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CITIZEN POTAWATOMI NATION

July 6, 2016

Bonnie Braganza, P.E.
U.S. EPA, Region 6
1445 Ross Ave.
Dallas, TX 75202

RE: Screening Process Completed, FireLake Express Grocery No. 2

Dear Ms. Braganza:

The Citizen Potawatomi Nation (CPN or Tribe) intends to submit a Notification of Coverage under a permit by rule for the newly installed underground storage tanks at FireLake Express Grocery No. 2 (FireLake Express Grocery). The purpose of this letter is to demonstrate the Tribe's completion of the screening process in support thereof regarding threatened and endangered species and historic properties per 40 CFR 49.156, *et seq.*

The Tribe submits the following information for consideration to satisfy said requirements:

- FireLake Express Grocery, owned and operated by the Tribe, is on tribal trust land known as the Giverny 27 East property (Giverny 27 East).
- As a part of the trust application, an environmental review was completed which included a review of threatened and endangered species and historic properties. (See April 27, 2010 letter from CPN Tribal Historic Preservation Office and March 2010 Biological Review.)
- Furthermore, in 2012 the Tribe completed an Environmental Assessment under U.S. Department of Housing and Urban Development (HUD) regulations for the construction of FireLake Express Grocery for which a Finding of No Significant Impact was made.
- Subsequently, HUD released funds to construct FireLake Express Grocery on Giverny 27 East, the location of the Tribe's underground storage tanks. (See HUD Authority to Use Grant Funds form with January 4, 2012 effective date.)

Please let me know if you need additional information or clarification. I can be reached at (405) 878-4672 or showard@potawatomi.org.

Regards,

Shawn Howard, MPH, CFM
Assistant Environmental Director

CHAIRMAN
John A. Barrett



SECRETARY-TREASURER
D. Wayne Trousdale

CITIZEN POTAWATOMI NATION

April 27, 2010

Ms. Shawn Howard
Assistant Environmental Director
Citizen Potawatomi Nation
41707 Hardesty Road
Shawnee, OK 74801

Re: Giverny 27 East Property, Pottawatomie County, OK

Ms. Howard,

In regards to your email dated 4/05/10, regarding the Giverny 27 East property, whereby you requested a Section 106 (NHPA) consultation, hereby follows the opinion of the Citizen Potawatomi Nation's THPO regarding any potential impact on historic or cultural resources.

I am familiar with the property and its history, and have reviewed the aerial and topographic photos of the property that you provided. I carried out a cultural survey on the property on 4/07/10.

It is my professional opinion that no significant impact to any archaeological or historically significant architectural assets are likely to occur from any demolition, construction, or developmental activities at the site.

Consistent with federal and other applicable laws, if during the course of demolition or construction, there are any inadvertent discoveries of human remains (archaeological or contemporary) or any culturally affiliated artifacts, please cease all activities at the site and notify my office immediately.

Please feel free to contact me if you have any further questions.

Sincerely,

Karen Phillips
Tribal Historic Preservation Officer
Citizen Potawatomi Nation

(405) 275-3121 • Fax (405) 275-0198 • 1-800-880-9880
1601 S. Gordon Cooper Dr. • Shawnee, Oklahoma 74801 • www.potawatomi.org

BIOLOGICAL REVIEW
FEE-TO-TRUST LAND ACQUISITION APPLICATION
GIVERNY 27 EAST PROPERTY
CITIZEN POTAWATOMI NATION



Prepared by

Shawn Howard
Assistant Environmental Director
Environmental Professional

Project Name: Giverny 27 East Fee-to-Trust Application

March 2010

INTRODUCTION

Purpose.

The purpose of this Biological Review is to identify federally-listed endangered, threatened, proposed, and candidate species and critical habitats pursuant to Section 7 of the Endangered Species Act that may be significantly impacted by the proposed federal action.

Proposed Federal Action.

The proposed federal action is a fee-to-trust land acquisition application from the Citizen Potawatomi Nation (Tribe) to the U.S. Department of Interior, Bureau of Indian Affairs (BIA) to take and hold the Giverny 27 East property in trust for the use and benefit of the Tribe.

BACKGROUND

Description of Action Area.

