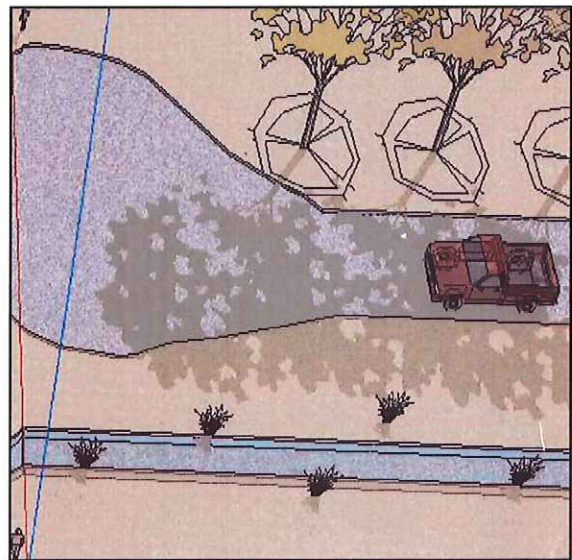
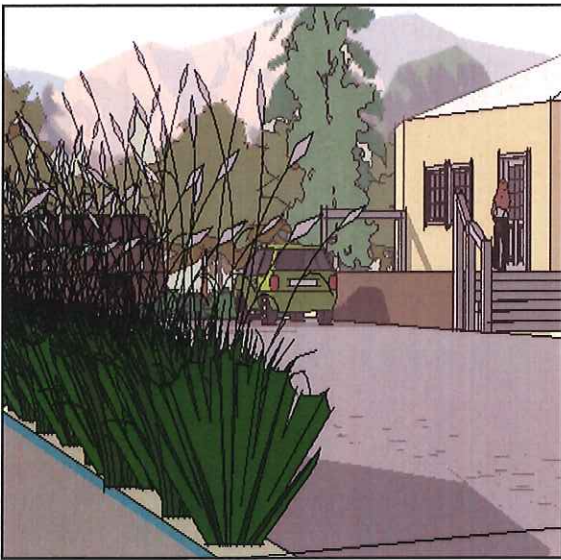
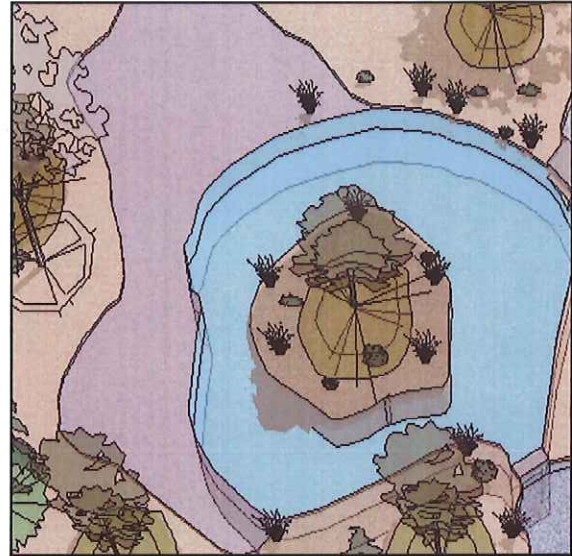
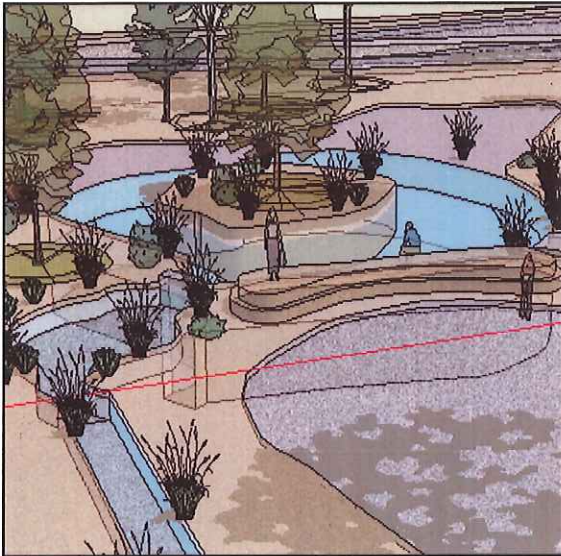


# PROPOSED MASTER PLAN FOR THE PINOLEVILLE POMO NATION



CALIFORNIA STATE UNIVERSITY, NORTHRIDGE  
DEPARTMENT OF URBAN STUDIES AND PLANNING

Phyl van Ammers (lower case v), JD, MA (Urban Planning), supervised the work of planning students in the Department of Urban Studies and Planning at California State University, Northridge, in the preparation of a draft master plan, which the Mrs. van Ammers and her students proposed to the Pinoleville Pomo Nation (PPN). The PPN did not adopt this plan but the tribal council authorized its publication.

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**\*All Photography, Graphics, and Renderings by Christopher Marks  
(except the land use conceptual diagram prepared by Jeff Young)**

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**OUR CLASS WISHES TO EXTEND MANY THANKS TO:**

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**David Edmunds, Environmental Director of the Pinoleville Pomo Nation**

**Leona Williams, Chairwoman, Pinoleville Pomo Nation**

**The Pinoleville Pomo Nation**

**Sherrie Smith-Ferri, Director, The Grace Hudson Museum**

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# A. METHODOLOGY STATEMENT

The Pinoleville Pomo Nation is sovereign. Its tribal government operates pursuant to its Constitution. Nonetheless, because of the federal government's attempt to encourage its people to assimilate, not only is some of the property on the Rancheria owned by households which are not members of the PPN, but Mendocino County claims jurisdiction over the Rancheria and designated it as "P-I." Pinoleville Industrial. The PPN also purchased land in both Mendocino and Lake Counties to build residences for its members.

The URBS 490 fieldwork teams used State of California General Plan Guidelines (Governor's Office of Planning and Research, 1998), State of California, Tribal Consultation Guidelines (2005), Kevin Grover's "Legal Infrastructure and Economic Development," and Ted Jojola's "Physical Infrastructure and Economic Development," (National Council of American Indians, Policy Research Center, 2007), and the San Juan Pueblo's housing narrative as bases for designing their master plan for the Pinoleville Pomo Nation.

Additionally, Phyl van Ammers analyzed Mendocino County Deputy County Counsel Frank Zotter's memorandum of law (This analysis is in the appendix to this master plan) and the Winter Doctrine (This analysis is also in the appendix to the master plan.).

Six members of the fieldwork teams went up to the Pinoleville Pomo Nation - Chris Marks went up twice - and did field work analyses of what they saw on the Rancheria and Lakeport. Sherri Smith-Ferri, the Director of the Sunhouse Museum in Ukiah, instructed those six members of the Urban Studies 490 class in Pomo basket-making and the growth of plant materials in riparian corridors. These class members also visited the Solar Living Center, in Hopland, California, and California Yurts, which is located up the road from the Pinoleville Rancheria.



*(Top) An active stormwater swale at the Solar Living Center in Hopland, Ca (Bottom) Captured stormwater from the swale is used to help nourish the plans at the solar living center*

# 1. NEEDS ASSESSMENT REPORT

THE PURPOSE OF THIS REPORT IS TO DEVELOP AN ACCURATE PICTURE OF THE STRENGTHS AND WEAKNESSES OF THE PINOLEVILLE RANCHEIRA AS WELL AS IDENTIFY ISSUES WHICH WARRANT CONTINUED ATTENTION. THIS REPORT USED THE MISSION AND VISION STATEMENTS OF THE PPN AS ITS GUIDE.



*(Top) Grape vines on the property adjacent to the Sozonni property (Bottom) Fledgling plants in the existing greenhouse constructed by members of the PPN.*

# COMMUNITY DEVELOPMENT ELEMENT: NEEDS ASSESSMENT

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## Project Area

The Pinoleville Rancheria is close to the city of Ukiah, County Seat for Mendocino County and consists of about 99 acres of land. The Pinoleville Pomo Nation ("PPN") purchased the Sozonni land, where it intends to build residences, a subdivision in Lakeport, also for subdivisions, and it may purchase the "probate trust land" that is adjacent to the Rancheria, and which has been the subject of litigation for many years.

Additionally, only a proportion of the PPN membership lives on the Rancheria. Some tribal members live in Ukiah—and elsewhere near Ukiah-- and some live in Sonoma County.

### Ethnic groups in the Yokayo Valley:

Caucasian	72.4%
Hispanic - Latino	19.3%
American Indian	5.7%
Asian	2.3%
Black - African American	1.5%

## Constraints in Developing the Needs Assessment

The Fall 2008 fieldwork teams concluded, at page 2 of their report ("Data") that the PPN wishes to have greater democratic participation in its planning decisions. Also, according to the Data teams' research, their democratic participation was – until the time of that report – limited to tribal council meetings and discussions with tribal members. (Id.) The Community Development Needs assessment, therefore, relies on the Data teams' work and on research into economic development needs in the Ukiah area and for Northern Californian Indians.

Surrounding area demographics (from the Greater Ukiah Chamber of Commerce website)  
<http://www.ukiahchamber.com/>

## Population

Ukiah's population has grown 2.9% between 2000 and 2004. Population for Ukiah proper is 15,850. Mendocino County's total population stands at 88,200. Per capita income in 2001 was listed at \$32,655.00, while the last reported average household income was \$26,000.00. Approximately 20% of Ukiah's residents are college educated.

## Employment

Industry employment in Ukiah and the surrounding area, is provided largely by the retail and service industries, wineries, vineyards, pear orchards and wood product businesses, provide most of the jobs in Ukiah. The number of small non-agricultural types, of manufacturers and service industries continue to rise while timber industry activities are in decline. State and local government agencies also constitute a significant part of local employment.

## **Current Community Development Needs for the Pinoleville Pomo Nation**

Most PPN members live in Mendocino County, and many of those who live in Mendocino County live in or near Ukiah. The above figures, when compared with tribal employment and income figures, suggest that many tribal members were unable to afford the average privately owned home or even to rent an average apartment without heavy subsidy.

Data from the BIA (2005) shows 237 tribal members, 237 of which were eligible for BIA services. Sixty-three PPN members were under age 16. One hundred and sixty six were between the ages of 16 to 64, 8 were over the age of 65, and 18 were not available for work. The total available workforce was 156. Seventy-two of the 156 were employed. Unemployment was 54%. Of those who were employed, 100% were below poverty guidelines. (Data, page 16)

The Data team concluded that both those who live on the Rancheria and those who live off the Rancheria may also need subsidized housing as well as better-paid jobs. The Data teams also suggested a grant to train tribal members in Brownfield work as a source of individual tribal member income. (Data, page 5.)

On March 23, 2009, however, Governor Schwarzenegger entered into a gaming compact with the PPN. <http://en.sourcews.com/governor-schwarzenegger-signs-compact>. The casino is likely to be located on the commercial land where an abandoned car dealership now stands. The income from the casino is very likely going to allow for youth scholarships, improved housing, purchase of the probate trust land, and greater clout with the County in negotiating land use changes.

### **Education**

Pomo Indians in Mendocino County were among those people sent away from their land and discouraged from speaking their own language. (Film on Elsie Allen, basketmaker, and also see: <http://www.kstrom.net/isk/art/basket/elsieall.html>)

Indians in Mendocino County faced pervasive discrimination. (Data, history section.). The teams' supervisors' anecdotal information is that education in the public education system may be short-circuited by juvenile arrests and by unmet special education needs whether or not the student is an Indian. (Phyl van Ammers, an attorney, represented juveniles in Mendocino County in about 1990. She also handled several education and special education cases as a staff attorney with California Rural Legal Assistance.) Legal assistance in juvenile matters, in school suspension matters, and in special needs cases, is critical to encouraging PPN youth to continue with school.

PPN youth should be encouraged and subsidized in pursuing Native American education at tribal colleges when possible, in order to sustain Indian identity. <http://www.collegefund.org/colleges/main.html>

### **PPN Cultural Preservation**

The Sunhouse in Ukiah showcases Pomo baskets and sells Pomo art in its gift shop. <http://www.gracehudsonmuseum.org/>. The PPN website provides information about Pomo art, and the PPN has a library of materials related to Native Americans. <http://70.90.171.169/>

### **Consumer Goods**

The PPN enacted a green procurement policy. [http://www.greenpolicy.us/index.php?title=Pinoleville\\_Pomo\\_Nation\\_\(CA\)\\_Green\\_Procurement\\_Policy](http://www.greenpolicy.us/index.php?title=Pinoleville_Pomo_Nation_(CA)_Green_Procurement_Policy)

## Housing (2003)

Average home price (3 bedroom / 2 bath):	\$373,000
Average home rental (3 bedroom / 2 bath):	\$1,350/mo.
Average apartment rental:	\$750.00 to \$800.00

## Green Space

Economic, and cultural development may be enhanced and water use may be reduced by:

- Restoring the native plants on all PPN lands and creating nature walkways;
- Creating a riparian buffer to Ackerman Creek; and
- Further developing the organic garden already established on the Rancheria.

<http://www.gardensproject.org/thegardens/ukiah/pinolevillepomo/pinolevillepomo.php>

Additionally, the data shows the PPN is contemplating spaces for spiritual purposes, e.g., the sweathouse.

It gets very hot in Ukiah. A large swimming pool on the PPN lands, that all members of the community may use, is more compatible with Pomo traditions of cooperation than would be individually owned swimming pools.



*The greenhouse has been a successful community project utilizing mostly recycled materials and involving PPN youth in the cultivation of plants inside.*



# INFRASTRUCTURE ELEMENT: NEEDS ASSESSMENT

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## Introduction

The Pinoleville Rancheria is approximately 99 acres (Research Data, 2008) of sovereign land, governed by the Pinoleville Pomo Nation (PPN). The Rancheria is home to between roughly 100 of the 237 total members of the PPN. (Research Data, 2008) Some non-members also live on the reservation. Roughly 80 more members of the PPN wish to move to the reservation. (David Edmunds, personal communication) Though the Rancheria is a sovereign Indian nation, on Indian land it receives services from the State of California, Mendocino County and agencies associated with them as well as services and infrastructure it has provided for itself. (Research Data, 2008)

It is assumed the main objective of the PPN is to retain the rural character relating to its past, which is that of at least ten thousand years of pre-western contact sustainable economic and land use practices. Essential to that objective is freedom from industrial contamination, pure air, and clean drinking water. This is based on the PPN's history as a sovereign people.

