

# KARUK TRIBE OF CALIFORNIA

## PROPOSAL TO THE GOVERNOR FOR AN OFF-RESERVATION CLASS III GAMING FACILITY IN YREKA



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# SECTION 1.0

## INTRODUCTION

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### 1.1 INTRODUCTION

This document explains the proposal of the Karuk Tribe of California (“Tribe”) to develop a gaming project at Yreka, pursuant to the Indian Gaming Regulatory Act, 25 U.S.C. § 2701, *et seq.* (“IGRA”), on land already held in trust for the Tribe by the United States.

The proposed casino site was not accepted unto trust prior to October 17, 1988, the date on which IGRA became law so it cannot be used for gaming unless one of two special circumstances is satisfied: (1) the “restored lands” exception provided at IGRA Section 20(b)(1)(B)(iii), 25 U.S.C. § 2719(b)(1)(B)(iii); or (2) concurrence by the Governor to allow gaming on the site pursuant to IGRA Section 20(b)(1)(A), 25 U.S.C. § 2719(b)(1)(A). For practical reasons, the Tribe is pursuing the second avenue and is requesting a concurrence from the Governor to permit this land to be used for gaming.

The Karuk Tribe enjoyed a government-to-government relationship with the United States, but at some undefined point in time the federal government unilaterally ceased dealing with the Tribe on that basis. Federal funding was denied and the Tribe was declared ineligible for federal programs established for the benefit of Indian tribes and their members. After decades of tribal efforts to secure status clarification, the Tribe regained its status as a federally-recognized tribe on January 15, 1979.

As a tribe that has been restored to federal recognition and proposes to conduct gaming at a site previously qualifying as historic Karuk land, we believe it is beyond question that the subject land would qualify for the “restored lands” exception. However, this exception was denied by the National Indian Gaming Commission (“NIGC”), as is discussed in detail in the following paragraph, and the reality is that an application for reconsideration would be a lengthy and expensive process. If the Governor would agree to concur to a tribal request that the land be qualified for gaming, the Tribe would save a great deal of time and money in moving forward. This would allow the Tribe and surrounding communities to realize the benefits of a substantial economic project much quicker.

The history of this request goes back to June 2003 when the Tribe submitted a Petition to the NIGC seeking a determination that the proposed site qualifies as “restored lands.” That petition was denied by the NIGC on October 24, 2004, but a careful subsequent assessment of the request and denial has revealed that critical historical and ethnohistorical information was not included in the original submission. That assessment is found at **Exhibit A** to this Proposal: “The Karuk Tribe: Indian Residency and Tribal Presence in Siskiyou County, California, 1910 - 2005” by Stephen Dow Beckham, Pamplin Professor of History at Lewis & Clark College, Portland, Oregon. Exhibit A rebuts the critical failure of the original application to document the historical presence of the Karuk Tribe and its members within both Siskiyou County and the City of Yreka, and demonstrates that the dominant Indian presence in the area over the past 100 years in fact has been Karuk. In addition, there is a substantial body of additional legal analysis that the Tribe also would submit in support of reconsideration by the NIGC.

While the Tribe is prepared to supplement the existing record before the NIGC and seek reconsideration of the restored lands determination, it is clear that such a process would cause enormous delay in its ability to proceed with the project due to both the normal processing of such requests within the NIGC and a growing docket of such requests before the Commission. With these realities in mind, the Tribe recognizes that the most expeditious means for proceeding would be to seek gubernatorial concurrence for an off-reservation casino on land already in trust pursuant to IGRA Section 20(b)(1)(A).

Thus, the Karuk Tribe is asking the Governor for Section 20(b)(1)(A) concurrence to allow Class III gaming on several parcels of land in Yreka, that are herein identified as the “Project Site.”

As a final introductory note, it is observed that the Project Site is located approximately one (1) mile north of an allotment that the Alturas Tribe of Modoc County proposes as a casino site. The Alturas claim to the allotment is simply contrary to the requirements of IGRA. Indeed, that allotment has long been acknowledged as a Karuk public domain allotment issued pursuant to Section 4 of the Allotment Act of 1887, 25 U.S.C. § 334. In addition, it is not trust land over which the Alturas Tribe exercised governmental control as of October 17, 1988, the very legal standard under which the Tribe apparently asserts its right to conduct gaming thereon.

## 1.2 PROJECT LOCATION

The parcels on which the Tribe proposes to develop gaming are located within the city of Yreka, in Siskiyou County, Township 45 North and Range 7 West, Section 35, Mount Diablo Base Line and Humboldt Meridian. These parcels can be located on the Yreka USGS 7.5-minute quadrangles (1978).

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The project location is shown as the blue polygon in Figure 1 below. The proposed site is approximately 34 acres. Also shown is the extent of Karuk tribal trust lands in Yreka (outlined in red) and land owned by the Karuk Tribe but still held in fee status (outlined in green). The fee land is adjacent and contiguous to the Karuk tribal trust Land. Gaming activity will only occur on land held in trust for the Tribe. The project proposes to include a parking lot on the fee land, which will eventually be taken into trust. These parcels are located within one half mile of Interstate 5, and have a line of sight to the interstate.