The action area is also known as the Giverny 27 East property. See attached aerial and topographic maps of subject property. The following is a legal description:

The Northeast Quarter of the Southwest Quarter (NE1/4-SW1/4) **AND** the Northwest Quarter of the Southeast Quarter (NW1/4-SE1/4) **AND** the Southwest Quarter of the Southeast Quarter (SW1/4-SE1/4) **AND** the Southeast Quarter of the Southwest Quarter (SE1/4-SW1/4) **AND PART OF** the Southwest Quarter of the Southwest Quarter (SW1/4-SW1/4) of Section Twenty-seven (27), Township Eleven (11) North, Range Two (2) East of the Indian Meridian, Pottawatomie County, Oklahoma, further described by Rodger Whited, PLS 1298 on April 4, 2008, based on a Boundary Survey and monumented as shown on the attached Certificate Of Survey using bearings based on S89°42'38"W between existing monuments at the SE Corner and the SW Corner of the SW1/4 of said Section 27 as shown on Oklahoma Certified Corner Records on file with the Oklahoma Department Of Libraries. Bearings are given to show the angle relationship between lines and are not necessarily geodetic. The total tract further described by **METES AND BOUNDS** as **BEGINNING** at the Southwest Corner of said Section 27;
thence N00°23'35"W, on the West line of said SW1/4-SW1/4, for a distance of 414.00 feet;
thence N89°36'25"E for a distance of 526.00 feet;
thence N00°23'35"W for a distance of 414.00 feet;
thence S89°36'25"W for a distance of 526.00 feet to the West line of said SW1/4-SW1/4;
thence N00°23'35"W, on said West line, for a distance of 491.84 feet to the Northwest Corner of said SW1/4-SW1/4;
thence N89°45'21"E, on the North line of said SW1/4-SW1/4, for a distance of 1316.79 feet to the Northeast Corner of said SW1/4-SW1/4;
thence N00°19'04"W, on the West line of said NE1/4-SW1/4, for a distance of 1325.87 feet to the Northwest Corner of said NE1/4-SW1/4;
thence S89°58'02"E, on the North line of said NE1/4-SW1/4, for a distance of 1313.98 feet to the Northeast Corner of said NE1/4-SW1/4;

- thence** S89°41'07"E, on the North line of said NW1/4-SE1/4, for a distance of 1320.22 feet to the Northeast Corner of said NW1/4-SE1/4;
- thence** S00°17'39"E, on the East line of said NW1/4-SE1/4, for a distance of 1306.64 feet to the Southeast Corner of said NW1/4-SE1/4;
- thence** S00°03'27"W, on the East line of the SW1/4-SE1/4, for a distance of 1316.51 feet to the Southeast Corner of said SW1/4-SE1/4;
- thence** S89°42'03"W, on the South line of said SW1/4-SE1/4, for a distance of 1312.92 feet to the Southwest Corner of said SW1/4-SE1/4;
- thence** S89°42'38"W, on the South line of said SE1/4-SW1/4, for a distance of 1313.54 feet to the Southwest Corner of said SE1/4-SW1/4;
- thence** S89°42'38"W, on the South line of said SW1/4-SW1/4, for a distance of 1313.53 feet to the **POINT OF BEGINNING**, containing 194.075 acres more or less and subject to easements, rights-of-way, land use regulations and other encumbrances of record.

The existing and proposed use of the Giverny 27 East property is agricultural.

SPECIES DESCRIPTION

According to the U.S. Fish and Wildlife Service, Oklahoma Ecological Services Field Office, as of October 17, 2007, there are four species listed as endangered or threatened that potentially exist in Pottawatomie County, Oklahoma. The four listed species are identified in Table 1 and include the interior least tern, whooping crane, Arkansas River shiner, and piping plover. There is critical habitat designated for the Arkansas River Shiner. See attached list entitled *County Occurrences of Oklahoma Federally-Listed Endangered, Threatened, Proposed and Candidate Species* dated October 17, 2007.

Table 1. List of Federally-Protected Species with Potential to Occur in Pottawatomie County, Oklahoma

Common Name	Scientific Name	Status
Interior least tern	<i>Sterna antillarum</i>	Endangered
Whooping crane	<i>Grus Americana</i>	Endangered
Arkansas River Shiner	<i>Notropis girardi</i>	Threatened, Critical Habitat Designated
Piping plover	<i>Charadrius melodus</i>	Threatened

The following is a brief description of the habitats, breeding, migration, and feeding behaviors of the four listed species:

Interior Least Tern

The interior least tern *Sterna antillarum* is a bird that migrates to South America in the winter and arrives at their breeding grounds from late April to early June where they typically spend

four to five months. They favor islands or sandbars along large rivers for nesting. They will travel four to five miles from their breeding colony to find small fish that make up a large portion of their diet¹.