The PPN has three additional properties besides the Rancheria associated with it. "Sozonni Ranch" in Mendocino County, the "Probate Trust Land" adjacent and just west of the Rancheria, and "Pinoleville Heights" in lake county. The probate trust land, should the PPN purchase it, is subject to most of the same infrastructure issues as the Rancheria.

## Ackerman Creek

Central to the legacy and culture of the Pinoleville Pomo people has been Ackerman Creek. The creek flows intermittently throughout the year into the Russian River, dry in the summer but flowing swiftly after winter rains. Historically the Pomo people would use native plants that grew along creek banks like Sedge for basket making. A tradition lost with the dominance of non-native exotic species.

The creeks damaged vegetated buffer also exposes the water to contamination from the various agricultural and industrial uses in proximity to the creek not on the Rancheria. (Research Data, 2008) Healthy buffers slow downstream runoff, improve stormwater infiltration, and control stream sediment. (MOCZM, 2009) They also have the effect of cooling the water temperature increasing the chances of the return of Salmon which historically run upstream, to the river.

## Services

Solid waste (trash) is managed by Empire Waste Management. (Research Data, 2008) Contracts for waste disposal are negotiated on a case-by-case basis. There is no uniform waste disposal service and organic waste is not composted. Human Waste is typically stored in septic tanks, which are emptied by private companies, disposal is again negotiated on a case-by-case basis. These tanks pose a risk of leakage into the water table, which is a mere 8 feet below the surface. Water is provided to the reservation by the Millview water district. In 2001 after years of exceeding its allocated supply from the Russian River the State of California imposed a moratorium on new hookups within the water district. Though the city of Ukiah is not affected by the moratorium much of the Ukiah Valley including the Pinoleville Rancheria is. (PUC, 2006) Without the development of new water sources no water can reach the reservation.

Based on an average resident consumption of 80-100 gallons per day (USGS, 2009) the Pinoleville Rancheria will require at least 6,400-8,000 gallons per day to satisfy the needs of 80 new tribal members who wish to move to the reservation. Although currently inactive, a pump on the reservation can produce 7,200 gallons per day at a rate of 5 gallons/minute. Development of a second well site near Ackerman Creek with a higher capacity would be advised to satisfy peak demand as well as demand for other land uses.

Agriculture would place substantially higher demands on water supplies. Sprinkler irrigation requires as much as 10 GPM/acre, drip irrigation roughly 5-7 GPM/acre. Agriculture would demand as much as 14,400 Gallons per acre, per day thus 10 acres of agriculture would demand 144,000 Gallons at a flow of 50 GPM. (Jarrett)

Without a water audit it is unknown what long term effects a pump(s) would have on its source. Such an audit would be required for the tribe to act sustainably. All figures above are based on broad averages and do not factor in location specific, or culturally specific factors on water consumption.

### **Sozonni Property**

The PPN purchased a nearby piece of land referred to here as "the Sozonni land" or the "Sozonni Property". It is being considered as the site of future development. It has access to sewer hookups, the same waste disposal service as the Rancheria, and is subject to the same water hookup moratorium as the Rancheria. (D.Edmunds, 2009) Water pump potential is currently unknown, but with flows expected to be somewhat low the potential for agricultural development will be limited on the Sozonni property. To further develop the property further studies will be needed to assess the exact potential of water on the property.

### **Stormwater**

Managing stormwater on the Rancheria presents unique challenges; the industrial uses along Orr Springs road as well as the auto-dismantling plant on the Rancheria threaten the water table and Ackerman creek. The problem is accentuated by a 24-28" culvert draining stormwater from Orr Springs road onto the reservation. During the peak months of January and February the region sees an average of 20" of rain. The result is peak stormwater flows in excess of 1000gal/min from the culvert. (Edmunds, 2009)

Security Various individuals as a result of racism or political conflict are opposed to the presence of the Pomo people on the Pinoleville Rancheria. The lack of security on the reservation has led to the massive dumping of illegal waste as well as the sabotage of a water pump with oil. (Edmunds, 2009)

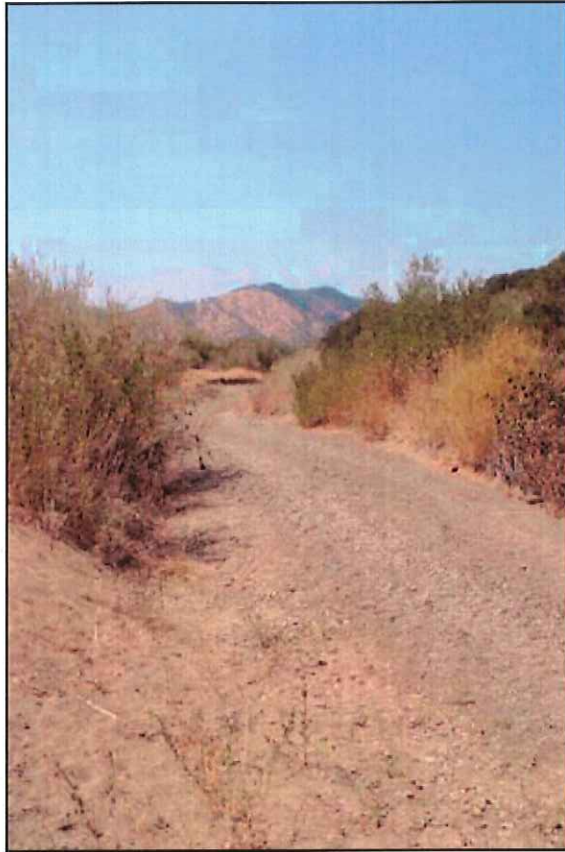
Illegal dumping has also not helped Ackerman Creek's ecosystem. The PPN received a grant for \$81,800 to clean up roughly 1,000 cubic yards of waste that has been disposed of illegally on the Rancheria. (CIWMB) There is no permanent program to ensure that future waste is not disposed of near the creek and on the reservation in the future.

### **Disclaimers**

"The infrastructure team bases its analysis on data collected by the fall 2008 fieldwork team, and from information about the PPN obtained from Internet searches. Also, Chris Marks went to Pinoleville in 2008 and spoke with David Edmunds and Leona Williams. We do not have a survey from the PPN about what they want to see in this master plan, although the fall 2008 team sent a survey."

## Resources

1. URBS 490, Phyl Van Ammers. (Ed.). (2008). Research Data. In Pinoleville Pomo Nation Master Plan California State University Northridge
2. D. Edmunds, (Dec 8th 2008). Personal Communication
3. D. Edmunds, (Mar 17th, 2009). Personal Communication
4. Massachusetts Office of Coastal Zone Management. Retrieved March 27, 2009, from Vegetated Buffers Web site: <http://www.mass.gov/czm/vegetatedbuffers.htm>
5. California Public Utilities Commission. (2006). Order Modifying Decision (D.) 06-03-003 and Denying Rehearing of D.06-03-003 As Modified Sacramento:
6. Judith V. Royster, Water Quality and Winters Doctrine
7. California Integrated Waste Management Board (Dec, 11th 2007), Board Meeting Agenda Item 5
8. United States Geologic Survey. Retrieved March 31st, 2009 from Water Science for Schools website: <http://ga.water.usgs.gov/edu/qahome.html>
9. Jarrett, Albert, Agricultural Water Needs and Sources Water Supply, Pennsylvania State University



*Ackerman Creek remains dry throughout much of the summer.*



*Ackerman Creek swells in the winter and during large storms poses the occasional flood risk.*

# LAND USE ELEMENT: NEEDS ASSESSMENT

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## **Objective and purpose of this assessment**

The land use team's ("The land use team") objective in this report is to assess the PPN's land use needs. The land use team bases its conclusions in its second report – on issues, opportunities and constraints related to land use -- in part on this assessment of the Pinoleville Pomo Nation's land use needs.

## **Underlying assumptions of this assessment**

We assume that the main objective of the PPN is to retain a rural character that relates to its past, which is that of at least ten thousand years of pre-contact sustainable economic and land use practices. We also assume that the PPN's goals include that their land should be free from industrial contamination and that there should be pure air as well as clean drinking and agricultural water available to its people. We believe the PPN wants to sustain its identity as a sovereign community of Pomo Indians.

## **Rancheria Land Use Problems**

An auto dismantler is located on Ackerman Creek. The land use that allows auto parts, which often include gasoline, cadmium, and other heavy metals – along Ackerman Creek, and this land use is not appropriate near residences and agricultural land.

Mendocino County's Pinoleville Industrial land use designation allows industrial and recycling centers that contribute to air pollution. These uses contribute as well to water and land contamination because of storm run off. Noise from these businesses contributes to noise pollution, which already exists because of highway traffic. High levels of noise are inconsistent with the residential, civic and spiritual uses of the Pinoleville Rancheria.

Septic tanks may pose a risk to the water table. The water table is only 8ft below the surface of the land. In order to build more homes on the Rancheria, wells may have to be developed. Future water supplies may become contaminated by septic tank leakage.

The PPN has no effective way of implementing its land use ordinances against the non-Indians who live on the Rancheria.

Information from the housing team indicates that from 25 to 137 people live on the Rancheria land, and that new houses need to be built to house 80 more people. Inasmuch as some of the land is allotment, some of it is fee, and some of it is owned by non-PPN members, the PPN may be unable to house 80 more people on the Rancheria unless it purchases all of the property on the Rancheria and allows ownership through corporate or cooperative shares.

## **Sozanni Land Use Problems**

The Pinoleville Pomo Nation purchased the Sozanni parcel for residential land use purposes. Mendocino County zoned the 99 acres of former vineyard land as Rural Residential. R-R zoning may not allow cluster housing, which is housing that is more consistent with Pomo land use history than is suburban ranch houses that are built at a distance from each other. Infrastructure for clustered housing, additionally, is more efficient than it is for the typical suburban housing tract. Cluster housing will allow for greenbelts of forest and agricultural land that more conventional housing would not.

## **Probate Trust Land Use Problems**

This land is adjacent to the Rancheria land is historically connected to the PPN and its tribal members. Several families of squatters currently reside on the probate trust land. Litigation over this land has not concluded.

If the PPN purchases this land, cluster housing will be the most environmentally protective and the least expensive way to provide residences.

Zoning, which is Pinoleville Industrial, for this trust land may not allow cluster housing.

Because of the Millview Water District moratorium on new water hook-ups, it may be difficult to develop this property.

There are two Pomo cemeteries on this property. The PPN membership is related to those people interred in those cemeteries. The PPN should have control over those two cemeteries, but the Mendocino County Superior Court decision may not award this control to the PPN.

## **Lake County Land Use Problems**

The PPN purchased land ("Pinoleville Heights") just outside the City of Lakeport in Lake County. That land is subdivided, and its subdivision is consistent with Lake County zoning ordinances. The land use team knows of no land use problems connected to Pinoleville Heights.

## **PPN Land Use Needs**

The land use team's information is that all of the PPN controlled lands need land that is designated to spiritual and civic purposes, including government offices, a proposed court, the pre-school and the sweathouse.

The PPN requires land uses that eliminate or reduce contamination of Ackerman Creek. The Pomo people have a rich history of basket weaving, which may be unsurpassed by any other people in the world. Sedge and willow, which are riparian plants used in Pomo baskets, need to be restored to Ackerman Creek.

In order to reduce water use, and in order to remain consistent with Pomo history, native plants should be restored to all of the PPN-controlled properties, and exotic plants should be eradicated.

On all of the PPN lands, its people wish to maintain open-space for organic farming- free of pesticides. The PPN also hosts the strawberry festival to bless the first fruits of the year. The Pinoleville Pomo Nation (PPN) is developing a horticultural program to meet an array of critical needs for its citizens and the broader community. The program will consist of a greenhouse, two gardens, orchards and plant restoration areas.

"A horticultural program can supply food to the PPN Head Start, Big Time, and other programs and events, reducing Tribal expenses and allowing money to be invested elsewhere." ([www.gardensproject.org/thegardens/ukiah/pinolevillepomo/pinolevillepomo.php](http://www.gardensproject.org/thegardens/ukiah/pinolevillepomo/pinolevillepomo.php))----

On the Rancheria and on the Sozonni land, it is the land use team's belief that the PPN wishes to maintain open space to hold annual tribal gatherings and the annual Big Time Gathering. Other recreational uses, including sports fields and a large swimming pool, should be available on the Rancheria, the Sozonni land, and - if the PPN purchases it - the probate trust land.

Probate trust land

The PPN needs cluster housing for greater protection of the environment, and to reduce infrastructure and fire protection costs.

The PPN needs to eliminate industrial land uses completely in and near the Rancheria.

# HOUSING ELEMENT: NEEDS ASSESSMENT

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WE DO NOT HAVE A SURVEY OF WHAT THE PPN WANTS AND HAVE TO ASSUME WE UNDERSTAND WHAT KIND OF DEVELOPMENT THEY WANT BASED ON WHAT THEY HAVE ALREADY DONE, AND THE DIRECTION THEY APPEAR TO BE GOING.

Last semester's team data reflects the PPN's objective of continuing the Pomo peoples' ancient legacy of sustainability, e.g., the PPN's organic garden, its ordinance for green purchasing, its investigation into Brownfield funding and Ackerman Creek restoration.

See, also, The Center for Indian Community Development's, *Building and Buying Green in Indian Country A PRACTICAL GUIDE FOR CALIFORNIA TRIBES*, (May 2004), which is indicative of Northern California Indian sustainability objectives.

## **1. How many people currently live on the Pinoleville Rancheria?**

The Tribal Chairperson estimated approximately 100 tribal members currently live on the Rancheria. According to the United States Census the population consists of 41 households,

35 (85%) of which are considered to be families. 6 households are non-families, while 4 of these consist of the householder living alone. The average household size is 3.24 and the average family size is 3.43. (PPN Master Plan Research Data, page 16-17)

On the other hand, David Edmunds in his email message -- when asked how many PPN tribal members currently reside on the Rancheria -- responded, "Fewer than 25." (David Edmunds Letter, December 3rd, 2008)

I asked David Edmunds why this data appears to conflict, and he provided further clarification stating that "I have two thoughts on the difference. First, if you include Pinoleville Heights, which is the housing development in Lakeport that you ask about later, we would add another 25. If you include the non-PPN tribal members (that is members of other tribes) within the Rancheria in Ukiah, you would add another 10 families anyway. A second possibility is that we have a waiting list for housing that has some 15 to 20 families on it." (David Edmunds Memo, March 17th, 2009).