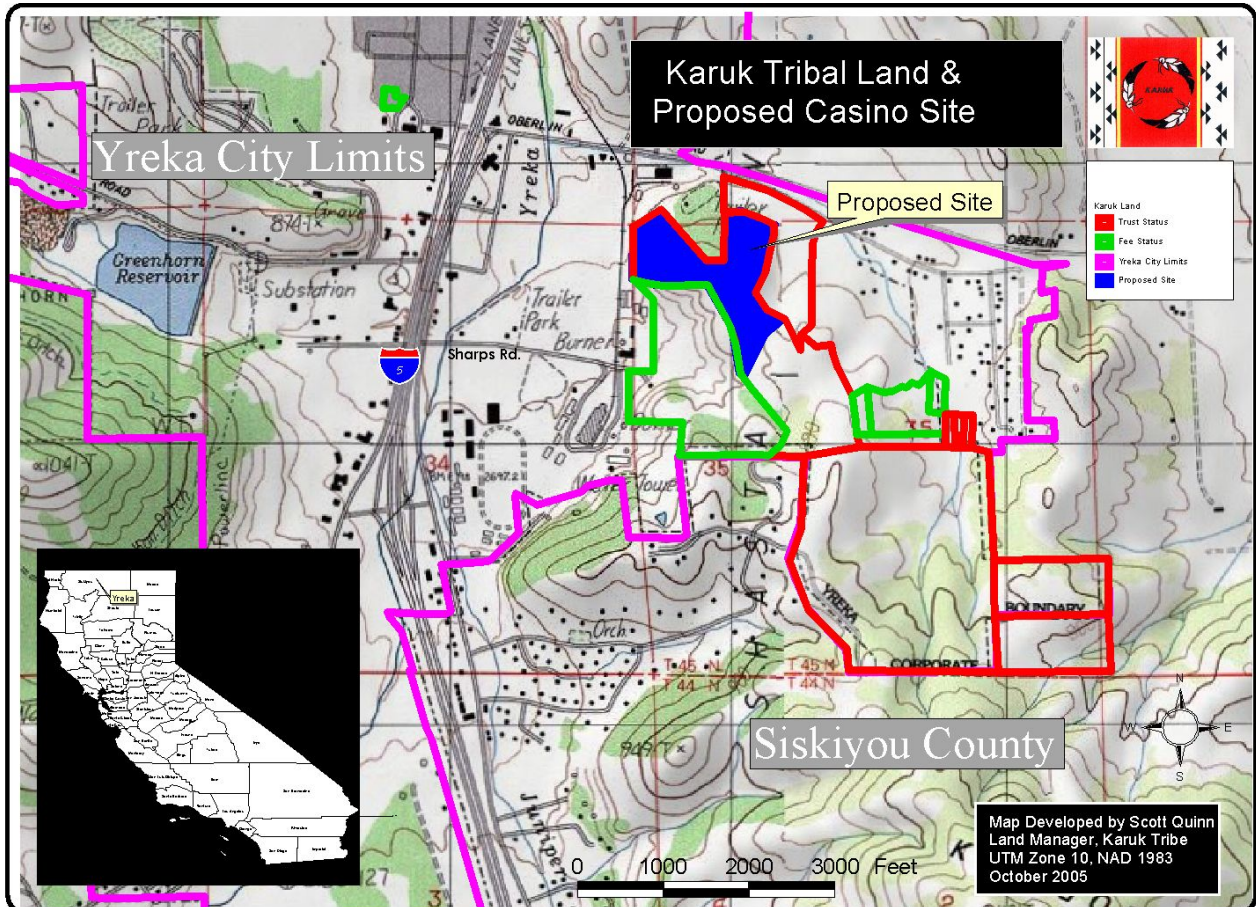


Figure 1. Project Location.

# **SECTION 2.0**

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## **PROJECT COMPONENTS**

### **2.1 CASINO**

The casino's proposed floor space will be between 50,000 and 60,000 square feet. The Tribe intends to develop a permanent casino at the outset, rather than operate an interim facility in a temporary building. The number of gaming positions will most likely start with 500 to 600 class III machines, although the Tribe intends to expand its gaming operations as the market dictates.

### **2.2 HOTEL**

The Tribe anticipates construction of a 75-100 room hotel, which would be located on the designated site adjacent to the casino facility, although this may not necessarily be part of the first phase of development.

### **2.3 PARKING FACILITY**

A paved parking lot would be developed on the designated site adjacent to the casino facility.

# **SECTION 3.0**

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## **PROJECT JUSTIFICATION**

### **3.1 STANDARD ESTABLISHED FOR OFF-RESERVATION GAMING PROJECTS**

#### **Independent Public Policy Proposal**

The Karuk Tribe of California is requesting off-reservation gaming approval from the Governor. In compliance with the requirements articulated by Governor Schwarzenegger, the following Independent Public Policy Proposal sets forth the environmental areas of most immediate concern to the Karuk Tribe and the ongoing projects that are dependant upon future gaming monies to remain operational and successful.

The specific focus of the tribal activity and this proposal is the restoration and continuing preservation of the health of the Klamath River. Although the Klamath is one of the most important and beautiful rivers in the United States, it has been gravely dissipated over time to the point that it is now identified as one of the 10 most threatened wild places in California. The river will continue to deteriorate unless there are major increases in efforts to save it and the Tribe proposes to dedicate a portion of its gaming revenues to this critical effort.

The Tribe already spends considerable time and what money it can secure through grants and contributions in working to revitalize the river, but both human and financial resources are sparse and, sadly, the Tribe is not even able to maintain the status quo in its efforts. The river continues to decline and the future threat is enormous. More money is needed for the Karuks' centuries old work to protect the river and its many components. The Tribe's proposal to dedicate a portion of its casino revenues to this effort would bring new money to the effort – money which would allow for the first time the retention of a full-team of professionals dedicated to the river project and give them the tools and resources to do the job.

## **A. The State of the River**

### **The Native Fish Populations**

Fed by snowmelt from the Cascade Mountains, the Klamath River begins in southeastern Oregon as a series of wetlands, marshes, and lakes in the high mountain desert, then extending southward into northwestern California. It was once the third most productive salmon river in America, with an average of 880,000 salmon returning to spawn annually. The river also once hosted an incredible diversity of wildlife, including Steelhead trout, Lamprey eel, sturgeon, and many species of salmon, including Chinook, Coho, Pinks and Chum salmon. Historically, the Klamath River produced up to 1.1 million adult fish annually.

However, the **construction of hydropower dams**, coupled with significantly adverse effects from mining, poor logging practices, and industrial agriculture, has devastated the river. Since the first dam was built in 1918, salmon runs have plummeted. Indeed, the current Klamath River fall Chinook salmon productivity is now less than eight (8) percent of its historical abundance. For Coho salmon, productivity is now less than one (1) percent of its historical productivity. Even worse, Chum and Pink salmon, once abundant in the Klamath, are now completely extinct. **The current state of the river has led to its recent classification by the California Wilderness Coalition as one of the 10 most threatened wild places in California.**

One of the primary contributors to the decline of the river has been the operation of hydroelectric dams. When the first dam was constructed on the river in 1918, it failed to provide fish passage. As a result, it permanently blocked access to more than 300 miles of salmon and Steelhead habitat in the main stem of the Upper Klamath and its tributaries. A similar dam was constructed a quarter mile downstream in 1925, and it also failed to provide fish passage. These dams not only blocked salmon and Steelhead migration, but they significantly altered river flows, causing releases that could drop by 1,500 percent or more in a matter of minutes. Such radically altered flows severely damaged one of the most important spawning areas on the Klamath for spring-run Chinook and Steelhead, stranding adult and young fish alike, exposing egg nests, cementing spawning gravels, and preventing upstream recruitment of new spawning gravels.