There will be no affects to the interior least tern population from the Tribe's fee-to-trust land acquisition application for the Giverny 27 East property to the U.S. Department of Interior, Bureau of Indian Affairs.

Whooping Crane

Whooping cranes *Grus Americana* inhabit marshes and prairie potholes in the summer. In winter, they are found near coastal marshes and prairies. Whooping cranes pass through western Oklahoma each spring during migration to northern Canada and fall during migration to the Texas Gulf Coast. During migration, whooping cranes are sometimes sighted in Oklahoma along rivers, in grain fields, or in shallow wetlands. The sources of nutrition for whooping cranes include a variety of things including frogs, small birds, insects, rodents, minnows, and waste grains. In the wintering grounds, blue crabs and clams are especially important food items².

There will be no affects to the whooping crane population from the Tribe's fee-to-trust land acquisition application for the Giverny 27 East property to the U.S. Department of Interior, Bureau of Indian Affairs.

Arkansas River Shiner

The Arkansas River shiner *Notropis girardi* is a small, heavy-bodied minnow with a rounded snout and small mouth. The shiner feeds mostly on aquatic invertebrates. It is believed to spawn during the months of May, June and July in conjunction with flows following heavy rains. Eggs drift with the current during high flows until hatching occurs. If conditions are favorable, the shiner may reproduce several times during this period³.

The shiner is native to wide, sandy-bottomed streams of the Arkansas River drainage in Arkansas, Kansas, New Mexico, Oklahoma, and Texas. The shiner is presently almost entirely restricted to the Canadian/South Canadian River in Oklahoma, Texas, and New Mexico, a distance of about 408 river miles. A small, relict population is believed to remain in the upper Cimarron River in Kansas and Oklahoma. A remnant population also may persist in the Beaver/North Canadian River of OK, based on collection of only four individuals since 1990. However, in 2001, biologists conducted an extensive survey on the Beaver/North Canadian River and failed to Find Arkansas River shiners.

There will be no affects to the Arkansas River shiner population from the Tribe's fee-to-trust land acquisition application for the Giverny 27 East property to the U.S. Department of Interior, Bureau of Indian Affairs.

¹ <http://www.fws.gov/southwest/es/oklahoma/lestern.htm>.

² <http://www.fws.gov/southwest/es/oklahoma/whooper.htm>.

³ Fact Sheet, U.S. Fish and Wildlife Service, July 29, 2005.

Piping Plover

The piping plover *Charadrius melodus* is a small shorebird that feeds on a variety of invertebrates, worms, insects, and crustaceans. Piping plovers arrive at their breeding grounds along the Atlantic Coast in late March and on their prairie feeding grounds in early May. Adults depart from breeding areas as early as the first week of July.

Piping plovers nest on sandy beaches along the ocean or lakes. Along rivers, piping plovers use the bare areas of islands or sandbars. They also nest on pebbly mud of interior alkali lakes and ponds. Piping plovers migrate through Oklahoma each spring and fall and winter along the southern Atlantic and Gulf Coasts, and in the Bahamas and West Indies⁴.

There will be no affects to the piping plover population from the Tribe's fee-to-trust land acquisition application for the Giverny 27 East property to the U.S. Department of Interior, Bureau of Indian Affairs.

FINDINGS

Findings: (Threatened and Endangered Listed Species)

- No affect to species or its habitat
- May affect species, not likely to adversely affect species or its habitat
- May beneficially affect species or its habitat
- Likely to adversely affect species or its habitat

COORDINATION

U.S. Fish and Wildlife Service
County species list accessed at
<http://www.fws.gov/southwest/es/oklahoma/spplist.htm>