The 490 fieldwork housing team shall assume, for purpose of this report, that there are 41 households on the Rancheria, consisting of 132.84 persons (3.24 x 41), 100 of which residents are tribal members.

## **2. How many tribal members would like to reside on the Rancheria?**

"The latest estimate I have for housing demand among PPN citizens is about 80 houses." (David Edmunds email message, December 3rd, 2008)

## **3. How many houses need to be built on:**

- Pinoleville Rancheria: (40)
- Sozonni Land: 25
- Probate Land: (undetermined)
- Lakeport: 15 (13 undeveloped lots)
- TOTAL: 80 residences

#### **4. What does the future hold for purchasing or rehabilitating housing on the Rancheria?**

“We have applied for housing money for the Lakeport development in Lake County, and for housing on the Sozonni property. There are plans for housing on the reservation too. We have UC Berkeley students working on some designs, and we’re trying to make contact with Cal Yurts and other green builders to help once we



*The empty Sozonni Property in the middle of the Summer.*

get money. There are about 13 lots in Lakeport left to be developed, and plans for about 25 houses on Sozonni. So we’d still need another 40 houses somewhere, and some of that demand might be met on the reservation in the form of townhouses, elder apartments and the like.” (David Edmundson Letter, December 3rd, 2008)

On page 14 of the PPN Master Plan Research Data: “As a result of the innovation workshop, members of the CARES4Pomo team were able to create a roundhouse-style design that the PPN plans to submit when it applies for federal funding to build 25 new homes on the Sozonni parcel.”

#### **5. Is there a need for elderly or disabled housing?**

David Edmunds responded, “This has come up as a need in a couple of planning sessions. We have spoken recently of clustered housing with some families having elder apartments in back. We have also spoken of mixing small homes serving elders with larger family homes. There has been some discussion of an elder care facility, but the Vice Chairperson told me the other day that the tribe generally favors keeping elders with families when they can”. (David Edmunds Memo, March 17th, 2009)

#### **6. What is the zoning is for the Lakeport houses?**

David Edmunds responded, “I believe it is suburban residential of some sort, but I’ll check with David Ponton. It is just outside the town limit.” (David Edmunds Memo, March 17th, 2009)

The map of Pinoleville Heights is attached to this report as Appendix C. According to Lake County Planning Department (Phone call on March 23, 2009), Pinoleville Heights is zoned R1 (single family residential).

## 2. ISSUES, OPPORTUNITIES, AND CONSTRAINTS REPORT

THE PURPOSE OF THIS REPORT IS TO IDENTIFY AREAS OF CONCERN ON THE RANCHERIA AS WELL AS IDENTIFY POTENTIAL ENHANCEMENTS AND EVALUATE FACTORS WHICH WOULD EITHER FACILITATE OR HINDER THOSE ENHANCEMENTS.



*(Top) The headwaters of Ackerman Creek in the mountains above the Rancheria (Bottom) Active stormwater swale at the Solar Living Center, Hopland, Ca*



# COMMUNITY DEVELOPMENT ELEMENT: ISSUES, OPPORTUNITIES, AND CONSTRAINTS

## Community Development Project Area

This analysis of the Pinoleville Pomo Nation (PPN) discusses the issues, opportunities and constraints associated with developing a sustainable and viable community with focus on cultural preservation and Both Economic and Agricultural development. The area of concern comprises of 99 acres of land otherwise known as the Pinoleville Rancheria.

## Community Direction

The Community Development Team uses the Pinoleville Pomo Nation's Vision Statement and its Mission Statement as its guide.

**Issue #1: The PPN wishes to have greater democratic participation in its planning decisions (Pinoleville Pomo Nation Master Plan Research Data, pg 2).**

**OPPORTUNITY 1A:** With increased democratic participation there would be more specific information that pertains to the economic developmental needs of the Pomo Nation.

**CONSTRAINT:** Increased participation costs money. Initially, too, it may result in increased dissent from the community mission and vision statement.

**OPPORTUNITY 1B:** A sustainable community is an inclusive community not limited to the members of the PPN. By including the public and obtaining their input regarding major issues, projects and policies may in turn result in more public support for such objectives and initiatives which could result in additional economic growth and positive assimilation with the surrounding communities.

**CONSTRAINT:** Being more democratic in its Planning and not limiting its decision making to the Tribal Council may result in increased regulation due to combining efforts. For instance, if the PPN and Mendocino County enter into a joint land use ordinance, both governments will need to comply with NEPA and with CEQA, both of which have public notice and participation procedures. (See, Data, page 2, and page 47, et seq.)

On the other hand, increased participation will tend to implement the PPN mission and vision statement.



*Food and Herbs are grown in and outside of the greenhouse. The greenhouse helps meet the tribes goal of sustainability.*

**Issue #2: A number of PPN members who live outside the Rancheria wish to live on PPN lands.(Pinoleville Pomo Nation Master Plan Research Data, pg 13)**

OPPORTUNITY 2A: Build additional housing to meet demand.

CONSTRAINT: Current income levels for tribal members indicate housing needs to be subsidized. Housing is discussed in more dept in the Housing element's needs analysis and the Housing Issues Opportunities and Constraints.

OPPORTUNITY 2B: Take advantage of Indian Community Development Grants  
<http://www.hud.gov/offices/pih/ih/cd/>

OPPORTUNITY 2C: Building infrastructure to meet housing demands and increased economic sustainability would make the Rancheria more attractive to return to. Meeting this demand would have the benefit of additional human resources, which may open other funding opportunities. For instance, many Indian communities do not have the staffing to complete applications as sovereign nations for President Obama's stimulus funds.

CONSTRAINT: There is not enough funding to build housing to meet demand without grants or unless/until the casino generates sufficient income.

**Issue #3: The Rancheria's population has a low median per capita income of \$6581. (Pinoleville Pomo Nation Master Plan Research Data, pg 17)**

OPPORTUNITY 3A: Further development of the community garden as an organic garden can be used to establish contracts to supply local restaurants, farmers' markets, and the Ukiah Natural Food Coop which potentially could bring in additional income to the PPN.

CONSTRAINT 3A: 3 acres may not be enough land to grow the variety of crops to bring in a high level of return. Additional cropland needs to be developed on the Sozanni land and Pinoleville Heights. To achieve this opportunity, the PPN will need to negotiate land use changes in Mendocino and Lake County.

OPPORTUNITY 3B: The casino may help to bring in revenues and/or provide employment to provide enough income to preserve, sustain and develop a way of life consistent with the Pomo legacy of sustainability.

CONSTRAINT 3B: Neighbors and other residents of Mendocino County, including non-PPN natives, oppose the casino.  
(Please see Issue #7 for additional info on proposed casino.)

OPPORTUNITY 3C: Further development of basket making/manufacturing to sell.

CONSTRAINT 3B: Further water conservation efforts need to be implemented. The PPN also will need to investigate ownership of Ackerman Creek's percolating waters because, under the Winter Doctrine, the PPN's rights to water may supersede their non-Indian neighbors rights.

**Issue #4: 16% of the PPN population has a high school degree or higher. (Pinoleville Pomo Nation Master Plan Research Data, pg 17)**

OPPORTUNITY 4A: Many Native American children struggle in the school system to assert a positive cultural identity. Through use of the proposed organic garden growing their own foods and other resources to support themselves and to supply to their neighbors will build pride and a sense of purpose. Learning specific horticultural skills will create job and recreation opportunities that can sustain that positive self-concept. As an after-school activity, horticulture also nurtures positive social relations. (<http://www.gardensproject.org/thegardens/ukiah/pinolevillepomo/pinolevillepomo.php>).

OPPORTUNITY 4B: Take advantage of educational grants for Native Americans; The PPN should set aside funds specifically for their members who want to pursue college. ([http://www.educationmoney.com/native\\_americans.html](http://www.educationmoney.com/native_americans.html))

PPN adults and elders should also be encouraged to continue education, mid-life careers, and outreach travel throughout the world.

CONSTRAINT 4B: Individual members may need assistance completing forms.

OPPORTUNITY 4C: Creating on-Reservation grammar school and middle school classes.

CONSTRAINT: Funding, resources and the convincing of the members of the importance and need of their participation. The PPN will need additional buildings/rooms for the added school, and these buildings may take up land that could otherwise be used for residences, spiritual, commercial or civic purposes.

OPPORTUNITY 4D: Encourage PPN members of all ages to advance their vision of sustainability through outreach to native people throughout the world, including collaboration with university American Indian programs, subsidies to scholarship in native economic and land use planning, and discussions with the world's native peoples.

CONSTRAINT: The constraints are the other side of the coin: travel and exposure to other people may both enrich tribal members but may reduce the strength of community ties.

OPPORTUNITY: The PPN should develop tutoring that helps students stay in school, and it should retain advocates for tribal youth, in both education matters and in the juvenile justice system.

**Issue #6: The community wishes to conserve its heritage and to build on it.**

OPPORTUNITY 6A: Install an Indian Law library and create a digital library of Indian materials, including this master plan, that may be used by American Indians and by other native people throughout the world.

OPPORTUNITY 6B: Contribute to the Sunhouse in Ukiah.

(<http://www.gracehudsonmuseum.org/>) Invest in student education in film making and animation to help increase consciousness about native life and harmony with nature and with each other, that may be shown at the Sunhouse and that may be available on-line.

OPPORTUNITY 6C: Fund PPN members to become involved in the American Planning Association's Indigenous Planning conferences to exchange information with other native peoples.



*An empty lot and potential site for the annual big time as well as a prime lot for future commercial development because of its proximity to the highway.*

**Issue #7: The PPN needs to obtain resources to implements its vision and its mission.**

OPPORTUNITY 7A: On March 23, 2009, the PPN entered into a gaming compact with Governor Schwarzenegger to establish a casino, most likely on the old Ken Fowler Motors property, which is zoned Commercial and is on a highway that leads into Ukiah.

(Ukiah Daily Journal [http://www.ukiahdailyjournal.com/ci\\_11982958](http://www.ukiahdailyjournal.com/ci_11982958))

CONSTRAINTS: There is local opposition to the noise and traffic associated with casinos. This opposition may be mediated through outstanding design, native plants surrounding the parking lot and buffering the public from any nuisances on the casino property, shuttles, and PPN involvement in the community through outreach, education and collaboration on sustainable projects.

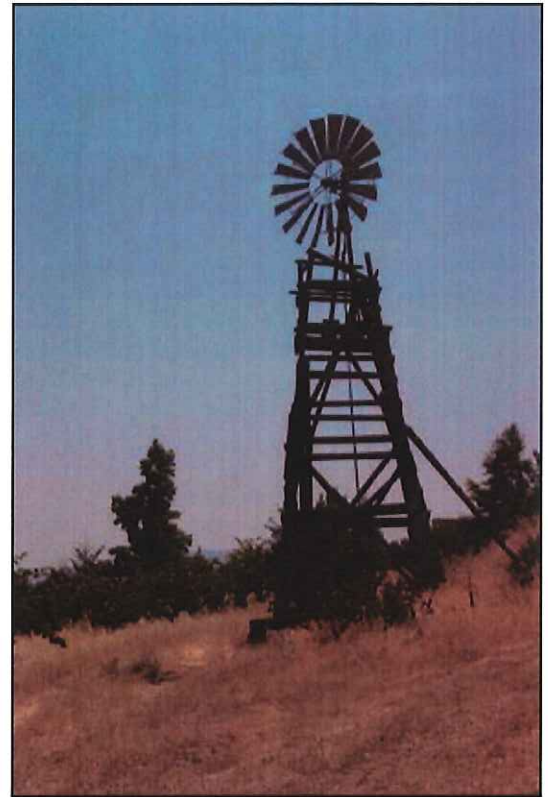
# INFRASTRUCTURE ELEMENT: ISSUES, OPPORTUNITIES, AND CONSTRAINTS

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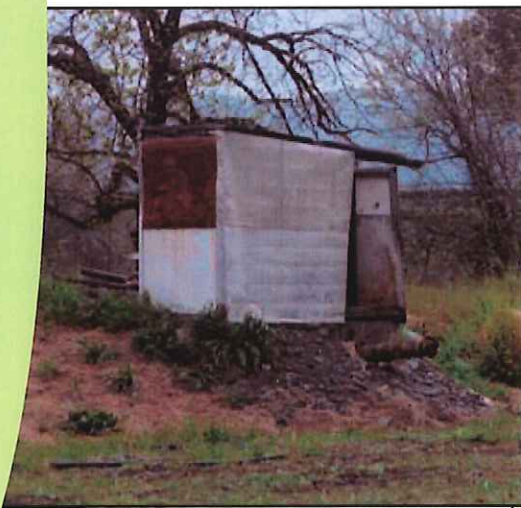
**Issue: Water sources are neither identified nor available (due to lack of wells and the Millview Water District moratorium), and are needed in order to adequately serve the expansion of housing and other development on the Rancheria.**

## OPPORTUNITIES:

- The Sozanni property may contain a local water source, but with unknown capacity.
- The City of Ukiah is not affected by the local state moratorium. Should the City annex the property it would have water hookups.
- The Rancheria has two separate wells, one with an active low capacity pump (5 gallons/min) and an inactive high capacity pump (volume unknown)
- A storage tank on the low capacity pump could increase its usefulness as a water source.
- The Winters Doctrine could grant precedence of water rights to the PPN.
- Stormwater/rainwater catchment systems could be implemented to provide an alternative water source.