An additional dam was constructed in 1962 to regulate the wildly varying flows from the two prior dams. With construction of this dam, another seven miles of spawning habitat in the main stem, as well as access to important tributaries, was blocked. As a result of the dams, all anadromous runs of salmon and Steelhead are now extinct above this third dam.

### **Water Quality**



In addition to the severe damage to the fish population caused by the construction and operation of dams on the river, **pollutants associated with industrial agriculture** have severely impacted the quality of the water in the river. In particular, industrial scale agriculture is being undertaken at the Klamath headwaters. At these locations, large-scale growing of crops such as alfalfa and potatoes requires the use of massive amounts of herbicides and pesticides, all of which drain into the river. The detrimental effect on both wildlife and the environment of the river caused by these toxins hardly requires extensive explanation.

Further, **logging practices** have led to significant erosion and sedimentation issues in the river. For example, in the 1940s and 50s, large-scale clear cuts of the forest surrounding the river were undertaken. These clear cuts destroyed many of the tributary streams associated with the Klamath River. In addition, numerous dirt logging roads were established, the bulk of which are no longer maintained. These unmaintained roads result in extensive sediment deposits into the river, altering the hydrogeology of the river and changing the gradient of the riverbed. This has resulted in the smothering of salmon spawning areas, leading to fish kills and, worse, an inability for the salmon to repopulate.

Finally, ongoing **mining practices** – specifically dredge and suction dredge mining – continue to adversely impact the river. The suctioning of the riverbed not only results in a removal of the riverbed itself, but further results in the suctioning of wildlife, wildlife eggs, and plant life from the riverbed, all leading to further destruction of wildlife and wildlife habitat.

### **Blue-Green Algae**

Most disturbingly, all of these issues have combined to create massive water quality problems in the river. Recent analysis of water samples from reservoirs within the river have revealed high levels of the toxic blue-green algae *microcystis aeruginosa*, an algae that is native to the Klamath and that produces a compound known to cause liver failure. Samples taken from these areas contained cell counts 100 times greater than what the World Health Organization considers a moderate health risk. Further, mats of blue-green scum known as plumes have been observed on the water's surfaces, indicating a wide-spread presence of the algae.

The World Health Organization has reported that exposure to high levels of this algae can produce symptoms such as eye and skin irritation, vomiting and stomach cramps, diarrhea, fever, headache, pains in muscles and joints, and weakness. Moreover, chronic long-term exposure can be even more dangerous, as symptoms may not develop until significant damage has been done.

The river's reservoirs specifically foster the proliferation of massive algae plumes, resulting in toxic levels of *microcystis*. Because the reservoirs contain water that is rich in fertilizers, is stagnant, and generally has warm water temperatures, conditions in the reservoirs promote the growth of this algae. This leads not only to a deadly effect on wildlife, but also destroys the usefulness of the river water to the Tribe. The presence of this algae also further contributes to the desecration of the fish population. For example, when the temperature of the river cools, the algae begins to die. As a result, the algae attempts to remove oxygen from the water to prolong itself. Thus, the decrease in river oxygen leads to the death of the fish species.

## **Fish Kill of 2002**

In the fall of 2002, the cumulative impact of the issues described above led to the largest fish kill in U.S. history, when over 68,000 fish died in a matter of days. This fish kill was caused by a combination of warm water temperatures, poor water quality, and low flows, a situation created by poor water management and water quality degradation. These conditions continue to devastate the region, having recently triggered the closure of coastal ocean salmon fisheries from Santa Cruz, California to the Columbia River, more than 800 miles of coastline. It is estimated that these closures will cause economic losses in Oregon and California of up to \$100 million.

## **The Failing Chinook Salmon Populations**

Today, the Klamath fall Chinook are the weakest stock of fall Chinook salmon on the west coast. The need to protect those weak Klamath salmon runs, whenever they intermingle in the ocean with other more abundant runs, now constrains all other harvests. These impacts severely effect both the commercial fishing industry, as well as the livelihood of the Karuk Tribe. In 2004, the Karuk harvested less than 100 salmon from their last remaining dip net site, Ishi Pishi Falls. Clearly, such decimated harvests cannot sufficiently feed or support the Tribe members.

## **Importance of the River's Wildlife to the Karuk People**

This destruction of the river's wildlife and fisheries is no small matter to the people of the Karuk Tribe. The Tribe has traditionally relied on the return of the salmon each year for food and as a basis for the regional economy. Tribal members – many of whom live in poverty – rely on subsistence fishing to feed their families. For them, the constant destruction of the river denies access to healthy traditional food sources. Moreover, salmon plays an important part in the Tribe's culture, including being the basis for traditional ceremonies, many of which have not been performed for decades because of the lack of fish in the Upper Klamath Basin.

A recent study conducted by Dr, Kari Norgard at the University of California further confirmed that the decline in salmon in the Klamath River has adversely affected the physical health of Karuk tribal members.<sup>1</sup> That study found that due to the decrease in salmon in the river, the Karuks have been forced to adopt a western-style high starch diet. As a result, the incidence of diabetes and heart disease among tribal members has reached levels two to three times higher than the national average.

Anthropological reports estimate that before European contact at the time of the gold rush in the 1850s, the average Karuk consumed 450 pounds of salmon per person per year, or about 1.2 pounds per person per day. Today, salmon consumption is less than five pounds per person per year, a 99 percent decrease. As set forth in Dr. Norgaard's study, this vast change in the Karuk diet has had an overwhelming impact on the Tribe.

