

EXhibit 0

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April 27, 2007

VIA MAIL AND FAX: (415) 947-3545

John Tinger  
Environmental Engineer  
Clean Water Act Standards and Permits  
United States Environmental Protection Agency  
75 Hawthorne St.  
San Francisco, CA 94105

Re: NPDES Proposed Permit – Dry Creek Rancheria Band of Pomo Indians

Dear Mr. Tinger:

I am writing to follow up on our April 24, 2007 telephone conversation, in which you asked the County to submit an outline of its concerns regarding new information pertaining to the above-identified permit. This new information specifically includes a water balance spreadsheet the County requested in both March and September 2006. The County received the first draft of the spreadsheet on April 17, 2007, a second draft on April 20, and a third draft and technical memorandum on April 25.

It is impossible for the County to fully respond to information we received just two days ago, and we will not attempt to do so. We respectfully request that you briefly delay issuance of the permit, consider the concerns outlined below, and allow the County and other interested parties additional time to fully assess the Tribe's new information.

The County's primary concern is that the memorandum and spreadsheet significantly overstate the irrigation demand. The memorandum relies on a formula presented on page 3, and assumptions about precipitation, lands available for irrigation, a crop coefficient for turf grass, and other factors. The County has concerns about several of those assumptions, as discussed below. Yet even if the Tribe's formula and values are assumed accurate, the memorandum still significantly overstates irrigation demand.

Enclosed is a spreadsheet prepared by the County using the Tribe's own numbers and the evapotranspiration rates for CIMIS Station #103 in Windsor. Running the Tribe's own numbers through the Tribe's formula identifies an irrigation demand of 22.51 to 24.55 inches per year, less than half of the 53.52 inches claimed by the Tribe.

By way of just one example, the month of May, the Tribe's formula calls for multiplying the relevant ETo (6.47) by the crop coefficient (0.8), subtracting the product of precipitation (9.27) and its efficiency factor (0.75), multiplying the result by the leachate factor (1.1 or 1.2), and dividing the product by irrigation efficiency (0.8). This calculation results in a negative number (either -3.55 or -3.88 inches), indicating a negative irrigation demand. Yet when the Tribe ran the same calculation, it apparently reached a positive 8.17 irrigation demand. The Tribe thus proposes to discharge 6.81 acre-feet in May to saturated lands that appear to require no further irrigation at all.

Similar computational errors exist in every other month, as shown in the attached spreadsheet. The Tribe's memorandum does not include its actual calculations, making it difficult to determine how the errors occurred.<sup>1</sup> However they occurred, the result is that the Tribe proposes to discharge more than 50 acre-feet per year to lands that cannot accommodate even half that amount.<sup>2</sup> If approved, this discharge would likely cause substantial runoff, erosion, sediment transfer, and other significant environmental impacts. The EPA should not issue the proposed permit until this issue is fully resolved, and appropriate discharge limits are imposed from March to October.

The County is also concerned that the Tribe's formula and assumptions may further overstate the irrigation demand, as set forth below.

#### **Lands and Plants Available for Irrigation**

The spreadsheet states that "[l]andscape irrigation available to the Tribe during 2004 was five acres." The County cannot presently identify five acres on the existing Rancheria that have been used for landscape irrigation, and neither the spreadsheet nor memorandum describes these areas. This information is necessary to allow a meaningful review of the water balance information.

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<sup>1</sup> The computational errors may have resulted from a change in the relevant CIMIS station. The first two drafts of the spreadsheet state that irrigation demand was based on "CIMIS station #80, located in Santa Rosa." CIMIS station #80 is not in Santa Rosa. The station is actually located in Fresno, which experiences less winter rain and hotter summer temperatures than the Rancheria. Changing from Fresno to Windsor values should have resulted in a reduced irrigation demand, yet the third spreadsheet does not show a change in any irrigation demand estimates.

<sup>2</sup> This conclusion is supported by the Tribe's spreadsheet notation that its 2004 discharge of 22.96 acre-feet to five acres exceeded demand. The Tribe now proposes to discharge 50.15 acre-feet to twelve acres, which is approximately the same rate of release. This irrigation should similarly exceed demand.