MITIGATION

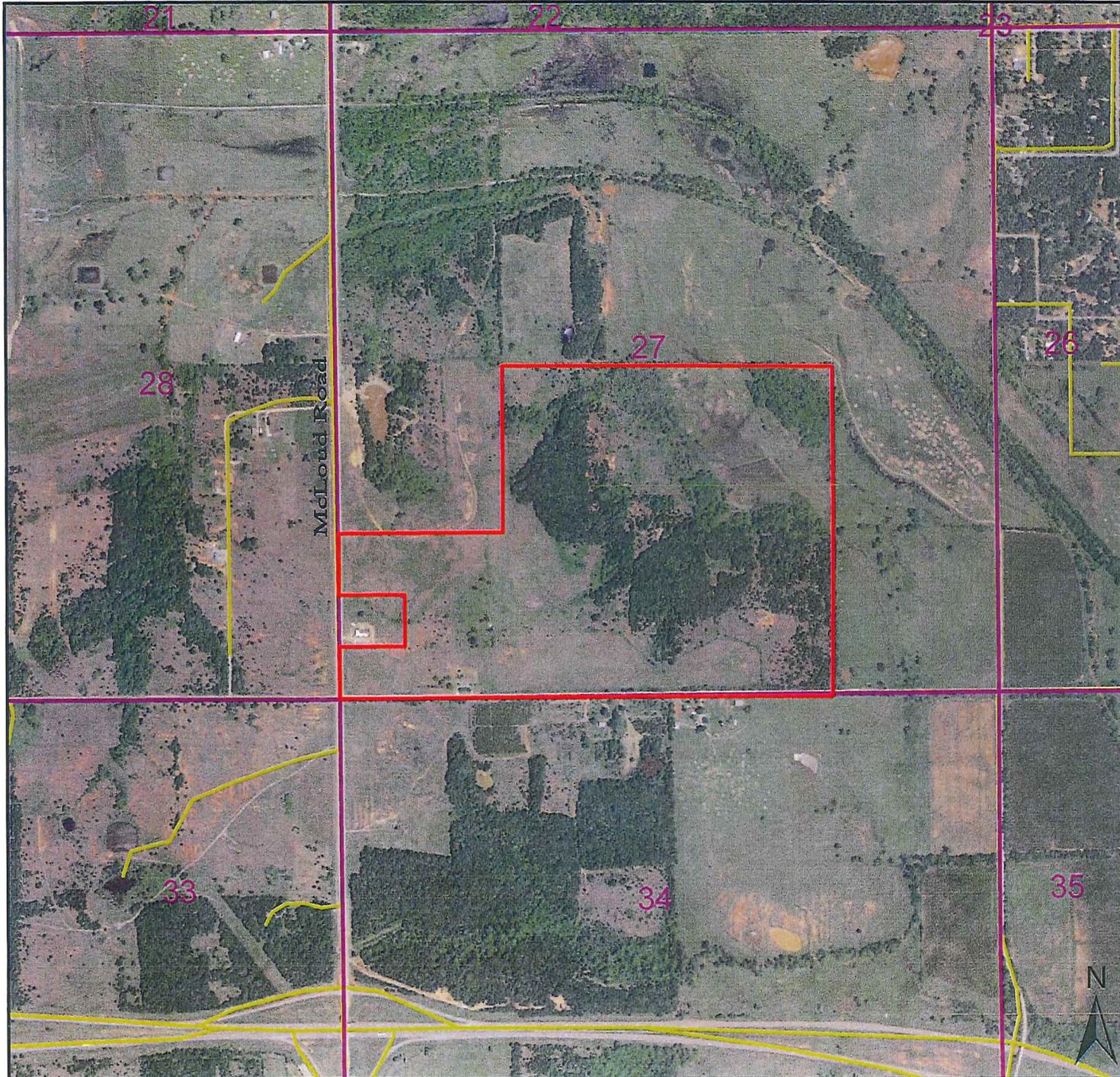
Due to the administrative nature of the proposed federal action, there is no need for mitigation review and/or recommendations.

Dated this 22nd day of March, 2010.

By: Shawn Howard
Shawn Howard, B.S. Biology
CPN Assistant Environmental Director

⁴ <http://www.fws.gov/southwest/es/oklahoma/plover.htm>.