Clearly, the impact on the Klamath River by the various improper management techniques and practices has led to a thorough destruction of the river and its associated wildlife. The devastation of the Karuk Tribe's livelihood, as well as the devastating effects on the Tribe's culture cannot be overlooked. The current water quality, water levels, and overall state of the river is nothing short of catastrophic and must be remedied, for both the health and livelihood of the Karuk Tribe, as well as that of the entire geographic region itself.

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<sup>1</sup> The study was performed by University of California Sociologist, Dr. Kari Norgaard. Dr. Norgaard's study can be accessed at <http://www.friendsoftheriver.org/pressroom.html>.

An integral element to the Tribe's relationship to the River and its wildlife is the **Karuk fishery at Ishi Pishi Falls at Katimin**, the center of the universe in Karuk culture and the home of World Renewal Ceremonies for the Karuk people. This fishery is memorialized in **Exhibit B**, a publication entitled "Federal Acknowledgment of Karuk Fishery" and its history and importance are stated in detail, both through words and photographs. This fishery has never been ceded to the United States nor abrogated by Congress. The primary method of catch utilizes traditional dip nets that are non-lethal, and only certain individuals have fishing rights at Katamin. It should also be noted that fishing at Ishi Pishi Falls is extremely dangerous and obviously not appropriate without extensive training. It can not be overstated that this fishery is central to all that is Karuk – historically, culturally and ceremonially. Subsistence and Ceremonial fishing are the primary reasons the Karuk people have survived as a people with an intact culture. Several years ago, the California Fish Commission examined the tribal fishery at the falls with an eye towards undertaking regulation which, ultimately, would have brought it to an end. The Tribe responded by participating in a Commission hearing at Point Reyes at which the importance of the fishery was demonstrated in both historical and dramatic fashion. In the face of the complete story of how Ishi Pishi Falls and Katimin are fundamental to Karuk existence and culture, the Commission announced at the conclusion of that hearing that it would work with the Tribe to preserve this subsistence and ceremonial fishery.

## **B. The Karuk Tribe's Work to Save and Restore the River**

Despite the grim facts of the river's condition – characterized by some as even "hopeless" – the Tribe has worked for generations to combat its continuing degradation.

The projects discussed below are not self-sustaining and the Tribe has almost no money of its own to fund them. As a result, they are financially supported through such government and private grants as the Tribe can secure on a periodic and renewal basis. That brings us to this proposal for the potential earnings from casino gaming would insure the availability of financial commitment and support and guarantee the long-range sustainability and expansion of these very important programs. The positive environmental and social benefits that will be derived from this commitment and support will reach further than the Karuk tribal membership and land holdings. It will benefit many different facets of the local communities along the Klamath River and throughout the state through the betterment of the preservation and management practices within the middle portion of the river. The lead tribal agency for this project is, and will continue to be, the **Karuk Department of Natural Resources** ("Karuk DNR")

The mission of the Karuk DNR is to protect, promote and preserve the cultural/natural resources and ecological processes upon which the Karuk people depend, and the river is a principal component of this mission. The DNR staff works in conjunction with agency personnel to ensure that the integrity of natural ecosystem processes and traditional values are incorporated into current and future management strategies within our area of influence.

Since the Tribe's indigenous beginnings, the Klamath River and its adjoining streams and creeks have always been a most valued and treasured resource. The development of programs for the preservation of these precious waters is of highest priority to the people of the Tribe.

For the past several decades, Karuk DNR has worked diligently toward the tribal goals of a healthy ecosystem and a meaningful role in forest management. This includes a broad range of activities, including the protection of water quality, forest health, cultural and spiritual values of sacred locations, and the preservation of native plants, fish and wildlife. The Karuk culture is deeply linked

to the land, river and forest, and the Karuk people recognize the process of watershed and forest restoration as an effort toward rebuilding and insuring the healthy continuation of the many natural resources provided by this area.

The Tribe has occupied approximately 1,639 square miles of land located in northern California for thousands of years. A portion of the Klamath River runs through the entirety of these ancestral lands from north to south. The river has been, and continues to be, a vital component to the continued sustenance of the Tribe, and in turn, the Tribe historically has been the primary caretaker of the river and the surrounding lands. Unfortunately, though the Karuk Tribe successfully managed the land for some 10,000 years, actions by those outside the Tribe have severely damaged the river and land over the past 150 years and the degradation continues despite the Tribe's constant efforts to improve every aspect of the health of the river and its denizens.

Many factors and activities have contributed to the extensive damage suffered by the river and the surrounding watershed in the Karuk ancestral territory. First, going back to the earliest encroachment by the non-Indian population in 1851, the logging and mining industries have severely ravaged the area, particularly by the use of modern mining techniques such as in-stream suction dredging, which dredges and redistributes the river bed. Further, there has been significant mismanagement of the forest by agencies outside the Tribe. In particular, the land has incurred severe residual effects caused by the extinguishing of natural forest fires. The failure to permit natural forest fires to burn has caused significant warming effects in the river's tributaries, as well as a disruption of the nutrient cycle affecting numerous wildlife species. In addition, the building of dams, as well as general agricultural practices in the region have led to significant hydromodification in the region.

Finally, and possibly most significantly, there exists approximately 2,500 miles of United States Forest Service roads throughout the Tribe's ancestral territory. These roads are extremely unstable and the ongoing failure of the roads causes extensive sediment discharge into the streams and the river. There are currently approximately 2,100 miles of service roads that are considered a moderate to high risk to the river. Furthermore, for a variety of reasons including fiscal, the United States Forest Service has been unable to maintain these roads, much less undertake necessary upgrades. And as the roads continue to age and disintegrate, culverts rust and become obstructed, all contributing significant amounts of pollution to the river.

The river has also been experiencing significant fish disease issues, primarily resulting from the presence of the disease *ceratomyxa shasta* in the river. In addition, elevated temperatures and nutrient levels from agricultural run-off cause massive amounts of algae and other plant life to grow and flourish within the river. This plant life decays at night, using up oxygen that the fish species require for survival. This prolonged stress on the species stops growth, increases susceptibility to disease and eventually causes death. Over the past few years, the Tribe has documented and witnessed the death of 30,000 to 60,000 Chinook salmon in the river. Even more alarming, hundreds of thousands of juvenile fish are dying each year as a result of disease.