*A non-potable well on the Sozanni Property, additional wells will need to be developed on the property for residential use.*



*The potential developable water source on the Pinoleville Rancheria.*

## CONSTRAINTS:

- The Millview Water District, which currently serves the Pinoleville Rancheria and the Sozanni property, has been under a state imposed moratorium on new water hookups since 2001.
- The Probate land has the same water constraintson new development as the Rancheria.
- Erratic hydrology; patterns have high peaks (500-1000gal/min) and low troughs.
- The only active well was sabotaged and is currently contaminated.
- New wells require funding.
- A water storage tank would be necessary for the efficient use of the low-volume well.
- It is unclear if Sozanni property has water. Studies have been undertaken, but until a pump is built it is unknown what the capacity will be.

**Issue: There is significant open space throughout the reservation, and on the Sozonni land, and this space needs to have a comprehensive program that ensures its protection. There are impacts to the preservation of open space including surrounding land uses and the need for restoration, as the Ackerman creek vegetated buffer no longer contains native plants.**

#### OPPORTUNITIES

- Plentiful political will to restore the community.
- Native plant nurseries available.
- The area generally has some of the highest air quality in the state.
- A vegetated buffer program could be implemented surrounding Ackerman Creek to preserve habitat for native plants.

#### CONSTRAINTS

- Dominance of hardy invasive exotic plant species.
- A native planting scheme would require the planting of a large amount of vegetation, however local nurseries have limited supplies and the PPN has a limited budget for such planting.
- The PPN does not control the full length of Ackerman creek, and involvement with other agencies (county and state), would be needed to fully rehabilitate it.

**Issue: Waste management is a major concern for the Rancheria, which has been affected by illegal dumping, and programs for recycling and expanded waste collection should be implemented.**

#### OPPORTUNITIES

- The California Integrated Waste Management Board's Farm and Ranch program allocated \$81,000 in funding to clean up three sites on the Pinoleville Rancheria in late 2007.
- The Rancheria's small size (99 acres) and small population should make cooperative waste management feasible.
- Waste recycling may yield new construction materials as it has in the past.

#### CONSTRAINTS

- Passive security (ex. Vegetated barriers, signs, cameras) must be implemented to prevent future dumping.
- Active security (ex. guards) has a high cost, and potential of violent confrontations.

**Issue: The management of stormwater is a critical infrastructure issue because surrounding land use increases the likelihood of contaminated storm runoff (auto-dismantling yard), and the nature of the hydrography of the area with significant volumes of water flowing through Ackerman Creek during the rainy season.**

#### OPPORTUNITIES

- The Reservation is in the process of regaining its right to develop the public right of way along the roads in the Pinoleville reservation where any stormwater mitigation would take place.
- The reservation is a high EPA grant priority (aprox. No. 5) allowing funding for stormwater mitigation projects.
- Stormwater treatment can be conducted on-site in a sustainable way by way of constructed wetland which uses biofiltration; this also places priority on the development of a riparian buffer zone, which will function similarly, along the length of Ackerman Creek.

## CONSTRAINTS

- 24-28" culvert dumps additional stormwater from Orr Springs road into the reservation.
- Additional political will is needed to create action.
- The PPN does not control the stormwater culverts.
- The implementation of a constructed wetland will be expensive.

**Issue: Current development on the Rancharia is served by septic systems, which causes issues of maintenance and proximity to the water table in an area using wells for water supplies. Additional development will place a greater demand on sewage treatment facilities, especially if that development cannot be connected to fully improved sewer infrastructure.**

## OPPORTUNITIES

- Composting toilets provide soil for gardens and remove septic contamination risk.
- Sozzoni property has sewer hookup access from the county. The BIA can make the final connections.
- Gray water treatment could be implemented with the stormwater treatment in a constructed wetland.

## CONSTRAINTS

- There needs to be a managed system of sewage treatment, and the infrastructure construction and implementation of integrated sewage systems is difficult and expensive.
- Maintenance of existing septic systems will prove necessary in the long-term.

**Issue: Additional development will increase the demand for energy, and in keeping with the PPN mission, new energy sources will be fully independent and the future goal would be to secure fully sustainable sources.**

## OPPORTUNITIES

- The Yokayo Valley receives plentiful sunlight throughout the year making Solar Panels effective.
- Current energy needs being met by conventional power suppliers.

## CONSTRAINTS

- Sustainable energy sources often have high initial costs.
- It is unknown what further sustainable energy sources, beyond solar, are available to the Rancharia.



*Non-native species have taken over significant portions of Ackerman Creek especially the several varieties of bamboo which grow near the bank. These species have prevented native species once used by the tribe for activities like basketmaking from growing.*

# LAND USE ELEMENT: ISSUES, OPPORTUNITIES, AND CONSTRAINTS

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## LOCATION OF PPN LANDS:

1. **SOZONNI PARCEL:** The Sozzoni property is located at 801 Lovers Lane, Ukiah, Mendocino County, California and lies within the Ukiah USGS 7.5 minute Quadrangle. The Sozzoni property includes four parcels of approximately 105-acres AP #001-020-02, AP #156-130-05, AP #156-130-03, and AP #170-060-01, all zoned as Rangeland. Except for parcel AP#001-020-02, the site parcels are within the County of Mendocino jurisdiction. (Pinoleville Pomo Nation Master Plan Research Data).

According to Mendocino County's website (<http://www.co.mendocino.ca.us/cgi-bin/zone.pl?apn=001-020-02&remLen1=8>) the above mentioned parcels are currently zoned as follows:

2. **THE PINOLEVILLE RANCHERIA:** The Pinoleville Rancheria is located approximately 2,500 feet north of the project site. The site is accessed via Lover's Lane and Low Gap Road, both of which are county roads. The Pinoleville Rancheria is comprised of thirty two parcels totaling approximately 99 acres. Of the thirty two parcels, eleven are held in federal trust and twenty one are held in fee.

Although Mendocino County claims land use jurisdiction over the Rancheria, the Pinoleville Pomo Nation is sovereign, and it can create its own land use ordinances.

The problem with the PPN's jurisdiction over land use issues, as set out in the PPN Constitutional analysis, in the URBS 490 data from Fall 2008 ("Fall Data" in this analysis) is that the Rancheria is a checkerboard of Indian and non-Indian owners (in fee or owners of allotments). The PPN will be unable to enforce its land use ordinances against non-Indians.

According to Mendocino County Zoning, the Pinoleville Rancheria is zoned as follows:

All land North of Pinoleville Drive between Redwood Highway on the East and Pinoleville Dr. on the West is zoned P-I (Pinoleville Industrial). The piece of land just south of this parcel on the South side of Pinoleville Drive is considered to be Non-Pinoleville Rancheria. The piece of land just East of Redwood Highway North of Orr Springs Road is C-C (Commercial). The piece of land just West of Pinoleville Drive is mostly zoned RR5 (Residential) with the exception of one section which is zoned I (Inland).

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On March 23, 2009, the Pinoleville Pomo

Nation entered into a gaming pact with the State of California for a small casino. According to a message from the PPN's tribal chairwoman, dated March 25, 2009, addressed to Phyl van Ammers, the legislature has to ratify the compact, and the PPN has to put the parcel into Federal Trust status. It is likely the parcel they will choose is the old Ken Fowler Motors dealership land, which is both next to the freeway and which is original Rancheria land.

### Parcel Zoning:

**AP #001-020-02: RL160 - Rangeland**  
**AP #156-130-05: RL160 - Rangeland**  
**AP #170-060-01: AG40 - Agricultural**  
**AP #156-130-03: RL160 - Rangeland**  
**AP#001-020-02: RL160 - Rangeland**



2. PROBATE TRUST LAND: The probate trust land is located immediately west of the Pinoleville Rancheria. This land is a 59-acre parcel zoned for residential/agricultural use with a minimum parcel size of five acres. Five families have developed homes on the property and two cemeteries occupying a total of 10 acres have been maintained there for years. The residual parcel is the 28.5-acre parcel remaining after carving out sites for existing residences and cemetery plots.

Appendix B shows the California Court of Appeals decision in the TRUSTEESHIP OF THE PINOLEVILLE INDIANS. Leona Williams, Plaintiff and Respondent v. Priscilla Hunter et al., Defendants and Appellants, which summarizes the history of the probate trust land. The Mendocino County Superior Court decision, which is the lower court decision, is that the PPN may be able to purchase the probate trust land at 10 % below market rate, and the squatters may also be able to purchase their portions at 10% below market rate.

4. POSSIBLE LAND IN THE MOUNTAINS THAT BELONGS TO PPN: The land use team has no information on possible land belonging to the PPN that may be in the mountains and recommends a title search through a title company.

5. LAKE COUNTY HOUSE SITES: This analysis briefly discusses the Lake County house sites, which are located just outside the City of Lakeport. The name of this area is "Pinoleville Heights."

#### LAND USE ISSUES:

**Issue: Proposed casino, possibly located near the freeway, on Rancheria land, engages some community resentment. Many Ukiah residents unsuccessfully opposed the City's grant of a conditional use permit that allowed a Wal Mart at the edge of the city (1992), and many opposed the establishment of a Costco in Ukiah that would have reduced the opportunity for higher paying jobs on industrial land, and which would have led to the demise of small local businesses (as WalMart did). <http://cityofukiah.tribe.net/thread/86d60081-5ee8-40e4-b605-a672b354f44b>**

**OPPORTUNITY:** The PPN income is low. (See, Community Development element figures in this master plan.) A casino will enable the PPN to better achieve its mission and to implement its vision. The casino will be built that has not been used for years and which has not been attractive to tenants. The PPN's opportunity is to ensure outstanding architecture and design, including solar energy, tree planting in the parking lot and an emerald necklace of native plants to reduce water use, increase shade, and to make the casino into an example of sustainable design. The PPN should allow union jobs with benefits.

**CONSTRAINTS:** The casino will offer some high paying jobs, but it will not provide industrial or manufacturing jobs that the area needs. The problem is: the PPN does not have the ability to produce those industrial or manufacturing jobs on any land owned by it.

**Issue: The PPN wishes to build cluster housing on the Sozanni land rather than one house for every 160 acres (current zoning), which would be an extremely inefficient use of the land.**

**OPPORTUNITY:** Mendocino County Planning Department may be amenable to working with the PPN to create cluster zoning for the Sozanni land, inasmuch as cluster zoning will reduce environmental degradation and infrastructure costs. An example of a cluster zoning ordinance may be found in the appendices for the fall 2008 fieldwork class.

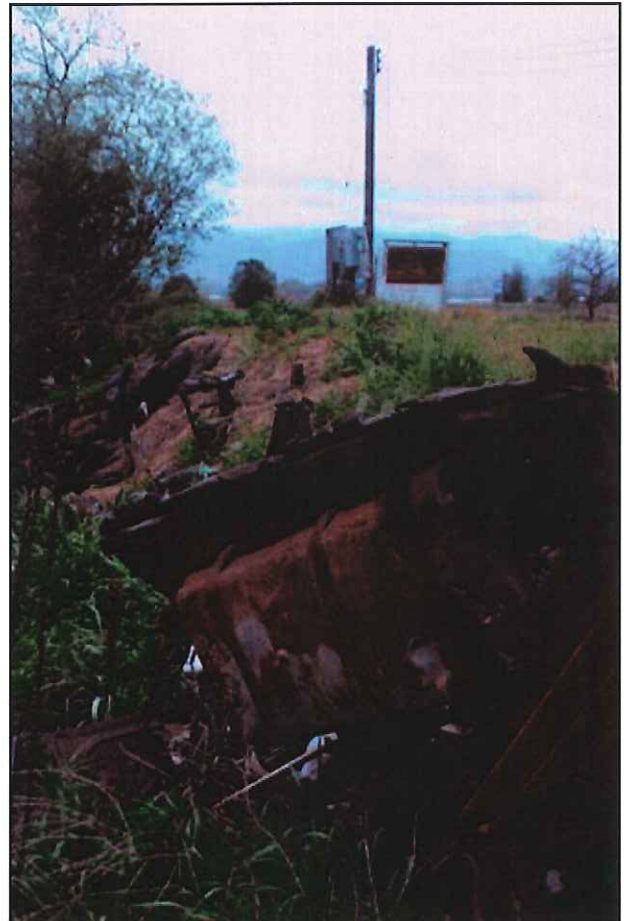
**CONSTRAINTS:** The Constitution establishes PPN "police power" over the private activity on land now presently called Pinoleville and the Constitution also extends that jurisdiction over newly acquired lands, which includes the Sozzoni parcel and may later include the probate trust land. In 2005 the PPN ratified the Constitution, giving the PPN the power to regulate land within Pinoleville reservation, no matter who owns the land and the BIA approved the Constitution. Non-Indians who own property within the reservation, however, may challenge that authority if Pinoleville adopts land use ordinances and attempts to enforce them. The exercise of the PPN's power predates the BIA, and is not a power delegated to it by the federal government, but is power that derives from the nation's sovereignty. This power, however, has been limited by the Supreme Court interpretations of it. (Fall 2008 Data, "Constitutional Analysis," pp. 47-51)

The reality is that the County of Mendocino has jurisdiction over the land uses in the Sozzoni land and the probate land.

**Issue: Ackerman Creek is contaminated, and the riparian vegetation should be restored to native vegetation. The auto dismantling business is an inconsistent use.**

**OPPORTUNITY:** On December 18, 2007 the Pinoleville Pomo Nation, Pinoleville Pomo Nation Environmental Association, and Leona Williams, a member of the PPN took the Ukiah Auto Dismantlers business to court, case No. C 07-02648 SI. The business threatens the creek due to its unpaved grounds by which business is being conducted. The PPN alleges that auto parts and other objects associated with dismantling operations "sit directly on the dirt and discharge pollutants into the ground when it rains and at other times." The pollutants that enter the creek due to the dismantling business are: oil, gasoline, anti-freeze, brake fluid, and other toxic substances associated with the auto dismantling business.

A buffer would be a great solution on the restoration process of Ackerman Creek. Buffers "are small areas or strips of land in native vegetation, designed to slow and filter storm water runoff and stabilize areas near streams." According to this site, "buffers include: contour buffer strips, field borders, filter strips, windbreaks and wetlands." The advantage of having a buffer is that it can reduce up to 80% of sediment, reduce 40% (on average) of phosphorous, remove a significant amount of nitrate; store it in plant material, remove up to 60% of pathogens, provide a source of food, as well as provide nesting cover and shelter for wildlife. (e.g., see for reference: [centralillinoiswatersheds.org](http://centralillinoiswatersheds.org)).



