and CCA and the CA Coastal National Monument.

L2-11

Therefore the BIA cannot make a 'finding of no significant impact' or FONSI regarding wastewater disposal based on this draft EA.

Visual Resources

The City agrees with the EA that the proposed Hotel would impact the visual resources of this incredibly scenic area and would be clearly visible from Trinidad Head, nearshore waters and the California Coastal National Monument. The most obvious mitigation measures to address these impacts are to consider alternative locations on the Rancheria, alternative sizes and heights for the hotel, and to consider a less 'boxy' design. The failure of the EA to identify any alternative locations, configurations, or sizes for the proposed Hotel make it difficult to consider effective mitigation measures for visual resource impacts. These should be addressed in the alternatives section of an EIS.

L2-12

Furthermore, Section 3.13.3 describes mitigation measures that "shall be incorporated" in the design. Comments from members of the Rancheria development team at the October 15, 2018 City Council meeting indicate that alternative designs are available that incorporate said measures. No such design considerations are found in the environmental assessment.

L2-13

Community residents have expressed significant concerns about visual resource impacts, and about the lack of clarity in the EA regarding the final appearance. The City encourages the Rancheria to consider a significant reworking of the design, and to include the mitigation efforts outlined in Section 3.13.3

In order to better consider the impacts, and mitigation options for those impacts, an EIS or revised EA should include simulated views of the proposed Hotel from key prominent locations, like the Trinidad Pier, Trinidad Head Trails, and Edwards St. Furthermore, the City believes that

L2-14

A-6

## Comment Letter L2

the United Indian Health Services Potawat Health Village is an excellent example of a local facility that clearly values a design that is both culturally significant and "fits" in with the surrounding environment.

The Rancheria improved the harbor when they took it over, putting in a state-of-the-art pier and wastewater treatment facility, thus respecting the surrounding area of significant biological significance. The current EA does not reflect their demonstrated commitment to sound design principles. The EA has not delivered a satisfactory description of what the visual impacts will be nor the ways that mitigation measures might address those impacts.

L2-14  
(Cont.)

### Other Issues

#### Law Enforcement

The hotel will increase the law enforcement needs for the Rancheria. The number of hours of deputy service to be provided by the Rancheria through the described contract should be included in this section and analyzed for adequacy. In addition, a "will serve" letter or equivalent document needs to be included to document that the Sheriff's Department has been adequately consulted and the EA includes a factual basis for determining the environmental consequences of the proposed project with regard to law enforcement.

L2-15

#### Fire Protection

The Trinidad Volunteer Fire Department (TVFD) has only one station, with approximately six volunteer fire fighters. The "second station" referred to in this section is an independent entity - the Westhaven Volunteer Fire Department (WVFD).

The maps referenced in this section seem to indicate that neither Calfire or TVFD have been delegated responsibility for firefighting on the Rancheria. The Calfire Fire Marshal should be contacted to provide clarity about their responsibilities on the Rancheria. If a contract or agreement is already in place between the Rancheria and Calfire it should be described and analyzed in the NEPA document.

L2-16

To assess potential impacts and possible mitigation measures, this analysis should be based on the results of a qualified professional assessment of firefighting response needs, including access, water availability, and equipment. This assessment should include consultation with both Calfire and Humboldt Bay Fire. The local Calfire Fire Marshal conducts assessments like this. In addition, a "will serve" letter or equivalent document needs to be included to document that adequate capacity, staff, and equipment exists to serve the Project. Without this analysis included in the EA, the BIA has no basis for determining the environmental consequences of the proposed project with respect to Fire Protection.

Air Quality

Air quality and greenhouse gas emissions will result in impacts off of the Rancheria property. Therefore, those impacts should be evaluated in terms of State laws and standards. Humboldt County does not meet the state standard for PM10, and so that should be analyzed and dust control measures included. A construction project of the proposed duration is also likely to have public health affects that are not analyzed in the EA.

L2-17

Noise

The noise section is unclear, with one standard being used in the criteria, and a different, higher standard used in the analysis. In addition, the size of the construction project, including the foundation that will be required, the range of construction equipment listed is not adequate. The number of truck trips, timing and sequence of different construction equipment is not adequately described.