The Tribe has undertaken extensive efforts, to the degree it is financially able, to minimize the damage that has, and continues, to occur to the river and the watershed. These efforts are primarily driven by Karuk DNR. Although the DNR has a number of programs intended to minimize the damage and maintain and improve the ecological welfare of the region, it is severely under-funded and wholly dependent on the receipt of competitive grant funds. As a result, the Tribe is unable to perform the real work necessary to restore the traditional ecosystem and culture of the Tribe's ancestral territory.

The DNR's stated mission is "to protect, promote and preserve the cultural/natural resources and ecological processes upon which the Karuk People depends."<sup>2</sup> In furtherance of that mission, the DNR has established a number of programs, including:

- Watershed Restoration
- Fisheries
- Air Quality
- Water Quality
- Fire/Fuels Reduction Program
- Recycling and Solid Waste Reduction
- General Assistance Program

These programs are currently operating as grant-funded endeavors, dependent each year on the availability and award of funds by various state and federal agencies and programs. Despite this continuing uncertainty as to the availability of even inadequate funding, the Tribe is making its best efforts to undertake whatever programs it is able to further its beneficial efforts in restoring the lands and river.

For example, the **Watershed Restoration Program** is working to identify the previously mentioned Forest Service roads and to decommission these roads. This process entails a restoration of the natural topography in the areas traversed by the roadways. Since 1999, 294,000 cubic yards of material have been moved. However, there remain 2,000 miles of roads requiring decommissioning. This project alone requires at a minimum \$700,000 per year to merely sustain the current activity, much less complete the decommissioning at a pace necessary to effectively and efficiently halt the continued river pollution being caused by the erosion of the roads.

In addition, the **Fisheries and Water Quality Programs** work toward collecting data on fish populations and water quality. The programs recently obtained minimal funds to evaluate the fish disease issues ravaging the river, but these funds were not remotely sufficient to undertake any true research or proactive efforts to resolve the disease issues. Rather, the Tribe is only able to monitor the current state of the river and determine whether there is any change in the conditions effecting the river and its aquatic species. Moreover, the DNR has had to turn away numerous Tribe members qualified to work on fisheries and water quality projects because there are simply no funds for the employment of these persons.

The **Fire and Fuels Reduction Program** was established by the DNR to undertake significant management and restoration of the Karuk ancestral lands and the preservation of local environmental resources. This program seeks to remove accumulated debris and forest floor build-up that will reduce the risk of catastrophic fire hazard and forest destruction. Currently, the Tribe has 30 people trained in the skills necessary to accomplish this work. However, the DNR has only enough funds to employ five of them. The DNR estimates that it would require \$1.5 million per year for 999 years for 20 people to complete one initial fire and fuels reduction treatment of the entirety of the Karuk ancestral lands. From a practical standpoint, this estimate makes clear that there is significant work necessary and available with respect to the preservation and restoration of the Karuk lands. However, without the necessary funding, the work cannot be accomplished.

The Tribe has also identified numerous additional projects that are vital to the restoration of the land and continued preservation of the Klamath River, none of which are currently funded. First, the

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<sup>2</sup> See Karuk DNR Mission Statement, accessible at [www.karuk.us/dnr/index.php](http://www.karuk.us/dnr/index.php).

above-described projects are large-scale endeavors, requiring numerous personnel. None of them are self-sustaining, and all are dependent upon federal and state grants. Additional funds derived from casino gaming would permit these programs to be expanded and enable the Tribe to complete the necessary work of each program.

In addition, the Tribe has identified other areas that would advance the preservation and restoration goals necessary to repair and maintain the region. First, significant research is required regarding the various tribal trusts species found in the region, both aquatic and land species. At the present time, there is not enough information available regarding the species' biologies to effectively manage and provide for them and, thus, to sustain their viability in the region. Because there is a necessary concern about the health of the entire watershed and its inhabitants, research must be undertaken to develop a comprehensive understanding of the species inhabiting the land and river such that a healthy ecosystem can be maintained.

In addition, the Tribe seeks to undertake stewardship work, under the provisions of the Healthy Forest Restoration Act. Because of the Tribe's familiarity with the land and its requirements, a properly funded effort would permit the Tribe to undertake treatments of the forest area through contributions of tribal funds in partnership with government agencies. Significant forest species such as the Black Oak are dying due to fire suppression. Tribal efforts funded by casino gaming could more efficiently restore and repair these forest areas, thus insuring the health of species such as the Black Oak, and in turn, insure continued support of the wildlife habitat dependent on a healthy forest.

The DNR has also proposed developing a native plant nursery, such that plant species native to the region can be nurtured and grown and eventually replanted in the extensively decimated areas of the Karuk territory. Such native plants could also be provided to area residents for restoration of privately-owned land.

The DNR is working diligently to implement the necessary programs to repair the ecosystem of the Karuk ancestral lands and preserve the area's water quality, forest health, cultural and spiritual values of sacred locations, and to further preserve the native plants, fish, and wildlife. However, without access to a continuing source of adequate funding, these programs are severely handicapped and without sufficient or stable funding to fully and effectively accomplish the programs' goals.

Currently, the DNR operates all of its programs through competitive grant awards. Because the Tribe has no relevant land base in that it does not have a "reservation" as that term is customarily used, it is not capable of generating its own revenue. And because the programs are dependent on federal and state grants, the DNR has no stable source of income; it is fully dependent on grant awards that vary from year to year. Every year, a tremendous potential exists that the DNR will lose some or all of its funding.

Finally, the Tribe has been working with the State Water Resources Control Board on the issue of **decommissioning of Klamath River dams** which serve no constructive purpose and, to the contrary, have been demonstrated to be harmful to the river and surrounding environs. To this end, the Tribe would commit a portion of its casino revenue to the Dam Decommissioning Fund which is proposed by state officials for the purposes of assisting local communities affected by future dam decommissionings. To this end, we have been working with Arthur G. Baggett, Jr., the state's lead negotiator on this issue and will continue to do so.

The Karuk people have an inherent need to repair the Tribe's ancestral lands for the benefit not only of the Tribe but for the general population as well, a population which treasures and uses the river

resources on a continuing basis. The Tribe is better equipped and better able to perform the restoration and preservation because Tribe members occupy the land, have a deep understanding of the land, and have a vested interest in protecting the lands occupied by the Tribe for thousands of years. Accordingly, the acquisition of gaming is essential to both the continuation of the current DNR programs, as well as the implementation of additional restoration and preservation efforts.