*Disabled car frames were drained of their oil and fluids and placed along the Ackerman Creek levy to hold it against erosion.*

**CONSTRAINT:** The PPN may not have the funding to purchase non-PPN owned land at this time. It may enact a riparian buffer ordinance, however, in advance of such purchase.

**Issue: There is not enough land on the Rancheria to house 80 more people, given current land ownership.**

**OPPORTUNITY:** According to the Mendocino County MCOG website, there are only 12 residences on the Rancheria. Figures, however, on the number of people who live on the Rancheria vary from 132 (U.S. Census) to 25 (Message from David Edmunds, cited in the housing element research in this master plan.) The PPN could purchase land from non-Indians and create a non-profit business, which is separate from the tribal council, to own the land. PPN membership could purchase stock certificates in the enterprise. The non-profit would assure the original residents that they would have either new housing on the Rancheria, new housing on the Sozonni parcel, or would remain in their present houses. The change in ownership would allow the Rancheria greater flexibility in eventually creating more houses on the Rancheria.

**CONSTRAINT:** Money and the acquiescence of the membership and of the non-Indians living on the Rancheria.

**Issue: Brownfields remediation may be necessary in the Ackerman Creek floodplain because the auto dismantler stored products that may lead to ill health of fish, animal, plant and human life.**

**OPPORTUNITY:** Brownfields remediation money may be available. Also, the EPA provides training in Brownfields remediation, which would be an opportunity for some PPN members to find fulfilling work.

**Issue: Inconsistent industrial land uses along Orr Creek Road adversely affect water and air quality, and raise noise levels.**

**OPPORTUNITY:** Mendocino County planners may work with the PPN to create a joint zoning ordinance which changes the industrial uses to commercial uses, in order to avoid "takings" claims. The remaining uses would be nonconforming uses, which mean the owners of those industries would not be able to rebuild.

**Issue: Zoning for the Pinoleville Heights subdivision in Lake County allows for single family homes separated from each other, which is not an environmentally sustainable design, is inconsistent with Pomo traditions, and which will cost more in infrastructure dollars than cluster zoning.**

**OPPORTUNITY:** The PPN should explore with the Lake County Planning Department the possibility of re-designing Pinoleville Heights as cluster housing.



*Industrial use along Orr Creek Rd. These uses pose a hazard to the water and soil quality of the Pinoleville Rancheria downslope from them.*

# HOUSING ELEMENT: ISSUES, OPPORTUNITIES, CONSTRAINTS

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This analysis examines housing issues in the Pinoleville Pomo Nation ("PPN"). Its authors intend that this analysis be consistent with the PPN's Vision and also with its Mission Statement.

Subject sites: This analysis discusses housing on the Rancheria, the Sozonni land, Pinoleville Heights, and the probate trust land. The land use element needs and also the land use element issues, opportunities and constraints analyses describe these sites.

**Issue: There is dilapidated, unkempt non-Indian housing on the PPN Rancheria. These homes may not be connected to the sewer system. Also, there is a former cement plant that blights the rancheria.**

OPPORTUNITY: The County claims jurisdiction over the Rancheria's land uses. The PPN should work with the County to ensure that the residences owned by non-Indians are kept free of weeds and debris, as these homes may constitute a public nuisance. Also, Mendocino County may use its power of eminent domain and may condemn those properties if necessary for the health, safety and welfare of the community. Similarly, the cement plant blights the community, and the County should act to prohibit this public nuisance.

If the County is not helpful, and if these non-Indians who live on the Rancheria continue to refuse to maintain their property, the PPN should contemplate bringing a private nuisance action in Mendocino County Superior Court.

Also, the PPN should offer to purchase the non-Indian properties and the cement plant in order to re-configure housing on the Rancheria to provide 40 more homes and to eventually ensure all properties are connected to the sewer system.

CONSTRAINT: The PPN mission statement emphasizes co-operative alliances. Nuisance litigation may result in bad feeling in the community. The non-Indian homeowners and the cement plant owner may refuse to sell their properties to the PPN. The County may not have resources to litigate public nuisance cases.

**Issue: Indian-owned housing should be connected to the sewer system to prevent contamination of the flood plain and the water table. Some of the Indian-owned housing on the Rancheria should either be rehabilitated or replaced with new housing.**

The ultimate design goal for the Rancheria is to re-configure housing to intensify development to allow for more residences, to provide for open space for Big Time and other civic and spiritual events and for recreation, and to preserve Ackerman Creek.

OPPORTUNITY#1: The PPN should work with the NCIHA to obtain funds for sewer hook-ups and repair of dilapidated housing. <http://www.nciha.org/>

**OPPORTUNITY#2:** The PPN should discuss with those of the tribal members who live on the reservation or who own property on the reservation (whether or not they live on it), about the creation of a housing co-operative or housing corporation, which they would own and manage through share ownership and membership on the board, so that housing development can become more dense and allow more families to live on the reservation. This cooperative or corporation could also own the homes on the Sozonni land and in Pinoleville Heights, rather than to have individual home ownership.

That form of ownership – collective, with collective control – will prevent sales of property to non-PPN members on PPN lands, and is consistent with Pomo history of communality.

**CONSTRAINT #2:** This will probably have to be a long-range goal, especially as it may involve the temporary re-location of some residents to new houses on the Sozonni land while older housing on the Rancheria is torn down and replaced with new housing.

**Issue: Care4Pomo, a Berkeley undergraduate program, proposed housing designs for the PPN.**

**OPPORTUNITY:** More practical than the Berkeley proposal may be California Yurts, located very near Pinoleville, as a design form. California Yurts has been in business a long time designing sustainable homes, and David Raitt has experience designing a village for the Hopland Rancheria.

California Yurt designs allow for duplex and triplex forms that may be used to house elders with their families, or which may be used to house one family with adult children. (Message from David Raitt is an appendix to the Housing Needs analysis for this master plan.)

**Issue: Industrial uses in the P-I zone are inconsistent uses with the religious, cultural and residential uses on the Rancheria.**

**OPPORTUNITY:** The PPN may work with the County on a joint land use ordinance, which will be enforced with respect to non-Indians by the County, and with respect to Indians, by the PPN. This land use ordinance will provide, to a greater degree than the present Mendocino County ordinance does, that the industrial uses will become non-conforming uses.

Alternatively, the PPN could purchase those industrial uses and remove them and use the land, after remediation, for residences.

**Issue: The Sozonni Ranch, Pinoleville Heights, and possibly the probate land, should also be connected to a sewer system to avoid water contamination issues.**

**OPPORTUNITY:** The PPN should work with Northern Circle on obtaining funding for infrastructure for these areas.

**Issue: The Sozonni Ranch, Pinoleville Heights, and the probate land are not within the PPN's land use jurisdiction. These areas are not zoned for cluster housing.**

**OPPORTUNITY:** The PPN should work with Mendocino and Lake Counties to have those areas rezoned as cluster housing areas.

### 3. GOALS, OBJECTIVES AND POLICIES

GOALS, OBJECTIVES, AND POLICIES PROVIDE SPECIFIC MEANS BY WHICH THE PPN CAN ADDRESS SOME OF THE PROBLEMS IDENTIFIED IN THE NEEDS ASSESSMENT. THE GOALS STATED IN THIS REPORT HAVE BEEN DERIVED FROM THE PPN'S OWN VISION AND MISSION STATEMENTS.



*(Top) Concept sketch of cluster housing near Ackerman Creek (Bottom) Aerial view of the Pinoleville Rancheria courtesy of Google Images.*

# COMMUNITY DEVELOPMENT ELEMENT: GOALS, OBJECTIVES AND POLICIES

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## **GOAL 1 The Pinoleville Pomo Nation (“the Nation”) shall promote independence and self-sufficiency through economic development.**

OBJECTIVE 1A THE NATION SHALL CREATE JOBS IN BUSINESSES OWNED BY ITS PEOPLE.

Policy 1A(1) The Nation shall lease, with an option to buy, the Hopland Inn and run it as an inn and restaurant.

Policy 1A(2) The Nation shall build a small casino, following sustainable building practices, and pursuant to its gaming contract with the State of California.

Policy 1A(3) The Nation shall continue to maintain and also will expand its organic plant nursery, presently located in the greenhouse, to sell organic vegetables and herbs to local restaurants, including the restaurant in the Hopland Inn.

Policy 1A(4) The Nation shall purchase all rights currently not belonging to it in the riparian buffer on both sides of Ackerman Creek in order to replant sedge, willow and other basket materials in that buffer.

Policy 1A(5) The Nation shall provide basket materials for all local Indians, not only the Nation’s people, to gather in the riparian buffer.

Policy 1A(6) The Nation shall use land on the Sozonni parcel that is not available for housing for agriculture and for a solar farm to generate electricity.

Policy 1A(7) The Nation shall explore for water on the Sozonni parcel for both domestic and agricultural purposes.

Policy 1A(8) The Nation shall obtain small business loans to establish a theater, a market with an ATM, a green technology store, a bookstore, and a dry goods store on land that is presently occupied by industrial uses.

Policy 1A(9). The Nation shall create an economic enterprise corporation to handle the management of its businesses, to be staffed by PPN members.

## **GOAL 2. The Nation’s self-governance shall be carried out through leadership focused on cultural and traditional values, taking actions needed to bring our people into balance.**

OBJECTIVE 2A. THE TRIBAL LEADERSHIP SHALL ENSURE TRANSPARENCY IN ITS LAND USE DECISIONS.

Policy 2A(1). The Nation shall hire a land use designer to organize and implement a survey of preferences, a Charette, and other participatory design methods.

Policy 2A(2) The Nation shall retain a land use lawyer and a land use planner to provide input into its TEIR for the casino.

### **GOAL 3. The Nation shall encourage understanding with other communities.**

#### **OBJECTIVE 3A. THE NATION SHALL CONTINUE ITS ANNUAL BIG TIME.**

Policy 3A(1) The Nation shall invite members of the public to Big Time.

Policy 3A(2) The Nation will provide a shaded and permanent circle near road access and will provide shuttle service from Ukiah for Big Time.

Policy 3A(3) The Nation will finance its youth's dances, music, recordings, regalia, and opportunities to dance in other communities.

Policy 3A(4) The nation will build a swimming pool to provide recreation for its youth and to allow visitors to Big Time to use.

#### **OBJECTIVE 3B THE NATION SHALL ASSIST IN ENSURING ITS YOUTH ATTEND COLLEGE, URBAN PLANNING GRADUATE SCHOOL, MEDICAL SCHOOL, AND LAW SCHOOL SO THAT ITS YOUTH MAY LEARN FROM OTHER CULTURES AND ALSO SO THAT THE NATION'S YOUTH MAY TEACH THE YOUNG AND OLD OF OTHER CULTURES.**

Policy 3B(1) The Nation shall retain an attorney to represent its youth in juvenile matters, child custody disputes, special education IEP hearings, and school suspension matters to ensure the best public education possible for them.

Policy 3B(2) The Nation shall continue to run its Headstart program on the Rancheria.

Policy 3B(3) The Nation shall continue to encourage its youth to grow organic food in its horticultural program.

Policy 3B(4) The Nation shall explore the possibility of building a school for Pomo children of all tribes on the Rancheria through the state's charter school programs.

Policy 3B(5) The Nation shall assist in obtaining grants for its youth to travel both within and outside of the United States. PPN youth shall be its ambassadors to the world.

#### **OBJECTIVE 3C THE NATION SHALL ENCOURAGE UNDERSTANDING OF ITS CULTURE.**

Policy 3C(1) The Nation shall continue, and shall expand, its library of books, DVDs, videos, and computer programs that enhances understanding of sustainability, permaculture, green technology, Pomo history, baskets, self-governance, and Indian law, so that its youth, and the youth of other communities may learn and pass on the knowledge of the Nation's ancestors.

Policy 3C(2) The Nation shall contribute to create a class at a local college that focuses on Pomo history and culture.



# INFRASTRUCTURE ELEMENT: GOALS, OBJECTIVES AND POLICIES

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## **GOAL 1: Rehabilitation of Ackerman Creek**

**OBJECTIVE 1A: CREATE A NATIVE VEGETATION BUFFER TO COVER 95% OF ACKERMAN CREEK WITHIN 10 YEARS.**

Policy 1A(1): The PPN shall not approve the construction of high-impact features within 300 feet of the creek's bank. High-impact features include vehicle roads and structures larger than 100 square feet.

Policy 1A(2): The PPN shall establish a permit process for the removal of any native plant growth within 300 feet of Ackerman creek's bank wherein the applicant must show an overriding need to remove native vegetation to mitigate a hazard.

Policy 1A(3): The PPN shall plant trees increasing the total coverage within the 300ft buffer by 5% per year. Planting at least 30 new trees per year.

Policy 1A(4): The PPN shall not permit the dumping or storage of waste within 500ft of Ackerman Creek.

**OBJECTIVE 1B: NON-NATIVE VEGETATION SHALL BE REPLACED WITH NATIVE VEGETATION**

Policy 1B(1): The PPN shall undertake a survey and map by type all vegetation within 300 feet of Ackerman Creek

Policy 1B(2): The PPN shall remove 15% of the non-native vegetation per year until 90% or more of the total vegetation within 300 feet of the banks are native.

Policy 1B(3): At least 400 square feet adjacent to the creek shall be reserved by the PPN for Sedge, Willow, and other plants used in basket making.

## **GOAL 2: Sustainable infrastructure for 80 new residents.**

**OBJECTIVE 2A: REDUCTION IN WATER CONSUMPTION BY 40% WITHIN 10 YEARS.**

Policy 2A(1): The PPN shall provide a 50% reimbursement for the purchase of low-flow toilets in housing constructed before 2009.

Policy 2A(2): The PPN shall provide 1 water aerator per household to be affixed to faucets.

Policy 2A(3): The PPN shall not permit the planting of non-drought tolerant grasses within the reservation.

Policy 2A(4): The PPN shall require the replacement of all "non low-flow" toilets within 2 years.

**OBJECTIVE 2B: ELIMINATION OF THE PPN'S DEPENDENCE ON THE MILLVIEW WATER DISTRICT.**

Policy 2B(1): The PPN shall create well sites capable of cumulatively drawing 100 gallons per household per day of water.