L2-18

Other Notes

Even impacts that are clearly not significant, that would be simple to document (e.g. flooding) are not adequately analyzed and sometimes based on inappropriate or questionable sources. The EA also contains incorrect and incomplete information. For example, since no natural gas lines serve Humboldt County, it does not seem likely that the Rancheria is served by natural gas as described in Section 2.2.1. Also, the Draft Geotechnical Feasible and Preliminary Design Report describes a new service access road along the slope southwest of the existing casino, which would cause significant cuts and grading, but that road and associated impacts are not described or considered as part of the project.

L2-19

**NEPA Guidance regarding impact significance:**

In determining the significance of an impact, the Council on Environmental Quality's NEPA regulations §1508.27 requires consideration of both context and intensity. In considering context, it must be recognized that "significance varies with setting of the proposed action." What is not significant in one locale, may be significant in another locale. As described in more detail below, the project site is a particularly sensitive location, and the project is out of scale with the surrounding rural community setting and environment. The City's General Plan includes the following description of community preferences:

L2-20

*Property owners strongly preferred that new development be consistent with the present character of the community. Everyone agreed that the city has unique characteristics. When asked to describe Trinidad, they mentioned these terms: rural, uncrowded, quiet, rustic, peaceful, unsophisticated, small, casual, a feeling of openness, no tract houses, not commercialized. Sometimes they put it in terms of what they didn't want: no high-density*

A-8

## Comment Letter L2

*housing, no mobilehomes and trailer parks, no buildings greater than two stories, no motel-hotel-condominium complexes, no commercial exploitation and garish signs.*

Trinidad's Design Review Guidelines suggest a maximum square footage of 2,000 for residences and 4,000 for commercial structures. The maximum height limit throughout the City is 25 ft. While the Rancheria is not subject to the City's land use standards, this information is presented to give the BIA a realistic idea of the scale and context of the surrounding community. The City's current draft Vision Statement developed for a comprehensive General Plan update includes the following language:

*Trinidad intends to maintain the existing small town atmosphere. Scenic and environmental protections are essential to Trinidad's quality of life and economy. ... Sustainability is a keystone for all development and a hallmark for daily life and City functions in Trinidad. New environmental technologies are embraced that further protect Trinidad's scenic, natural and cultural resources. Trinidad's water resources, including the Bay and streams are unpolluted.*

In determining intensity, the Council on Environmental Quality's NEPA regulations §1508.27 also require lead agencies to consider a number of factors several of which apply to this project, including:

*(2) The degree to which the action would affect public health and safety. For example, evaluation should include hazardous and solid wastes, air and water quality, and their relation to public health.*

According to the Office of Environmental Health Hazard Assessment, an eight to twelve month construction project is likely to have public health impacts related to airborne emissions, including dust. In addition, for sensitive receptors within 500 ft. of Highway 101, cumulative impacts to public health from vehicle and construction emissions need to be evaluated.

*(3) Unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas.*

The coastal waters around Trinidad have been designated as an Area of Special Biological Significance and a State Water Quality Protection Area by the State Water Resources Control Board and as a Critical Coastal Area by the California Coastal Commission. In addition, Trinidad has been designated by BLM as the Northern Gateway to the California Coastal National Monument. Several parks, recreational areas and other public access exist in and around the project area. See attached excerpts from the various designations and legal programs managing these unique resources for further information.

L2-20  
(Cont.)

L2-21

L2-22

Comment Letter L2

(4) *The degree to which the effects on the quality of the human environment are likely to be highly controversial.*

Two public meetings, one sponsored by a local group known as Humboldt Alliance for Responsible Planning (HARP) and one by the City, attracted more than 100 attendees each. This is a very large number considering the rural nature of the affected environment. The City of Trinidad has a population of only 365 residents and the greater Trinidad-Westhaven area has a population of 1,205 (2010 Census). Most of the meeting attendees expressed concerns about the project as presented, making this project highly controversial.

L2-23

(5) *The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.*

The EA, including the appendices, lacks adequate detail to accurately determine what the impacts are going to be. As described above, a primary example is water service and wastewater disposal. The water source for this project is uncertain, and the capacity of the site to dispose of wastewater is uncertain.

L2-24

(6) *The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.*

The Rancheria has plans for several additional large projects that are mentioned in the EA and appendices, including a casino expansion and a highway 101 interchange, all of which have the potential to impact the surrounding community.