### 3.2 LOCAL ECONOMY

Although we know that this is not an acceptable primary element of a public policy proposal that supports off-reservation gaming approval by the Governor, a second compelling reason to support a Section 20 exception for the Tribe is the economic condition of Siskiyou County and the Tribe.

The Tribe straddles two counties: Siskiyou and Humboldt. Siskiyou County provides an excellent illustration of the economic problems facing the Tribe.

When Siskiyou County is compared to other counties in the State, it does not fare well. Illustrative of the dire economic conditions facing the Tribe, the California Employment Development Department reports that the State had an unemployment rate of 6.2 percent in 2004, while the County was at 11.7 percent. Chart 1 below shows the unemployment rate and number of households below the poverty line for the Tribe, the two local counties and the State of California.

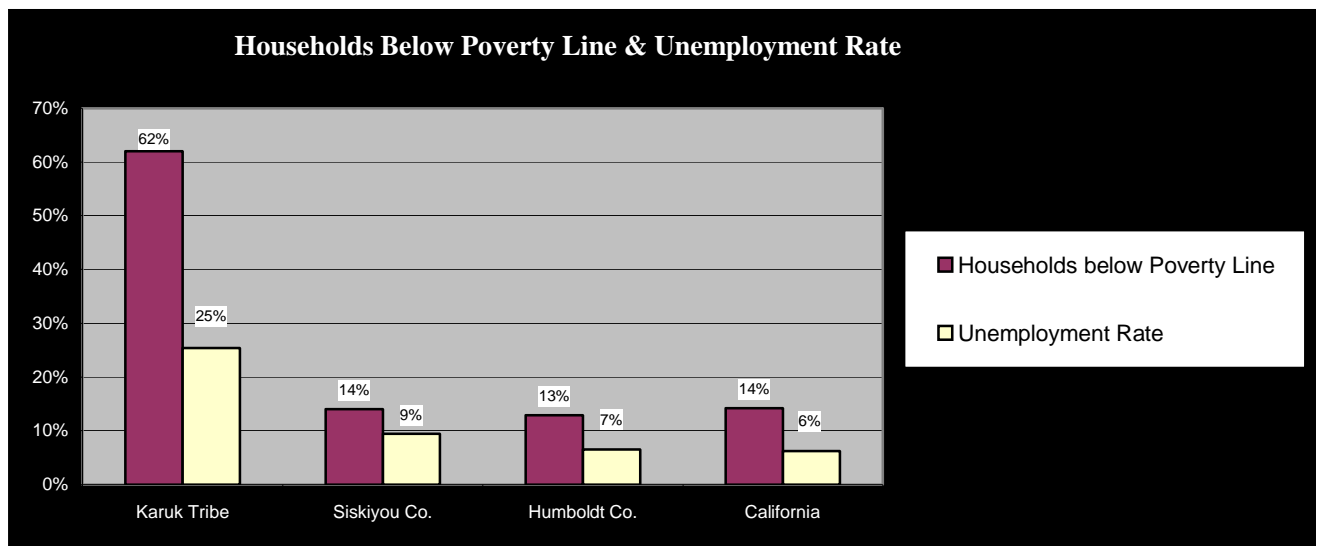


Chart 1. Unemployment Rate and Households Below the Poverty Line.

Of special note is that according to the U.S. Census Bureau, the population of Siskiyou County is currently only 44,450. Over the past five years the county’s population has only increased by one (1) percent while the rest of the state experienced a solid growth of some five (5) percent. This is undoubtedly the result of the unfavorable business climate in the county, and the Tribe believes that the proposed project would go a long way towards changing this climate.

This condition in the county is no aberration. Since 1988, Siskiyou County’s agriculture and manufacturing industries have experienced substantial job loss. Agriculture industries have lost 420

jobs, a decline of almost 35 percent. Manufacturing has lost 260 jobs or 27 percent. Both durable and nondurable goods have posted job losses, but the majority of the decline has been in durable goods manufacturing.

The above is a sad commentary on private enterprise, as it does not take the lead that it should. In Siskiyou County, government is the largest industry, accounting for 27 percent of total employment. Private capital has taken a subservient role, which we recognize is probably due to the fact that there are so few new opportunities for business development and growth in the area.

While the county's economic situation is meager at best, the Tribe's is worse. The loss of the timber industry has had a more devastating effect on tribal members as a disproportionate share of tribal members lived along the Klamath River where logging jobs were located.

In 2004, median income in a four person Indian family living on tribal land was only \$13,000.00, while in Siskiyou County the median income is \$28,178.00. Meanwhile California's median income is \$32,814.00. Chart 2 below shows the median income for the tribe, local counties and the State of California.