Policy 2B(2): The PPN shall store 1,000 gallons of water on the reservation at any given time per resident.

Policy 2B(3): The PPN shall treat this water according to California water quality standards.

**OBJECTIVE 2C: ELIMINATION OF SEPTIC SYSTEMS FROM THE RESERVATION WITHIN 15 YEARS.**

Policy 2C(1): The PPN shall not approve any new construction incorporating flush toilets or septic systems.

Policy 2C(2): The PPN shall subsidize 50% of the purchase of one composting toilet per household.

Policy 2C(3): The PPN require the removal of septic tanks from all current residences within 5 years.

Policy 2C(4): In 5 years the PPN shall charge residents \$500 per toilet attached to a septic tank.

Policy 2C(5): After 10 years the PPN shall use fees collected to pay for the removal of septic tanks.

**GOAL 3: Improved security within the reservation.**

**OBJECTIVE 3A: CREATION OF A COMPREHENSIVE LANDSCAPING PROGRAM TO BE IMPLEMENTED ACROSS THE RANCHERIA.**

Policy 3A(1): The PPN shall provide funding and/or subsidy for plants and landscaping materials, and require designated plants (shrubs, trees, etc.) to be planted along parcel property lines. This will serve as an alternative to fencing.

Policy 3A(2): The PPN shall implement a similar landscaping program along public access streets, to discourage illegal dumping beside roads.

Policy 3A(3): The PPN shall enact and enforce a landscaping ordinance including the above policies; ordinance shall be drafted by the end of 2010 .

**OBJECTIVE 3B: PROVIDE SECURITY FOR ESSENTIAL INFRASTRUCTURE.**

Policy 3B(1): The PPN shall not develop new wells 100 ft or more away from occupied housing.

Policy 3B(2): Any new wells shall have a 10' fence and locked gate placed around it, only accessible by designated staff.

Policy 3B(3): An organized neighborhood watch program shall be enacted that will include weekly and/or monthly meetings, to be led by volunteers.

**GOAL 4: Reduce the impact of peak stormwater flow on the Rancheria.**

**OBJECTIVE 4A: INCORPORATION OF A CONSTRUCTED WETLAND WITH ACKERMAN CREEK AND STORMWATER FLOW CHANNELS.**

Policy 4A(1): The PPN shall restrict any new development immediately adjacent to Ackerman Creek in order to preserve a buffer zone immediately.

Policy 4A(2): Planted stormwater collection swales shall be constructed along all roads on the Rancheria by the end of 2012.

Policy 4A(3): Biofiltering plants will be required in all newly constructed stormwater channels.

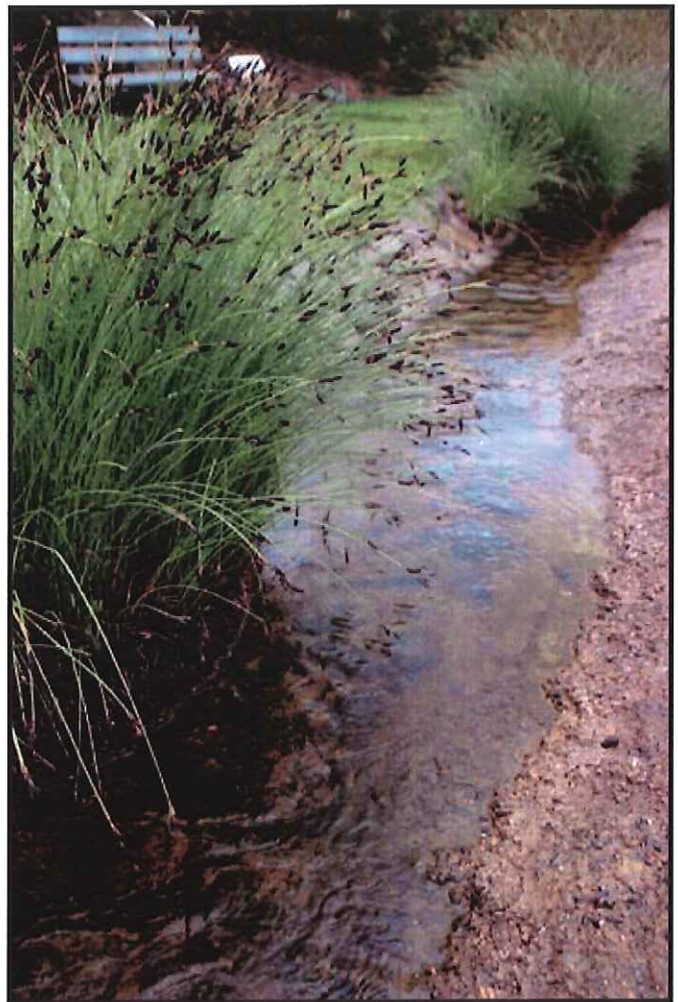
**OBJECTIVE 4B: RESTORATION OF ACKERMAN CREEK.**

Policy 4B(1): All existing trash, debris, and other misplaced items shall be removed from the levees surrounding Ackerman Creek by the end of 2011.

Policy 4B(2): The PPN shall adopt the position that consider cars used for levee support waste, and have them removed with the illegally dumped waste.



*Concept sketch of constructed wetland with biofiltering plants, and avian island to promote biodiversity.*



*Stormwater swale in place at the Solar Living Center in Hopland, CA utilizing sedge as a biofilter.*

# LAND USE ELEMENT:

## GOALS, OBJECTIVES AND POLICIES

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**GOAL 1. Enhance cultural and traditional values by developing and maintaining a sufficiently diverse open space system that includes natural function/wild-life habitat within all PPN lands, and which focuses on restoration of Ackerman Creek and on the riparian corridor along Ackerman Creek, as well as restoration of woodlands, replacement of exotic species of plants with native plants, the re-creation of forested footpaths through PPN lands.**

OBJECTIVE 1. A. DEVELOP A JOINT ZONING ORDINANCE WITH MENDOCINO COUNTY TO DOWN-ZONE INDUSTRIAL USES TO COMMERCIAL USES WITHIN TWO YEARS.

Policy 1.A.(1) The County and the PPN shall enact nonconforming uses language in their ordinance to prohibit expansion of the existing industrial uses and to prohibit their rebuilding or restoration.

Policy 1.A. (2) The County and the PPN shall enact as part of their ordinance that Commercial uses on the rancheria shall be limited to businesses -- such as a small grocery store, a small clothing and basic needs store, etc. -- that residents of the Rancheria and surrounding areas may use."

OBJECTIVE 1.B. THE PPN WILL SEEK THE REMOVAL OF ALL REMAINING DEBRIS ALONG THE RIVERBED OF ACKERMAN CREEK IN THE NEXT 5 YEARS.

Policy 1. B. (1) The PPN shall implement a "junked-car revetment" removal program. The removal of the junked-cars will not only improve the area aesthetically but will assist the channel flow and with flooding issues. The debris will be replaced with a bioengineered channel bank.

OBJECTIVE 1.C. THE PPN SHALL REPLACE EXOTIC PLANTS WITH NATIVE PLANTS AND TREES.

Policy 1.C.(1) The PPN shall create a subcommittee, which will follow tribal protocols, to purchase native plants, to hire landscape workers, to hire an environmental landscape architect to design a landscaping plan, and to supervise the work.

OBJECTIVE 1.D. THE PPN SHALL SET UP A NONPROFIT CORPORATION TO PURCHASE LAND ON THE RANCHERIA THAT IS OWNED BY NON-PPN RESIDENTS.

Policy 1.D.(1) The PPN shall request funding from the BIA to set up the nonprofit corporation within six months.

Policy 1.D.(2) The nonprofit corporation will set up a "Taxed-Credit Program" with the government allowing tribal members and/or approved non-tribal members to rent the homes. The "Taxed-Credit Program" will be set in place for a set number of years. Once this term expires, the nonprofit organization will have complete ownership of the land.

**GOAL 2. Preserve and enhance traditional Pomo life by creating compact rural villages designed to maximize affordable housing and which encourage walking and bicycling to local businesses.**

OBJECTIVE 2.A. THE PPN WILL CREATE AND ADOPT A LAND USE DESIGN FOR THE RANCHERIA THAT WILL ALLOCATE CLUSTERED HOUSING, WHICH WILL PROVIDE FOR A MORE INTENSE POPULATION, FOR CIVIL AND SPIRITUAL PURPOSES, AND FOR AGRICULTURE AND OTHER OPEN SPACE PURPOSES, AND WHICH PROVIDES FOR FOOTPATHS AND BICYCLE PATHS BETWEEN HOMES, COMMERCIAL AREAS AND CIVIC AND SPIRITUAL AREAS, THAT WILL BECOME PART OF A JOINT LAND USE ORDINANCE WITH MENDOCINO COUNTY.

Policy 1.A.(1) Rezone areas where planned housing will be constructed to "Cluster Residential Overlay Zone (CRO Zone)" to provide subdivisions that will encourage more aesthetic developments and layout techniques and preserve and conserve open space, historic landmarks and trails.

Policy 1.A.(2) The PPN shall retain an environmental landscape architect to design a plan that will allow clustered housing for 40 additional households to live on the Rancheria, and which will provide for civil and spiritual purposes, as well as for agriculture and other open space purposes.

OBJECTIVE 2.B. CREATE BICYCLE AND WALKING PATHS IN THE RANCHERIA, THE SOZONNI AND THE PROBATE TRUST LAND.

Policy 2.B.(1) The PPN shall retain an environmental landscape architect to design bicycle paths on the Rancheria, the Sozonni, and the probate trust land within one year.

Policy 2.B.(2) The PPN shall establish a subcommittee, which will follow tribal protocols, to retain the environmental landscape architect and to hire the personnel to establish bicycle paths.

OBJECTIVE 3.C CREATE HOUSING THAT IS AFFORDABLE TO LOW AND MODERATE-INCOME TRIBAL MEMBERS ON THE RANCHERIA.

Policy 3.C.(1) Seek funds from the U.S. Department of Housing and Urban Development and non-profit organizations in order to provide affordable housing for the residents of PPN.

**GOAL 3. Develop and maintain co-operative community alliances by ensuring fair and transparent land use decisions, including land use decisions related to a casino and land use decisions that affect agriculture.**

OBJECTIVE 3.A. WORK WITH MENDOCINO COUNTY TO PREPARE A TRIBAL EIR FOR THE PROPOSED CASINO AND PPN DEVELOPMENTS.

Policy 3.A.(1) The PPN shall retain design consultants and a land use law attorney who has experience in preparing and reviewing TEIRs to ensure all processes are fair and provide due process.

**OBJECTIVE 3.B. THE PPN SHALL ENSURE TRIBAL AND COMMUNITY TRANSPARENCY IN LAND USE DECISIONS.**

Policy 3.B.(1) Conduct a written survey of PPN residents as well as PPN members who are non-residents of their opinions on land use matters.

Policy 3.B. (1) The PPN shall retain consultants experienced in tribal community development to organize tribal community participation in land use matters. The consultant shall organize a charette for the tribal members and shall invite members of the Indian and non-Indian public to participate.

#### **GOAL 4. Reduce inconsistent land uses on the Rancheria.**

**OBJECTIVE 4.A. ADOPT A JOINT LAND USE ORDINANCE WITH THE COUNTY TO DOWN-SIZE INCONSISTENT INDUSTRIAL USES ON THE RANCHERIA.**

Policy 4.A.(1) Businesses endangering wild life as well as posing threats to the environment shall be eliminated.

**GOAL 5. Protect and enhance community health by minimizing and where possible eliminating the use of hazardous or toxic materials by residents, businesses and civic operations and pollutants entering the air soil and water.**

**OBJECTIVE 5.A. ELIMINATE THE AUTO DISMANTLER BUSINESS.**

Policy 5.A.(1) The PPN shall obtain funding to purchase the auto dismantler business land.

**OBJECTIVE 5.B. REDUCE HAZARDOUS STORMWATER RUNOFF FROM INDUSTRIAL BUSINESSES NEAR THE RANCHERIA.**

Policy 5.B.(1) All industrial locations must dispose of hazardous substances properly. This policy shall be enforced by the distributions of fines for businesses which fail to comply.

Policy 5.B.(2) The auto dismantler business shall pave all grounds pertaining to its operations.

**OBJECTIVE 5.C. ENCOURAGE PPN MEMBERS TO BECOME TRAINED IN BROWNFIELD REMEDIATION, PERMACULTURE METHODS ([HTTP://EN.WIKIPEDIA.ORG/WIKI/PERMACULTURE](http://en.wikipedia.org/wiki/Permaculture)) AND SOLAR INSTALLATION.**

Policy 5.C.(1) Classes and workshops shall be carried out to inform people on how to design settings which copy natural environmental settings.

**OBJECTIVE 5.D. DEVELOP SOLAR ENERGY SOURCES, INCLUDING A SOLAR FARM, WHERE FEASIBLE.**

Policy 5.D.(1) The demand for man-made energy sources shall be drastically reduced.

OBJECTIVE 5.H WORK WITH MENDOCINO COUNTY AND OTHER GOVERNMENTS TO CONSTRUCT PERMANENT TOILETS IN AND AROUND THE CASINO THAT CAN BE USED BY MEMBERS OF THE PUBLIC, INCLUDING TRAVELERS AND HOMELESS PEOPLE.

Policy 5.H.(1) Mendocino County along with local businesses shall fund the construction of restroom areas.

**GOAL 6. Protect and enhance community health and increase economic self-reliance by developing organic agriculture and use of, and if possible sale of, solar and wind energy.**

OBJECTIVE 6.A. EXPLORE THE POSSIBILITY OF BUILDING SOLAR AND WIND ENERGY FARMS ON PPN LANDS.

OBJECTIVE 6.B. IMPLEMENT A SUSTAINABLE PROGRAM THAT EDUCATES THE RESIDENTS OF PINOLEVILLE POMO NATION ON THE PRACTICAL SOLUTIONS IN LESSENING OVERALL CONSUMPTION SUCH AS REUSING WATER FOR NATIVE PLANTS AND FARMING AS WELL AS INSTALLING SOLAR PANELS FOR RENEWABLE ENERGY. OVERALL OBJECTIVE IS TO DECREASE TOTAL CONSUMPTION BY 20 PERCENT AND THE INCREASE OF 20 PERCENT IN THE USE OF RENEWABLE ENERGY OVER THE NEXT 10 YEARS.