(7) *Whether the action is related to other actions with individually insignificant but cumulatively significant impacts. Significance exists if it is reasonable to anticipate a cumulatively significant impact on the environment. Significance cannot be avoided by terming an action temporary or by breaking it down into small component parts.*

L2-25

The EA includes a Highway 101 interchange as mitigation for significant traffic impacts. In addition, Phase 2 of the Rancheria's Community plan includes a number of other projects, including an R.V. park, gas station, market, etc. However, the potential for cumulative impact is not adequately addressed in the EA.

(10) *Whether the action threatens a violation of federal, state, or local law or requirements imposed for the protection of the environment.*

There are potential offsite air and water quality impacts that have the potential to violate state environmental laws that have not been analyzed in the EA.

L2-26

NEPA requires an EIS to be prepared when a Federal action may significantly affect the quality of the human environment (42 USC 4332). The EA determined that traffic impacts resulting

L2-27

A-10

Comment Letter L2

from the project would be significant. The mitigation proposed is to construct a new interchange on Highway 01. That mitigation is not valid for several reasons.

Section 6.4.6 of the BIA NEPA Guidebook (59 IAM 3-H) specifies that "Any mitigation measure must be enforceable and it is important for BIA Regional and Agency Offices to establish monitoring programs to ensure that mitigation is carried out." BIA has no authority to enforce this mitigation measure or ensure it is carried out nor does the Rancheria. In addition, the EA does not adequately show that this mitigation would reduce impacts to less than significant. Construction of the interchange is speculative at this point; it is still in the design phase, it has not been funded, the environmental review has not been completed, and it has not been permitted. If it is constructed, it will not be for many years, as that process takes time. Therefore, there will be significant traffic impacts from the project for an unknown length of time. Finally, the impacts of the interchange are not analyzed at all in the EA, contrary to Section 46.130 of the Department of Interior NEPA regulations, which states that "the effects of any mitigation measures... included in the applicant's proposal must be analyzed."

L2-27  
(Cont.)

Section 6.4.5 of the BIA NEPA Guidebook (59 IAM 3-H) requires the effects analysis of an EA to demonstrate that the BIA took a "hard look" at the impacts of the action and that the analysis concentrate on those components of the affected environment that will truly be affected. Without this analysis included in the EA, the BIA has no basis for determining the environmental consequences of the proposed project, and an EIS should be prepared.

L2-28

Courts review EAs and FONISs under a deferential arbitrary and capricious standard. Courts will consider whether the analysis is superficial or manipulated, if the agency based its decision on presumptions or conclusions rather than facts, lack of documentation, internal inconsistencies, and failure to consider cumulative impacts and secondary impacts. The Hotel Development Project EA suffers from all of these deficiencies.

In the specific example of *Sierra Club v. Peterson* (717 F.2d 1409), the D.C. Circuit employed a four-part test to examine an agency's decision not to prepare an EIS. The four factors were (1) whether the agency took a "hard look" at the problem, (2) whether the agency identified the relevant areas of environmental concern, (3) whether the agency made a convincing case that the environmental impacts of the problems identified were insignificant, and (4) whether the agency established convincingly that any significant impacts were minimized.

L2-29

Section 46.310 (g) of the Department of Interior NEPA regulations states: "An environmental assessment must contain objective analyses that support conclusions concerning environmental impacts." Many of the conclusions in the EA are not supported by appropriate and factual documentation. Water supply is a good examples of this. The EA presumes that the City of Trinidad will supply potable water for the project. As discussed above, the numbers presented in the EA are based on the City's entire permitted water right to flows on Luffenholtz Creek without consideration of actual treatment capacity of the City's water plant, low flow conditions

A-11

## Comment Letter L2

on the Creek or impacts from climate change and drought. The City has not made a commitment to provide water, and is not clear at this time whether they have the capacity to do so. Based on the available information, the EA cannot make a determination that impacts to water supply are less-than-significant.

L2-29  
(Cont.)

### Conclusion:

The City believes the environmental impacts of this project must be addressed through an EIS. The EA identifies significant and potentially significant impacts that are not adequately mitigated. In addition, the EA lacks the detail and technical data to support a finding of no significant impact in many sections, including water supply, transportation, visual resources, and wastewater.

Preparation of an EIS will serve several purposes that the EA currently does not address. It will provide the opportunity for the in-depth analysis and consideration of impacts that are not adequately documented in the EA. It will provide for further consideration of alternatives that could reduce impacts from the project. And it would allow further involvement from the public and interested agencies.