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The Tribe's spreadsheet also states that the Tribe will have up to twelve acres for irrigation going forward. The memorandum assumes all twelve acres will be planted with turfgrass (Memo at 3), but provides no further detail. The County is not aware of an additional seven acres in the area planted with turfgrass. The Tribe did acquire the 18-acre "Dugan" parcel south of the Rancheria in 2003, but that parcel does not contain turfgrass, and is not proposed for turfgrass in the future. The Tribe has instead applied to develop the property with residences, an emergency services building, vineyards, a winery and tribal offices, roads and other infrastructure, and two small native plant areas. (See Enclosure.) Vineyards and native plants require far less water than turfgrass.

EPA should require the Tribe to revise its water balance information to specifically identify the locations of its proposed irrigation, the plant species to be irrigated, and revised calculations supporting its proposed irrigation levels. The County cannot conduct a meaningful review of the Proposed Permit without this information.

#### **Crop Coefficients**

The memorandum employs just one crop coefficient, 0.8 for turfgrass, citing the University of California Cooperative Extension Leaflet. The Leaflet, which is enclosed, actually identifies two potential crop coefficients for turfgrass, 0.8 and 0.6, depending on the species. The Tribe should clarify which species it intends to plant, and why the 0.8 coefficient is justified.

The Leaflet further provides coefficients for other crops, including grapes. If the Tribe intends to irrigate crops other than turfgrass, it should provide those coefficients as well, and calculate the changed irrigation demand based on those plant species.

#### **Loss Rate or Leachate Factor**

The memorandum states that approximately 10 percent of applied water passes through the grass root zone and is lost. Assuming that is accurate, the leachate factor should be 1.1, rather than the 1.2 identified in the memorandum. The Tribe should clarify which factor it intended to use, and why.

#### **Precipitation**

The memorandum states that an additional six inches of precipitation was added to each month from November to March. (Page 2.) This does not appear to have occurred in November and December. (Page 3.) The Tribe should review its precipitation calculations, and correct them if necessary.

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**Slopes and Soils**

The memorandum does not disclose that the Rancheria and Dugan property are marked by steep slopes and shallow soils, both of which may reduce irrigation demand. The Tribe should disclose the slopes and soil types of its discharge areas, and account for those factors in its irrigation demand calculations.

The County requests the opportunity to review any clarifying information that might be provided, and to discuss its concerns with both the EPA and the Tribe. The County respectfully notes that it requested the water balance data more than one year ago, and again more than six months ago. This information has always been critical to a sound analysis of the permit application, and the Tribe's new information raises several areas of significant concern. The proposed permit should not be issued until these issues are resolved. We look forward to working with the EPA and the Tribe to resolve these concerns.

Very truly yours,



Jeffrey M. Brax  
Deputy County Counsel

Enclosures: As stated

cc: Cheryl Diehm, Office of Congressman Mike Thompson  
John Short, North Coast Regional Water Quality Control Board  
Pam Jeanne, Sonoma County Water Agency  
Pete Dayton, Alexander Valley Association  
Michelle Hickey, Holland + Knight