OBJECTIVE 6.C. THE PPN WILL ALLOCATE LAND FOR THE DEVELOPMENT OF COMMUNITY GARDENS AND GREEN HOUSES TO GROW FRESH VEGETABLES AND FRUITS TO CONSUME AND SELL.

**GOAL 7. Ensure long-lasting community alliances by locating all PPN businesses, including the casino, along transportation corridors to reduce the consequences of noise and pollution caused by these businesses, and ensure that all PPN businesses use green building and energy and water efficient techniques, consistent with the Pomo people's heritage of sustainability.**

OBJECTIVE 7.A. BUILD EARTH BERMS AS BUFFERS FROM HIGHWAY NOISE. PLANT THESE BUFFERS WITH NATIVE PLANTS AND TREES.

Policy 7.A.(1) The PPN shall allocate the buffers from the revenue collected from federal grant money.

OBJECTIVE 7.B. CREATE AN ALLIANCE WITH THE CITY OF UKIAH TO DEVELOP A BUS SYSTEM IN WHICH THERE IS A ROUTE FROM DOWNTOWN UKIAH TO THE PINOLEVILLE BUSINESS DISTRICT TO PROVIDE AN ALTERNATIVE MODE OF TRANSPORTATION.

Policy 7.B.(1) The City of Ukiah shall comply with the PPN to promote a better eco-friendly mode of transportation.

OBJECTIVE 7.C. ADHERING TO THE PPN'S HERITAGE OF SUSTAINABILITY, BUILDINGS IN THE BUSINESS DISTRICT WILL BE LEED-CERTIFIED AND, IF APPLICABLE, WILL BE INSTALLED WITH SOLAR PANELS.

Policy 7.C.(1) The businesses shall receive at least 39 points in the LEED requirement to obtain the gold certification. This will demonstrate the determination there is to promote sustainability by the businesses. ([www.usbgc.org/leed/](http://www.usbgc.org/leed/))

# HOUSING ELEMENT:

## GOALS, OBJECTIVES AND POLICIES

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**GOAL 1: Provide for the health, safety and welfare of the PPN citizens by creating housing that contributes to the Pinoleville Pomo Nation's spiritual, physical and emotional health.**

**OBJECTIVE 1A ELIMINATE DILAPIDATED HOUSING THAT IS OWNED BY NON-INDIANS AND THAT IS LOCATED ON THE RANCHERIA BY 2020.**

Policy 1A(1) Purchase property owned by non-Indians by 2015, and tear down the dilapidated properties.

Policy 1A(2) Request that Mendocino County enforce its building codes in the Rancheria within three months.

**OBJECTIVE 1B CONNECT ALL HOUSES THAT CURRENTLY HAVE SEPTIC SYSTEMS TO THE COUNTY'S SEWER SYSTEM BY 2012.**

Policy 1B(1) Work with Mendocino County to require that all non-Indian homes on the Rancheria and on the probate trust land be connected to the County's sewer system by 2012.

Policy 1B(2) The PPN will either pay for or otherwise obtain funding for all homes on the Rancheria and on the probate trust land to connect to the sewer system no matter who owns the homes by 2012.

**OBJECTIVE 1C CREATE ENERGY EFFICIENT, HEALTHY SUSTAINABLE HOMES FOR ALL PPN MEMBERS.**

Policy 1C(1) Build wind turbines and solar panel farms on the probate trust land and Sozonni.

Policy 1C(2) Pay for solar heating, solar water heating, and for all other energy uses for existing housing on the Rancheria and in Pinoleville Heights by 2015.

Policy 1C(3) Pay for insulation, double pane windows, green roofs, energy efficient appliances, composting toilets, and on-demand water heating in all existing housing on the Rancheria and in Pinoleville Heights by 2011.

Policy 1C(4) Pay for gray water systems to recycle water and for rainwater harvesting in all existing housing by 2011.

Policy 1C(5) Obtain a memorandum of law from a legal water rights specialist on the PPN's rights to water on Indian land, including percolating water.

Policy 1C(6) Obtain a water audit of water that is used under current consumption and water that will be used if water conservation methods are employed, for existing and projected housing, civic, recreational and agricultural purposes.



OBJECTIVE 1D BUILD VILLAGES OF CLUSTERED AFFORDABLE AND SUSTAINABLE HOUSING FOR LOW- AND MODERATE-INCOME MEMBERS OF THE PPN ON SOZONNI, ON THE PROBATE TRUST LAND, AND AS REPLACEMENT HOUSING ON THE RANCHERIA BY 2020.

Policy 1D(1) Purchase the probate trust land by 2010.

Policy 1D(2) Obtain trust status from the BIA for the Sozonni Ranch, Pinoleville Heights, and probate trust land by 2012.

Policy 1D(3) Work with the County to create new joint zoning ordinance for the Rancheria, so that the industrial land use zone will become a commercial land use zone, and so that the remaining areas within the Rancheria be zoned for residential, spiritual, open space and civic purposes by 2010.



*Potential cluster housing design rendering with yurt style housing, shared Parking and stormwater swales.*

Policy 1D(4) Reconfigure the Rancheria home sites so that houses are clustered by 2025 to increase density to accommodate 40 more residents and to leave open space for recreation, spiritual and civic purposes.

Policy 1D(5) Obtain HUD funding to build homes on the PPN properties from 2010 to 2025.

Policy 1D(5) Set up a PPN co-operative corporation to own the PPN housing. Individual tribal members will have shares in the corporation and pay assessments for repairs and maintenance. Each household (a household may be one person) presently housed on the Rancheria will be guaranteed membership and the right to live in the home it chooses.

**GOAL 2: Preservation of Pinoleville history, culture, and tradition while providing health, safety and general welfare.**

OBJECTIVE 2A: TO PROVIDE PPN MEMBERS WITH AFFORDABLE AND SAFE HOUSING WITH A DESIGN THAT CONFIRMS WITH LONG STANDING TRADITION AND CULTURE BY 2012.

Policy 2A(1): Give favorable consideration to all projects that fulfill the Pinoleville PPN mission statement.

### **GOAL 3: Provide self-sustaining affordable housing**

OBJECTIVE 3A: DEVELOP HOUSING PLAN THAT CREATES SUSTAINABLE HOUSING FOR PPN MEMBERS THAT RESIDE ON AND OFF THE RESERVATION BY 2010.

Policy 3A(1) Establish a housing team that would implement the on-site construction of California Yurt designs.

### **GOAL 4: Implement compact building design.**

OBJECTIVE 4A: CREATE A RANGE OF 3 HOUSING TYPES THAT COULD ACCOMMODATE LARGE FAMILIES, SINGLES RESIDENTS, AND ELDERLY AND BE CONSTRUCTED BY 2015.

Policy 4A(1): Give allowance for Yurt like multi-floor, multi-family attached housing.

Policy 4A(2): Provide streamlined permitting for buildings that use a compact building design.

### **Goal 5: Establish tribal housing and financial aid program.**

OBJECTIVE 5A: CREATE A FINANCIAL EDUCATION PROGRAM FOR MEMBERS OF THE PPN BY 2010 AND APPLIES FOR FEDERAL GRANT MONEY.

Policy 5A(1): Provide financial education that teaches PPN members how to apply for Federal grants, and HUD housing grants.

Policy 5A(3): Establish a committee that looks for, applies for, and represents the PPN in grant funding.

## 4. CONCLUDING STATEMENT

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The Pinoleville Pomo Nation ("PPN") is sovereign; yet, Mendocino County claims jurisdiction over its land use. Its tribal government operates pursuant to its Constitution, which requires only a quorum of tribal council members to vote on land use and community development matters; yet, the PPN wishes greater decision making and will be required to have greater transparency in its decision making with respect to the proposed casino in its Tribal Environmental Impact Report.

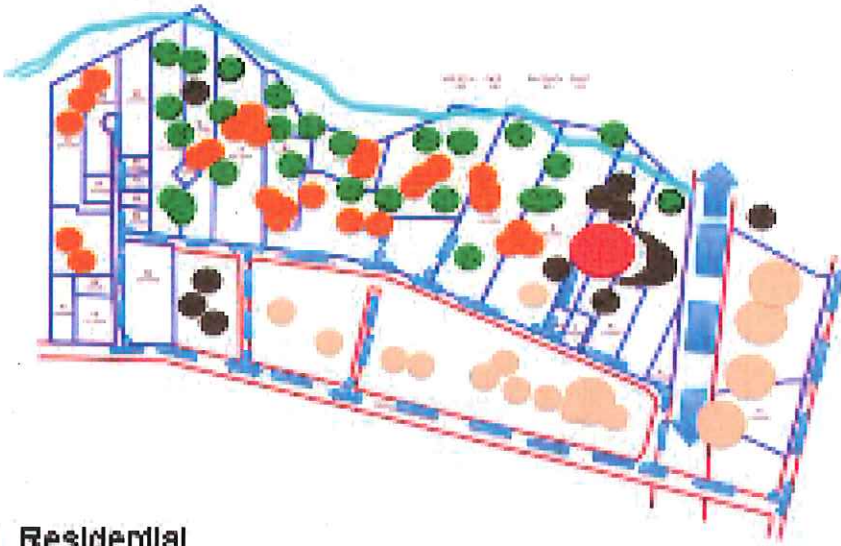
Mendocino County and Lake County both have severe water shortages that may never be remedied, and which constrain development. If the PPN quantifies its water needs in its master plan, it may establish a claim to water on the Reservation that supersedes its neighbors' claim, including the City of Ukiah's, pursuant to the Winter Doctrine.

The Spring 2009 Urban Studies field work class proposes goals, objectives and policies in the proposed master plan that aim at implementing the PPN's mission and vision statements.



*(Top) Plants awaiting transfer to soil outside the PPN greenhouse. (Bottom) Lupine growing in a field near the auto dismantler.*

Proposed Mendocino County Pincleville Formulation Joint Ordinance



- Residential
- Agriculture
- Civic/Cultural
- Commercial/Cmc



**PINOLEVILLE RANCHERIA**  
Mendocino County, California

# APPENDIX A.

## STORMWATER DISCHARGE PERMITS

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### **Winters Doctrine and Pinoleville Summary of water law doctrine by Phyl van Ammers**

#### **1. Stormwater Provisions**

The SWRCB has adopted two statewide NPDES general permits addressing stormwater discharges associated with industrial activities and from construction activities (Construction General Permit and Small LUP General Permit). Dischargers are required to eliminate most non-stormwater discharges, develop a stormwater pollution prevention plan (SWPPP) to identify and implement control measures, and monitor their discharges. In Indian country within the State of California, the EPA is the permitting authority and requires the submission of permit number CAR10000I for industrial activities and from construction activities.

#### **2. Development and Status of Federal Reserved Water Rights:**

When the United States reserves public land for uses such as Indian reservations, military reservations, national parks, forest, or monuments, it also implicitly reserves sufficient water to satisfy the purposes for which the reservation was created. Both reservations made by presidential executive order or those made by an act of Congress have implied reserved rights. The date of priority of a federal reserved right is the date the reservation was established.

The federal reserved water rights doctrine was established by the U.S. Supreme Court in 1908 in *Winters v. United States*. In this case, the U.S. Supreme Court found that an Indian reservation (in the case, the Fort Belknap Indian Reservation) may reserve water for future use in an amount necessary to fulfill the purpose of the reservation, with a priority dating from the treaty that established the reservation. This doctrine establishes that when the federal government created Indian reservations, water rights were reserved in sufficient quantity to meet the purposes for which the reservation was established.

The *Winters Doctrine* was a landmark case for it was the first time the federal government deviated from the established convention that water law was purely a state matter. In 1952, however, Congress passed the *McCarren Amendment*, which returns substantial power to the states with respect to the management of water. The *McCarren Amendment* requires that the federal government waive its sovereign immunity in cases involving the general adjudication of water rights. Prior to this legislation, the federal government had reserved the right not to be included in general basin adjudications conducted under state law. The *McCarren Amendment*, however, recognized that the exemption of the federal government from these adjudications would undermine the state's water allocation systems. Therefore, any federal agency claiming a federal reserved water right must participate in the state's adjudication process.

Federal court decisions since the *McCarren Amendment* have further limited federal reserved water rights. In the 1976 *Cappaert v. United States of America*, the Court ruled that a federal reserved water right quantification was limited to the primary purpose of the reservation and only to the minimum amount of water necessary to fulfill the purpose of the reservation. In 1978, in *United State of America v. New Mexico*, the Court found that the reserved water rights on national forests apply only to the preservation of timber resources and water flows. All other claimed needs were to be considered secondary purposes and the federal government would have to obtain rights like any other appropriator under state law. These rulings have narrowed the scope of the *Winter's Doctrine*. Federal reserved water rights may only include quantities of water necessary to meet the primary purpose for which the reservation was established ("primary purpose" requirement) and only in the minimum amounts necessary to meet those purposes ("minimal needs" requirement).

The Winters Doctrine originally applied to Indian reservations but has since been applied to other federal land reservations. A variety of court decisions have extended the reserved right doctrine to encompass not only Indian reservations, but water uses in national forests, national parks and monuments, and military reservations. In the 1963 *Arizona v. California* decision, the U.S. Supreme Court found the Winters Doctrine equally applicable to other federal establishments and affirmed an allocation of water for non-Indian federal uses.

Today, federal reserved water rights can be asserted on most lands managed by the federal government. Reserved rights are, for the most part, immune from state water laws and therefore, are not subject to diversion and beneficial use requirements and cannot be lost by non-use. The federal government, however, is required to submit all reserved water rights claims to the state's adjudication process, and are limited by the "primary purpose" and "minimal needs" requirements. In addition, federal reserved water rights are nontransferable. By law, these rights can only exist on lands owned by the federal government. If a land transfer occurs, any existing federal reserved water right becomes invalid.