L2-30

Thank you for your consideration of these comments. Please don't hesitate to contact the City with any questions or for additional information.

Thank you



Daniel Berman

City Manager

Cc:

Trinidad City Council  
Trinidad Planning Commission  
Jacque Hostler, Trinidad Rancheria  
Humboldt County Planning Department  
California Coastal Commission, Federal Consistency Department  
State Water Resources Control Board, Ocean Protection Division  
Bureau of Land Management, CCONM Manager  
Environmental Protection Agency – Region 9 Wastewater Division



March 20, 2020

Ms. Amy Dutschke

Mr. Dan Hall

Bureau of Indian Affairs

Pacific Regional Office

2800 Cottage Way

Sacramento, CA 95825

RE: Finding of No Significant Impact for the Proposed Trinidad Rancheria EDC Hotel Project

Dear Ms. Dutschke and Mr. Hall:

The City of Trinidad remains concerned that the FONSI and the Final Environmental Assessment do not adequately address the impacts of the proposed Trinidad Rancheria EDC (TREDC) hotel project. The comments submitted to the BIA by the City on October 22, 2018 are not adequately addressed in this response on pages 233-239 of the FONSI (note all page references in this letter refer to page numbers in the FONSI). The responses are not sufficiently supported by data, and when the data is presented it is often weak and sometimes inaccurate. An example of inaccurate data is on page 328 which states that the City Fire Department has 29 volunteers when in reality we have 8.

One area of concern regards transportation, specifically the intersection of Main and Scenic, and traffic on Scenic. The Final EA on page 293 notes that the project will reduce trips on local roadways, but the hotel will increase trips in our area of concern. On page 325, the hotel is projected to generate an estimated 836 trips per day which will have a significant impact on our local roads. On page 326 it is noted that the intersection of Main and Scenic is already

B-1

operating in relatively poor condition, and that the hotel would reduce the poor ratings even further. It is unfortunate that the Traffic Impact Analysis (TIA) on page 811 was conducted in January 2019 rather than during the peak summer months. The City has serious concerns regarding traffic impacts during construction and beyond. Therefore, how can the FONSI conclude that the impact on transportation and circulation would be less than significant when the (TIA) on page 818 said that significant improvements were needed.

On page 340 under visual resources, the FONSI states that the project is consistent with local land use regulations. The City's local land use regulations do not allow for construction of buildings over several stories, certainly not six stories. Therefore, the statement in the FONSI on the same page that the project is generally consistent with visual goals of the county and city land use regulations is wholly inaccurate. Impacts to visual resources on page 5 would not be less than significant.

Another area of concern is the source of the City's water supply. Without supporting data, the FONSI on page 336 states that there is an adequate supply of surface water from Luffenholtz Creek to serve additional projects, and that there is no cumulative impact regarding ground water availability. The City has serious concerns regarding the availability of water from Luffenholtz Creek which is greatly impacted by drought and climate change. How can the FONSI on page 5 conclude that impacts to water resources would be less than significant. Clearly a finding of no significant impact is not warranted.

The City has received 5 separate reports from an engineering firm that have reviewed the following: the potential capacity of the water source (Luffenholtz Creek), the capacity of the water treatment plant, the capacity of the water delivery system, the possible alternative sources of water that the City can use, and the demands on the system such as fire suppression, low-lying areas, etc. The City Planner also provided possible build-out needs when the city is at full development capacity (current vacant lots and additional accessory dwelling units). Now that these reports are available, the Planning Commission is developing a water policy for the City to follow for water requests outside of City limits. This policy has had one vetting by the Council, with direction for the Planning Commission to update and for the Planner to generate more data on annexation for the Council to consider.

The City has yet to adopt a policy for considering applications for our limited resource and is not able to effectively evaluate any requests should they be sent to the City at this time. We have not had a formal request from the Rancheria for additional water including the amount of water being requested. Our limited water supply is to be delivered to current residents in the City limits first and foremost, followed by current customers in our Service Area. Without a formal request for water for the hotel project, with estimated amounts of water needed, and a sound water policy for considering such requests, the City remains concerned that the project needs to provide more information before City action can take place.

B-2

Overall, the City of Trinidad is concerned that a finding of no significant impact is insufficient, and that a number of issues remain to be addressed due to their known impacts. Please feel free to contact us if you need additional information.

Sincerely,

*Eli Naffah*

Eli Naffah

City Manager

City of Trinidad

B-3