Dry Creek Band of Pomo Indians											
											Land Area (acres)
											12
Station 103 - Windsor Evaluation											
Days	ETo per month (inches)	ETc=ETo*Kc Kc=0.8	P	ep	ir	ei	ID ID=(ETc-P*ep)/ir/ei	ID	Submitted Irr Demand (inches)		
January	31	0.88	10.22	0.75	1.1	0.8	-9.57	0	0	Note 1	
February	28	1.55	10.48	0.75	1.1	0.8	-9.10	0	0	Note 1	
March	31	2.99	12.36	0.75	1.1	0.8	-9.46	0	0	0.12	
April	30	4.53	12.94	0.75	1.1	0.8	-8.36	0	4.35		
May	31	5.46	9.27	0.75	1.1	0.8	-3.55	0	8.17		
June	30	6.47	2.53	0.75	1.1	0.8	4.51	10.24			
July	31	6.53	1.1	0.75	1.1	0.8	6.05	11.43			
August	31	5.87	4.70	0.75	1.1	0.8	5.58	9.96			
September	30	4.36	3.49	0.75	1.1	0.8	3.85	6.56			
October	31	3.24	2.59	0.75	1.1	0.8	2.52	2.69			
November	30	1.37	1.10	0.75	1.1	0.8	1.19	0	0	Note 1	
December	31	0.96	0.81	0.75	1.1	0.8	0.22	0	0	Note 1	
		44.21	35.37				-16.13	22.51	53.52		
			62.8				Note 2				
Station 103 - Windsor Evaluation											
Days	ETo per month (inches)	ETc=ETo*Kc Kc=0.8	P	ep	ir	ei	ID ID=(ETc-P*ep)/ir/ei	ID	Submitted Irr Demand (inches)		
January	31	0.88	10.22	0.75	1.2	0.8	-10.44	0	0	Note 1	
February	28	1.55	10.48	0.75	1.2	0.8	-9.93	0	0	Note 1	
March	31	2.99	12.36	0.75	1.2	0.8	-10.32	0	0	0.12	
April	30	4.53	12.94	0.75	1.2	0.8	-9.12	0	4.35		
May	31	5.46	9.27	0.75	1.2	0.8	-3.88	0	8.17		
June	30	6.47	2.53	0.75	1.2	0.8	4.92	10.24			
July	31	6.53	1.1	0.75	1.2	0.8	6.60	11.43			
August	31	5.87	4.70	0.75	1.2	0.8	6.09	9.96			
September	30	4.36	3.49	0.75	1.2	0.8	4.20	6.56			
October	31	3.24	2.59	0.75	1.2	0.8	2.75	2.69			
November	30	1.37	1.10	0.75	1.2	0.8	1.30	0	0	Note 1	
December	31	0.96	0.81	0.75	1.2	0.8	0.24	0	0	Note 1	
		44.21	35.37				-17.6	24.55	53.52		
			62.8				Note 2				
Note 1:	Assumed irrigation only March through October										
Note 2:	Negative value due to 100-yr rainfall model										

## **SECTION 2**

### **PROPOSED ACTION AND ALTERNATIVES**

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#### **2.1 PROPOSED ACTION**

The Proposed Action consists of three components: (1) land trust action, (2) site development on the proposed trust parcel, and (3) implementation of several mitigation measures and policies. Each of these components is described in detail below.

##### **2.1.1 LAND TRUST ACTION**

The Proposed Action consists of the conveyance of an 18-acre parcel into federal trust status on behalf of the Tribal Government. The parcel is located adjacent to lands currently held in trust by the federal government for the benefit of the Tribe. Once brought into trust, the land would be used for tribal housing, emergency services, and agricultural development. The land transfer would be made in accordance with the procedures set forth in 25 CFR Part 151. The trust land application must provide detailed information on the land being taken into trust. The process also includes an environmental impact analysis that looks at the impact the proposed land acquisition would have on the local and surrounding community. A consultation process is used to determine the project impacts and the overall benefit to the Tribe and local government based on the proposed uses. If the BIA determines that the proposal meets statutory requirements and the benefits outweigh the potential negative impacts, it may approve the Tribe's application and take the proposed lands into trust for the Tribe.

##### **2.1.2 PROPOSED PARCEL DEVELOPMENT**

The Tribe is proposing residential, emergency services, and agricultural development for the proposed trust parcel (Figure 2-1). This development would include eight tribal residences, an emergency services building, approximately 4.1-acres of vineyards, and a winery with tribal office space. Native plant use areas would also be identified and protected for use by tribal members. Lastly, several infrastructure projects are proposed to make developments on the proposed trust parcels possible. Each of the proposed developments is detailed further below.

##### ***RESIDENTIAL DEVELOPMENT***

Eight tribal residences are planned for the proposed trust parcel. The residences would be placed near the southeast corner of the parcel, as shown in Figure 2-1. Each residence would be a single family house approximately 2,000 square feet in size. Water will be supplied to the residences by existing groundwater wells located on the proposed trust parcel. Wastewater will be disposed of through individual septic systems. All grading for the residences (as well as all other site

development) shall be completed under the direction of a Storm Water Pollution Prevention Plan. Details concerning this plan can be found in Section 4.1.2.