Citizen Potawatomi Nation



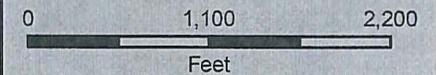
Giverny 27 East

2008 Aerial Map

Section 27
Township 11 North
Range 2 East



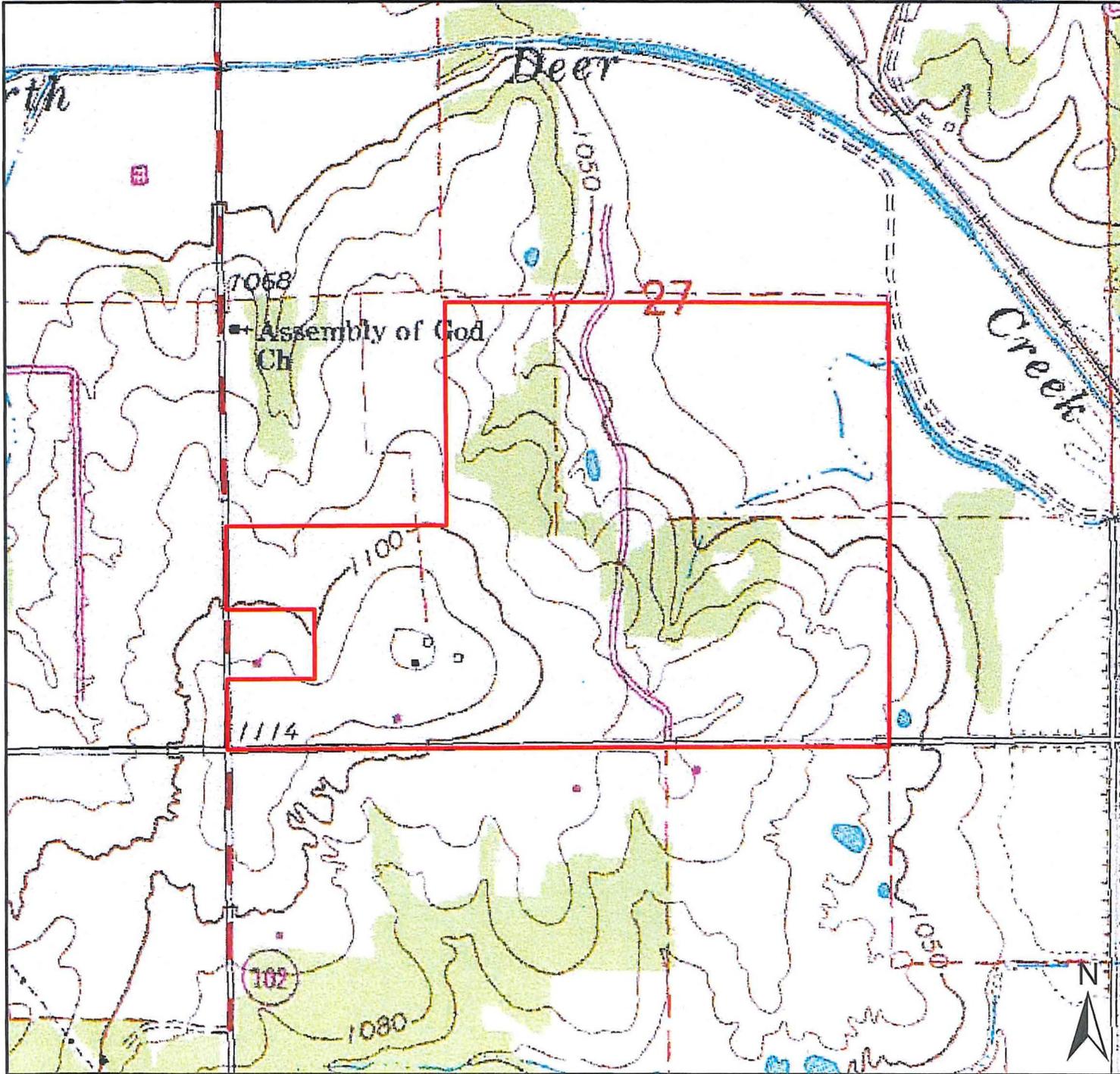
-  Giverny Property
-  Sections
-  County Roads



Map By: Melanie Morgan
GIS/ GPS Specialist
Citizen Potawatomi Nation
Sources: CPN
CSA.OU.EDU

February 2010

Citizen Potawatomi Nation



Giverny 27 East

Topographic Map

Section 27
Township 11 North
Range 2 East



 Giverny Property



Map By: Melanie Morgan
GIS/ GPS Specialist
Citizen Potawatomi Nation
Sources: CPN
USGS