Because federal reserved water rights must meet the "primary purpose" and "minimal needs" requirements, it is important to quantify any federal reserved right. Generally, quantifying a federal reserved right requires specifying the amount of water claimed, the water sources, the primary purpose of the reservation for which the water is needed, and the priority date of the claim (the date the reservation was created). The most contentious issue is often the amount of water claimed. The quantification of a federal reserved water right often involves the sophisticated integration of ecological models with surface and ground water flow models. The data necessary for accurate modeling is often unavailable or needs to be collected, and there are often discrepancies over appropriate modeling techniques and the interpretation of results. As a result, much of the current controversy is not centered around asserting a federal reserved right, but in the quantification of that assertion.

#### **Federal Reserved Water Rights and the Bureau of Land Management:**

The following types of federal reserved water rights can occur on BLM lands: public water holes and springs; mineral hot springs; stock driveways; public oil shale withdrawals; wild and scenic rivers; national monuments and conservation areas; and wilderness areas.

Probably the most common federal reserved water right for BLM is for public water holes and springs. These rights were created by executive orders called Public Water Reserves (PWR). Until 1926, PWRs were created on an ad hoc and sight specific basis. Federal agencies would identify the springs they wanted reserved and these would be incorporated (by executive order) into a chronologically numbered Public Water Reserve. Therefore PWRs with early numbers refer to sight specific reservations. In 1926, a cart blank Public Water Reserve was created through an executive order by President Coolidge entitled "Public Water Reserves No. 107". PWR 107 ended the sight specific system of reserving springs and water holes. The purpose of PWR 107 was to reserve natural springs and water holes yielding amounts in excess of homesteading requirements. This order states that "legal subdivision(s) of public land surveys which is vacant, unappropriated, unreserved public land and contains a spring or water hole, and all land within one quarter of a mile of every spring or water be reserved for public use". There was no intent to reserve the entire yield of each public spring or water hole, rather reserved water was limited to domestic human consumption and stockwatering. All waters from these sources in excess of the minimum amount necessary for these limited public watering purposes is available for appropriation through state water law. To date, many of these Public Water Reserves have not been registered with the state and/or are not adjudicated.

Wilderness designations can be considered the most restrictive of the federal land management designation. Reserved water rights are set aside pursuant to the Wilderness Act of 1964 (16 USC section 1131). Development within wilderness areas is restricted, and these restrictions extend to the development of water supplies. The Wilderness Act reserves the amount of water within the wilderness area necessary to preserve and protect the specific values responsible for designation of the area, and to provide for public enjoyment of these values. Only the minimum amount of water necessary to fulfill the primary purpose of the reservation may be asserted as a reserved right.

Wild and Scenic River designations are derived from the Wild and Scenic Rivers Act of 1968 (16 USC section 1271). This legislation states that "certain selected rivers of the nation which, with their immediate environments, possess outstandingly remarkable scenic, recreational, geologic, fish and wildlife, historic, cultural, or similar values, shall be preserved in free-flowing condition, and that they and their immediate environments shall be protected for the benefit and enjoyment of present and future generations". Designation of a stream or river segment as "wild and scenic" prevents construction of flow modifying structures and other facilities on the selected stretch. The area of restricted development can vary, but generally includes at least the area within one-quarter mile of the ordinary high water mark on either side of the river. The act also reserved to the United States the amount of unappropriated water flowing through the public lands necessary to preserve and protect in free-flowing condition the specific values which were responsible for designation of the watercourse. The act, however, does not automatically reserve the entire unappropriated flow of the river.

Stock driveways are reserved pursuant to Section 10 of the Stock-Raising Homestead Act of 1916. This act was repealed by Section 704(a) of the FLPMA, but reservations made prior to 1976 remain in effect until changed in accordance with the act. This act authorized the withdrawal of public lands containing water holds needed for watering stock during their movement to seasonal ranges or shipping points. The priority date for each water hole is the date on which the application for the land withdrawal was approved.

Mineral hot springs with medicinal or curative properties located on vacant, unappropriated, and unreserved public lands constitute federal reserved water rights. The BLM is authorized to lease these springs for public purposes.

Public oil shale withdrawals reserve that quantity of water which can be used for investigating, examining, and classifying oil shale, but only those waters needed for assessment of the oil shale resources. Federal reserved rights do not apply to waters necessary to develop the oil shale. Waters for development must come through state law and allocation procedures.

The Arizona Supreme Court has ruled that the practicably irrigable acreage (PIA) standard is not the exclusive means for quantifying federal reserved water rights. In *Re the General Adjudication of All Rights to Use Water in the Gila River System and Source*, 361 Ariz. Adv. Rep. 3 (Nov. 26, 2001). The quantification issue reached the court on interlocutory review of a 1988 trial court order deciding that the PIA standard provides the sole measure of federal reserved water rights. The court applied a *de novo* standard of review in answering the question, "What is the appropriate standard to be applied in determining the amount of water reserved for federal lands?"

After reviewing the principles of prior appropriation and the *Winters* case (*Winters v. United States*, 207 US 564 (1908)), the court addressed the nature of federal reserved rights. Chief Justice Zlaket wrote that the fiduciary relationship between Indian Tribes and the United States, and the broad interpretation required of Tribes' dealings with the federal government, lead to the conclusion that the purpose of all Indian reservations was to establish a permanent homeland for the Tribes. While quantifying the reserved water rights for non-Indian federal reservations requires a historical review of the original primary purposes of creating the reservation, quantifying the water rights for Indian reservations requires no such inquiry. The purpose for creating Indian reservations, to establish a "permanent home and abiding place," is a broad purpose, liberally construed, and includes all water uses of the Tribe and not just irrigated agriculture. Opinion at 17-19.

After determining that all Indian reservations have a homeland purpose, the court addressed the primary-secondary purpose test of the New Mexico case (*United States v. New Mexico*, 438 US 696 (1978)). The court found that the test applies only to non-Indian federal reservations, and does not apply to Indian reservations. The court noted that even if the primary-secondary purpose distinction applied to Indian reservations, establishing a permanent homeland is the primary purpose of all Indian reservations and the reserved water right would be measured to fulfill the homeland purpose.

The court rejected the United States' and Tribes' arguments that PIA is the federal law-mandated standard for quantifying reserved water rights. Chief Justice Zlaket wrote that the PIA standard is not appropriate because 1) it is inequitable among Indian reservations of varying geography and topography, 2) it encourages Tribes to hypothesize large agricultural projects which may be infeasible, and 3) it frustrates the "minimal need" requirement for quantifying reserved water rights. The court found that federal reserved rights must be limited by "minimal need" because reserved rights preempt appropriate rights on the basis of an implied right. Opinion at 7-10.

The court concluded its opinion by observing that the PIA standard has endured for lack of a satisfactory substitute, and that this court offers no single standard to replace PIA. Instead, the court identified factors to be considered in quantifying federal reserved water rights for Indian reservations. THE COURT REGARDS TRIBAL MASTER LAND USE PLANS, LIKE THOSE USED IN SOME ARIZONA INDIAN WATER RIGHTS SETTLEMENTS, A USEFUL STARTING POINT FOR QUANTIFICATION. The court opined that in quantifying water for homeland purposes, a Tribe might identify its actual and proposed water uses, their feasibility, and the amounts of water needed to support them. Factors to be considered include 1) Tribal history, 2) Tribal culture, 3) a Tribe's natural resources, 4) a Tribe's economic base, 5) past water uses, and 6) present and projected future population of the reservation. The court hopes that consideration of these factors is likely to result in a more flexible, realistic and practical quantification of federal reserved water rights than does application of the PIA standard.



# APPENDIX B

## ZOTTER MEMO ANALYSIS

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**Analysis of Frank Zotter, Chief Deputy County Counsel, legal memorandum to the Mendocino County Planning Commission, dated August 31, 2007 ("Zotter Memorandum" or "Memorandum") by Phyl van Ammers, M.A. (Urban Planning), J.D. December 17, 2008.**

The Zotter Memorandum addresses the question of the advantages and disadvantages of land the County proposed in 2007 to designate as "Indian Land" in the County's general plan.

A serious problem with the Memorandum is that it does not define what The County intended to be in an "Indian Land" use designation or how such a designation might work. Instead, the Memorandum fuzzes the County's claim to jurisdiction over land within the Pinoleville reservation, and the Memorandum then talks about differences between fee and trust land.

The County Planning Commission may have asked that the Office of the County Counsel discuss the differences between trust land and fee land in the Memorandum, but it's not possible to tell whether or not it did.

It's not evident what an "Indian Land" use designation was going to have meant, but the County does not presently have one, and Pinoleville remains zoned "P-I."

The "Indian land" designation contemplated by the County in 2007, according to the Memorandum, would have applied to fee lands that were either owned by an Indian tribe or that were owned by a non-Indians or by non-members of the affected tribe and that are located within the boundaries of the tribe's historic rancharia or reservation. If that were the case, the Memorandum's discussion of trust versus fee land, including the chart at the end of the Memorandum, would have been pointless and would have baffled the planning commissioners as well as staff in the planning department.

The Memorandum's first four and a half pages discuss Supreme Court opinions, which limit tribal sovereignty in the enforcement of land use regulations in "checkerboard" reservations, and the history of trust and allotment land. The Memorandum concludes, correctly, that case law rarely recognizes tribal authority over tribal nonmembers who own property within rancharia boundaries (Memorandum, Pages 1 through 5).

The Memorandum, however, mentions, also correctly, that federal courts have stated that local governments should consider whether their land use decisions threaten the tribe's political integrity, economic activity, or health and welfare (Zotter Memorandum, Page 3). Also, the "Montana exception," which gives Tribes jurisdiction when "nonmembers engage in conduct on fee lands within a tribal reservation that 'threatens or has some direct effect on the political integrity, the economic security, or the health or welfare of the tribe.'" (*Montana v. United States*, 450 U.S. 544 (1981).) The Ninth Circuit called this exception "exceedingly narrow." *Roberta Bugenig v. Hoopa Valley Tribe*, 229 F 3d 1210 (9th Circuit 2000)

The Memorandum points out that the County's Pinoleville Industrial Zone (Mendocino County Code, Chapter 20.102, provides that approval of major and minor Use Permits within the district shall be compatible with Pinoleville's residential uses and will not cause any significant nuisance or hardship to rancharia residents.

"Thus," the Zotter Memorandum opines, "even as to land owned in fee by nonmembers, there is a 'meet and confer'" process by which new or expanded industrial uses are disfavored, giving the Pinoleville Tribe more involvement in such a process than would otherwise be available (Memorandum, page 6)." (See, also, SB 18 (2005), which requires that local governments "meet and confer" with tribes that may be impacted by a general or specific plan amendment.)

At that point - by "that point" I mean the very slippery paragraph that discusses disfavored industrial uses -- the Memorandum slides rapidly from a requirement in the ordinance that the County should only grant major and minor use permits for uses that are compatible with rancharia uses, to the conclusion

that there is a meet and confer process that "would otherwise" be unavailable, to the further conclusion that industrial uses will be disfavored.

The first problem with those conclusions is that the County decides whether or not to grant major and minor use permits. Suing the County for granting a minor or a major conditional use permit ("CUP"), even after consultation with the PPN, for approval of a minor use permit, would be at least expensive. The decision to grant a CUP would – although some CUPs are considered "ministerial" – probably be more fairly characterized as quasi-judicial. Courts grant less deference to quasi-judicial decisions than to legislative decisions. (Zoning decisions, for example, are "legislative.") Because such a proceeding adjudicates individual rights and interests, findings are required and a reviewing court looks to whether the evidence supports the findings. *Topanga Ass'n for a Scenic Cmty*, 11 Cal. 3d at 514 (1974). In short, the PPN could prevail – and might well win -- if the County grants CUPs for industrial uses and the PPN sues the County, but the decision still rests with the County and not with the PPN to begin with.

Second, the PI designation includes land owed by tribal members, the tribe, or allotment land. The County has no business zoning that land. The Zotter memorandum does not provide authority for its implicit assumption that the County can zone any land that is not privately owned by non-tribal members.

Third, County decisions about CUP approvals could trigger CEQA, which would require PPN involvement. Deciding whether or not to grant a CUP should at any event require a hearing at which there would be notice to neighbors. In short, the County's PI ordinance does not require the County to do much -- if anything -- that it would not already be required to do by state statute and case law. A requirement that the County "meet and confer" with the PPN does not provide any standards for determining when the PPN can – or if it can – veto a County decision.

The Memorandum, in summary, conceals in that paragraph that the County claims jurisdiction over land that is clearly within the PPN's jurisdiction and provides as compensation a dilute "meet and confer" obligation on its part and leaves open the possibility the PPN could sue the County – but the PPN could always sue the County under state statutory provisions and case law. A reasonable response to the Memorandum is to ask for a definition of what is meant by an "Indian Land" future land use designation. "Indian Land" could mean a joint powers agreement that creates a mixed land use designation of residential, cluster zoning, civic and commercial uses with a conservation buffer along Ackerman Creek. (No industrial uses belong in and around Pinoleville. No industrial use is compatible with any of the residential and civic uses in Pinoleville.) With such a land use designation, the PPN would not need to get trust status. Built into the "Indian Land" designation could be a sunset provision that allows the land use designation to expire at such time as the PPN acquires all of the land within its jurisdiction. It does not have to hold that land in fee. The "Indian Land" designation could be defined to mean explicitly that the Sozanni land and the probate trust land be designated as the future land use designation in the general plan called "Indian land."

An MOU between the County and the PPN could set out any obligations the County feels it would incur by virtue of the new land use designation, e.g., water delivery, sewer hook ups, Sheriff services. The PPN could agree in that MOU to pay for those obligations in exchange for greater control over its land. Uses that are presently industrial would then become nonconforming uses, to be phased out over time, depending on the County's nonconforming use ordinance.

At present, the PPN has jurisdiction over land use matters within the rancheria boundaries but cannot enforce its zoning ordinances against non-Indians. The PPN has not yet passed zoning ordinances but it certainly may. The County has no jurisdiction over land that is owned by the PPN or individual tribal members, although it claims that it does.

One sensible solution for the "checkerboard" of conflicting jurisdictional claims is to develop a joint powers ordinance, called "Indian Land," or called "Pinoleville," or called anything that upsets the fewest number of people, that is acceptable to the PPN and to the County, and which causes industrial uses to become nonconforming uses.