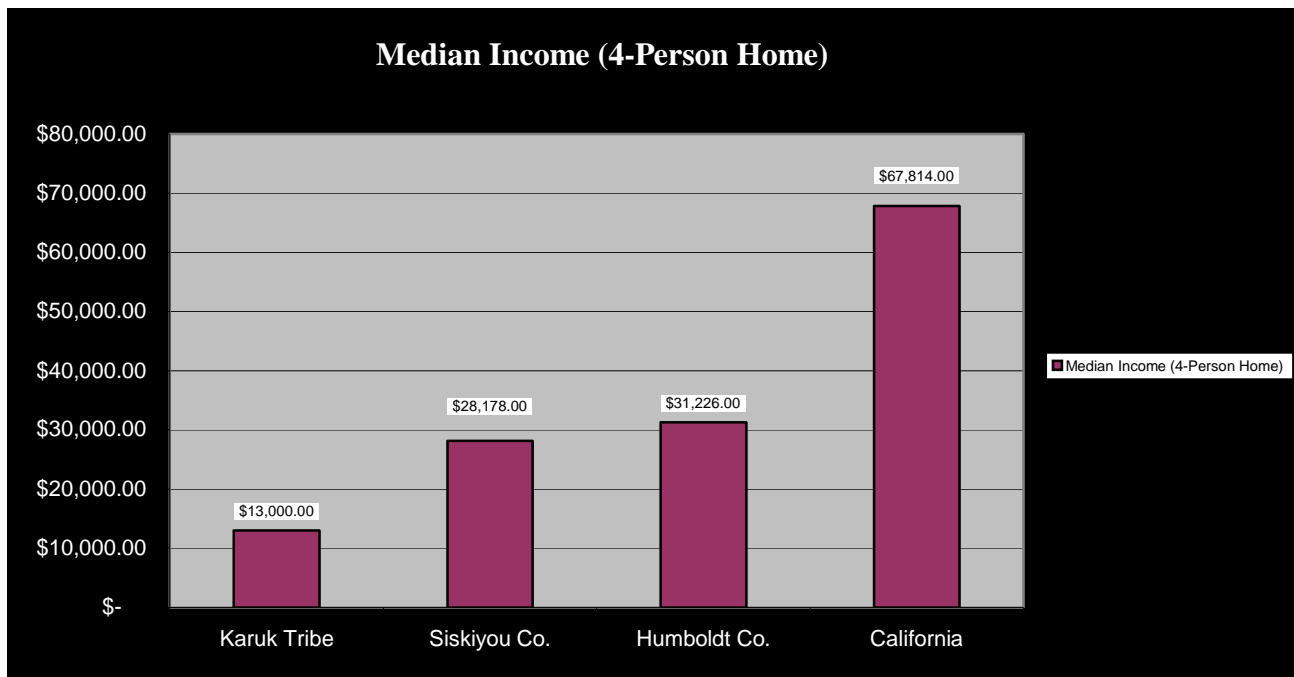


Chart 2. Medium Income (4-person Home)

### 3.3 TRIBAL ECONOMY

The Karuk Tribe is the second largest tribe in the State of California. The Klamath Basin once provided our tribe with a high standard of living when compared to other tribes in the state. This was due to abundant natural resources of our area. Although the Tribe's treaty was never ratified and its land became public, the Karuk Tribe was able to survive, because the Karuk people still had access to the resources. However, that access has been changing over the past several decades, and the results



have been staggering. Now 62 percent of tribal members live below the poverty rate and 25 percent are unemployed. The loss of the timber industry has had a more devastating effect on tribal members as well as the local economy, since a disproportionate share of the tribe lives within national forests where such jobs were once located but now have been eliminated.

The Tribe believes that it can provide the economic engine that will spark growth and prosperity in the Yreka area. With the support it has received from Siskiyou County, the City of Yreka and local businesses, it is clear that the community believes this as well.

### **3.4 THE KARUK TRIBE HAS NO VIABLE ALTERNATIVE FOR GAMING TO THE YREKA SITE**

The Tribe has various lands along the Klamath River which were in trust status as of October 17, 1988, the date on which IGRA became law. These lands qualify for gaming without application of any of the exceptions found at IGRA Section 20(b)(1)(B) or the gubernatorial concurrence provision at Section 20(b)(1)(A). However, these parcels are located in the corridor between Happy Camp and Orleans, far from (a) the Interstate 5 corridor and (b) the resident and transient populations which are essential to any commercial venture and particularly critical for a casino resort activity. Simply put, there is no market for gaming at that section of the river.

### **3.5 HISTORIC KARUK CONNECTIONS TO YREKA**

As noted above, **Exhibit A** to this Proposal is a report addressing this matter: “The Karuk Tribe: Indian Residency and Tribal Presence in Siskiyou County, California, 1910” by Stephen Dow Beckham, Pamplin Professor of History at Lewis & Clark College, Portland, Oregon.

Dr. Beckham is generally acknowledged as perhaps the leading and most-respected expert in the Indians of the Pacific Northwest and his expertise is widely sought in matters concerning the ethnography of tribes and Indian people. Subsequent to receiving the NIGC’s negative land determination last fall, the Tribe asked him to research and document the presence of the Tribe and its members in both Siskiyou County and the City of Yreka, in anticipation of using his carefully documented findings to seek a reconsideration by the NIGC of its request for land determination. However, as also stated above, the Tribe recognizes that a second NIGC review is time-consuming and expensive and is seeking Section 20 concurrence of the Governor to permit this project to move forward now, instead of sometime in the future. Of particular relevance to this project is that the land to be utilized already is in trust status. Gubernatorial concurrence would permit the Tribe to use the land for gaming.

**In the way of introduction to Dr. Beckham’s work, his conclusions in Exhibit A are reported below.**

#### **Conclusions of Dr. Stephen Dow Beckham**

The “Indian Schedules” of the 1910 federal census are an objective assessment of the Native American population of Siskiyou County. The schedules were shaped largely by self-identification through interviews wherein individuals gave their tribal affiliation and that of their father and mother.

The Thirteenth Census confirms the dominant presence of the Karuk Tribe in Siskiyou County. Fully 68.8% of all Indians living in the county were members of the Karuk Tribe.

The Native American population of Yreka, the county seat, was limited. The population was 66 people. Almost as many Shasta lived in Lake Township in eastern Siskiyou County as in Yreka.

Several forces shaped the distribution of Indian residency in Siskiyou County in the early twentieth century:

- \* Most Indians lived along stream courses because of access to traditional foods and the extensive trail system. The foods included salmon, steelhead, sturgeon, trout, and eels as well as acorns and camas found on the old riverine terraces. This pattern of residency was confirmed, for example, with 233 Karuks living at Somes Bar and 193 at Happy Camp.

- \* Most Indians lived on riverine terraces because of the steep terrain of much of Siskiyou County and the spread of ranching across the meadows of Scott Valley, Shasta Valley, and the bottomlands along the Klamath River upstream from the Shasta. The narrow, old terraces covered with grass, oaks, firs, and willows—where they had not been overturned by placer and hydraulic mining operations—were favored places of residency.

- \* Many of the Karuks had been driven from their ages-old villages starting with the gold rush in 1851 and continuing with the development of hydraulic and lode mining in succeeding years. Miles of mine tailings along the Klamath River are vivid reminders of the destruction of old village sites and hint at the environmental impacts of the flood of mining debris that surged for decades into the Klamath River depleting vital fish runs.