February 2010



U.S. FISH AND WILDLIFE SERVICE
OKLAHOMA ECOLOGICAL SERVICES FIELD OFFICE



COUNTY OCCURRENCES OF OKLAHOMA
FEDERALLY-LISTED ENDANGERED, THREATENED,
PROPOSED AND CANDIDATE SPECIES

October 17, 2007

<u>COUNTY</u>	<u>SPECIES</u>	<u>CLASSIFICATION</u>
Adair	American burying beetle ^(1, A)	Endangered
	gray bat	Endangered
	Indiana bat	Endangered
	interior least tern ⁽⁷⁾	Endangered
	Ozark big-eared bat	Endangered
	piping plover ⁽¹⁰⁾	Threatened
	Neosho mucket mussel	Candidate
Alfalfa	interior least tern ^(6, 7)	Endangered
	whooping crane ^(8c, 9)	Endangered, Critical habitat designated
	piping plover ⁽¹⁰⁾	Threatened
	lesser prairie chicken ⁽¹²⁾	Candidate, Warranted but precluded
Atoka	American burying beetle ^(1, B)	Endangered
	interior least tern ⁽⁷⁾	Endangered
	whooping crane ⁽⁹⁾	Endangered
	piping plover ⁽¹⁰⁾	Threatened
Beaver	interior least tern ⁽⁷⁾	Endangered
	whooping crane ^(8c, 9)	Endangered
	Arkansas River shiner	Threatened, Critical habitat designated
	piping plover ⁽¹⁰⁾	Threatened
	Arkansas darter	Candidate
	lesser prairie chicken ⁽¹¹⁾	Candidate, Warranted but precluded
Beckham	whooping crane ⁽⁹⁾	Endangered
	interior least tern ⁽⁷⁾	Endangered
	piping plover ⁽¹⁰⁾	Threatened
	lesser prairie chicken ⁽¹¹⁾	Candidate, Warranted but precluded
Blaine	black-capped vireo ^(4, 5)	Endangered
	interior least tern ^(6, 7)	Endangered
	whooping crane ^(8c, 9)	Endangered
	Arkansas River shiner	Threatened, Critical habitat designated
	piping plover ⁽¹⁰⁾	Threatened
	lesser prairie chicken ⁽¹²⁾	Candidate, Warranted but precluded
Bryan	American burying beetle ^(1, B)	Endangered
	interior least tern ^(6, 7)	Endangered
	whooping crane ^(8h)	Endangered
	piping plover ⁽¹⁰⁾	Threatened
Caddo	black-capped vireo ⁽⁵⁾	Endangered
	interior least tern ^(6, 7)	Endangered

**Authority to Use
Grant Funds**

U.S. Department of Housing
and Urban Development
Office of Community
Planning and Development



<p>To: (name & address of Grant Recipient & name & title of Chief Executive Officer)</p> <p>The Honorable John Barrett Chairman Citizen Potawatomi Nation of Oklahoma 1601 S. Gordon Cooper Dr. Shawnee, OK 74801</p>	<p>Copy To: (name & address of SubRecipient)</p> <p>Mr. Art Muller ICDBG Director Citizen Potawatomi Nation of Oklahoma 1601 S. Gordon Cooper Dr. Shawnee, OK 74801</p>
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<p>We received your Request for Release of Funds and Certification, form HUD-7015.15 on</p>	<p>December 20, 2011</p>
<p>Your Request was for HUD/State Identification Number</p>	<p>B10SR402438</p>

All objections, if received, have been considered. And the minimum waiting period has transpired.
You are hereby authorized to use funds provided to you under the above HUD/State Identification Number.
File this form for proper record keeping, audit, and inspection purposes.

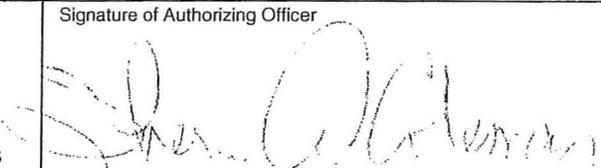
Program Title: **Indian Community Development Block Grant**

Activity Description: **FireLake Express 2 Grocery Store**

Project Location: Approximately .75 miles north of Interstate 40, East of S.H. 102 near
McLoud, Pottawatomie County, Oklahoma

The effective date of Release of Funds is: **January 4, 2012**

Tribe assumes NEPA responsibility.

<p>Typed Name of Authorizing Officer Sherri Coleman</p> <p>Title of Authorizing Officer Director, Grants Management Division Southern Plains Office of Native American Programs</p>	<p>Signature of Authorizing Officer</p> 	<p>Date (mm/dd/yyyy)</p> <p>1/04/2012</p>
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