### ***EMERGENCY SERVICES BUILDING***

The Tribe is proposing to construct an 8,000 square-foot emergency services building near the northeast corner of the parcel (Figure 2-1). The station would provide tribal security, fire suppression, and emergency services for the Tribe. Staff would include approximately five firefighters and five security officers. A licensed paramedic would also be stationed at the facility. Water will be supplied by existing groundwater wells located on the parcel. Wastewater will be treated through a septic system.

### ***AGRICULTURAL DEVELOPMENT***

Two vineyard areas, totaling approximately 4.1-acres (including one 2.5-acre field and one 1.6-acre field), are proposed for development. Water would be supplied to the vineyards by on-site (existing) groundwater wells and/or by tertiary-treated recycled water from the Tribe's existing wastewater treatment plant. Irrigation would be provided through a drip system. All grading and infrastructure for these practices shall be completed under the direction of a Storm Water Pollution Prevention Plan. Details concerning this plan can be found in Section 4.1.2. Once planted, vineyards would be regularly maintained with fertilizers, herbicides, and/or pesticides that would be applied at the manufacturer's recommended rates. Only those chemicals approved for use within the State of California would be used for vineyard maintenance. Tertiary-treated recycled water used for irrigation would meet the definition of "disinfected tertiary recycled water" as provided within Title 22 of the California Code of Regulations (CCR, 2001).

### ***WINERY AND TRIBAL OFFICES***

A 5,600 square-foot winery with tribal offices is proposed for the parcel (Figure 2-1). This facility would provide processing and storage for harvested grapes and tribal wine. Office space for Tribal government functions would also be provided within this building. A gravel parking lot and loading area would be constructed adjacent to this building. Water would be supplied through existing groundwater wells. Wastewater would be disposed of through a septic system. The Tribe would contract grape harvesting and wine production with local wineries.

### ***NATIVE PLANT USE AREAS***

As described in Section 1, the proposed trust parcel has native plants that are not common to the Dry Creek Rancheria and that have traditional cultural uses by the tribe. These areas would be protected from development and used by the Tribe in accordance with cultural traditions.



## **INFRASTRUCTURE**

Development of the proposed trust parcel would require the construction of paved roadways, water lines, and other utilities. Figure 2-1 shows the locations of the proposed roadways. The primary access road to the parcel would be approximately 35 feet wide (to allow truck traffic) and would be paved with asphalt. The lower portion of the roadway would provide tribal access from State Route 128 to tribal residences, vineyards, and winery. The interchange with State Route 128 would be built within an existing road encroachment (i.e., where the current access road intersects State Route 128) and shall be designed in accordance with the California Department of Transportation's (DOT) design standards for commercial driveways as described in the Highway Design Manual (HDM). The upper portion of the access road would be restricted to tribal and emergency use. A gate would be installed at the north end of the warehouse parking lot to ensure that there is no public access to the existing Rancheria via the proposed roadway. The emergency access road would then continue to the emergency services building and the existing Rancheria to provide an escape route in the event there is an emergency on the Rancheria. An existing water line serving the Rancheria from a well on the proposed trust parcel would be replaced and rerouted within the proposed roadway. The water line would also provide potable water to the proposed residences, tribal offices, emergency services building, and may be used for irrigation. New power lines providing service to housing and associated facilities are also proposed within the access road right-of-way. Retaining walls, storm drains and curbs would be constructed to minimize erosion.

Up to three irrigation storage ponds would also be constructed on the property to provide a reliable irrigation source for the vineyards. The ponds would be constructed near the northwest corner of the parcel (Figure 2-1). Recycled water for the ponds would be supplied by the Tribe's wastewater treatment plant, located on the existing Rancheria.