- \* Most Indian families were subjected to the tug and pull of the Bureau of Indian Affairs educational programs that took their children away for enrollment in schools at Hoopa Valley Reservation, Sherman Institute in Riverside, Chemawa School in Salem, Greenville School near Fresno, Phoenix Indian School at Phoenix, Arizona, and even the Carlisle Indian School at Carlisle, Pennsylvania, thousands of miles away. The “Indian Schedules” confirmed that a number of Indian children had attended these schools and had returned to live in Siskiyou County.

- \* As individuals moved from traditional subsistence living into the twentieth century wage economy of Siskiyou County, they and their families found it necessary to leave traditional villages to find jobs in communities such as Yreka, Klamathon, Beswick, or Fort Jones. Their employments included mining, logging, lumber manufacturing, ranch work, and labor as domestic servants. Some, however, found seasonal work building trails and fighting forest fires for the U.S. Forest Service.

- \* As the seat of county government and primary commercial center of Siskiyou County, Yreka increasingly became a hub of activity for those living in that part of northern California. When mining and logging jobs played out along the Klamath, Scott, and Salmon Rivers, many Indian families found it necessary to relocate in order to survive, and the nearby town of Yreka was a natural destination.

- \* The presence of the Karuk Tribe in Siskiyou County and in Yreka, particular, is impressive. Of 3,383 enrolled Karuks (as of June, 14, 2005), 685 (22.7%) were born in Yreka. The tribe has trust land in Yreka and operates a major part of its tribal housing program in that city to meet the needs of its members residing in Yreka.

# **SECTION 4.0**

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## **PROJECT SUPPORT**

Given economic situation of our area, it is no wonder that there is great interest in the proposed project from both the City of Yreka and the Siskiyou County Board of Supervisors. In addition, the Tribe has received over 200 support letters from the local business community for the proposed casino. We provided this material to the previous Legal Affairs Secretary Peter Siggins, but can provide an additional set if desired.

Nonetheless, we are actively working with the local governments to negotiate agreements which would provide for mitigation of impacts from the project as well as reimburse them for costs incurred in dealing with it.

### **4.1 DISCUSSIONS WITH SISKIYOU COUNTY**

The Tribe has been involved in on going discussions with the county, and stated that it would adhere to county building and health codes. In addition, the Tribe is committed to mitigating any impacts to the county that may arise from the casino project. All of this is memorialized in a draft agreement submitted to the County Counsel by tribal legal counsel. In this regard, the county has written a letter declaring its interest in working with the Tribe on this project and a copy of that letter has been furnished to Mr. Siggins.

### **4.2 DISCUSSIONS WITH THE CITY OF YREKA**

Following discussions between the City and the Tribe, the City was provided with the Casino Market Assessment conducted in 2003. The Tribe has had extensive discussions with the City of Yreka, and in these discussions the Tribe has agreed to mitigate impacts and upgrade infrastructure to accommodate the proposed development. There have been discussions concerning the impacts on the roads, sewers, police and other issues of public concern and they are being addressed in an agreement being developed. And, the city has written a letter preliminarily supporting this project that has been furnished to Mr. Siggins.

### **4.3 COMMUNITY SUPPORT**

The Yreka community has been very supportive, especially the business community. It took our tribal staff only one week to gather over 200 support letters from local business owners. While other communities along the I-5 corridor have prospered over the past several years, Yreka's growth has remained virtually the same. Many lumber mills, along with the high paying jobs generated thereby, have closed in the Yreka area. The Tribe would like to use the profits from the casino to develop businesses in the area and create a diverse economy, much the same as the Cow Creek Band of Umpqua Tribe of Indians has done with its Seven Feathers Hotel & Casino Resort at Canyonville, Oregon.

## **SECTION 5.0**

### **AGREEMENTS**

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In order to insure the integrity of its project and working relationships with all affected governments, the Tribe is prepared to enter into formal agreements with (1) the State of California, (2) the City of Yreka and (3) Siskiyou County. As noted in Section 4, draft local agreements have been proposed by the Tribe and are currently being reviewed by the two local governments.

#### **5.1 CLASS III GAMING COMPACT WITH STATE OF CALIFORNIA**

The Tribe proposes to enter into a Class III Gaming Compact with the State of California, which will provide for revenue sharing consistent with provisions negotiated by other tribes and approved by the Secretary of the Interior.

The Tribe will agree to waive jurisdiction for personal injuries occurring while patrons are using the casino. It will be agreed that Workers' Compensation benefits will be provided to all workers in accordance with the Labor Code of the State of California. Finally, the Tribe is willing to consent to binding arbitration in certain kinds of disputes with local governments and customers.

#### **5.2 MEMORANDUM OF UNDERSTANDING WITH CITY OF YREKA**

The Tribe currently is negotiating a Memorandum of Understanding with the City of Yreka that will provide payments to the City in return for a wide range of municipal services. As a quid pro quo for tribal concessions, it is anticipated that this MOU would reflect City support for the project.

#### **5.3 AGREEMENT WITH SISKIYOU COUNTY**

The Tribe proposes to negotiate a Memorandum of Understanding with Siskiyou County, which covers all issues relevant to the County despite the fact that the proposed gaming site is within the city limits of Yreka and not on County land.

## **SECTION 6.0**

### **ENVIRONMENT REVIEW**

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#### **6.1 ENVIRONMENTAL REVIEW**

A qualified environmental consultant firm will perform either an Environmental Impact Statement (EIS) or an Environmental Assessment (EA). The environmental document will include impacts from the construction of the gaming facility and parking lot, as well as the transfer of the portion of land

that is in fee to trust. All environmental impacts that have been identified will be fully mitigated. Among, but not limited to, the environmental issues to be evaluated are the following:

- Land Resources (topography, geology setting and seismology, soils, and mineral resources);
- Water Resources (surface water, drainage and flooding, water supply and groundwater, water quality, and wastewater treatment and disposal);
- Air Quality;
- Biological Resources;
- Cultural Resources;
- Socioeconomic Conditions;
- Traffic and Circulation;
- Land Use;
- Public Services (solid waste service, electricity, natural gas, and telecommunications, law enforcement, fire protection, and emergency medical services);
- Noise;
- Hazardous Materials; and
- Visual Resources.