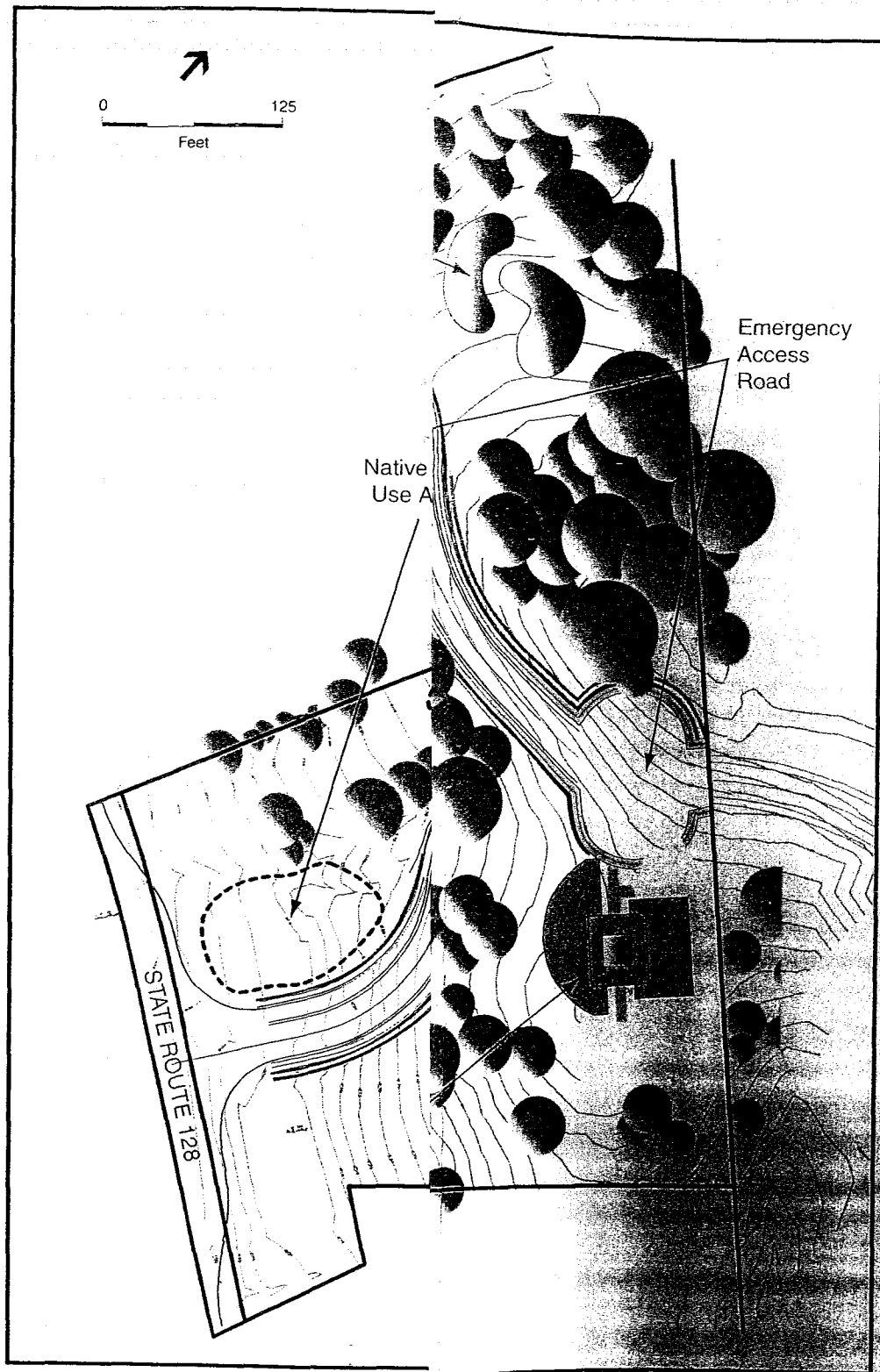
### **2.1.3 MITIGATION MEASURES AND CONSERVATION POLICIES**

A final component of the Proposed Action is to implement several mitigation measures and policies to protect water, air, biological, cultural and other resources. These policies include best management practices (BMP's) to protect water quality during construction and mitigation measures to minimize adverse effects to resources, protect resources during construction, and provide remedies where adverse effects cannot be avoided. A complete list of these measures is provided in Section 6.

## **2.2 ALTERNATIVES**

### **2.2.1 NO ACTION ALTERNATIVE**

Under the No Action Alternative, the subject parcel would not be placed into federal trust for the benefit of the Tribal Government, and may not be developed as identified under the Proposed Action. Land use jurisdiction of the property would remain with Sonoma County.



SOURCE: FFKR Architects and Environmental Science Associate

*Dry Creek Watershed in Basin 11031*

Figure 2-1  
Proposed Parcel Development

0  
125  
Feet

