

APPENDIX Y

COMMENTS AND RESPONSES

DRAFT EIS

COMMENTS AND RESPONSES

The Draft Environmental Impact Statement (DEIS) Ione Band of Miwok Indians Land Transfer and Casino Project was circulated to interested parties for comment from April 18th, 2008, to July 2, 2008. Copies of the DEIS were sent to Federal, State, local, and Tribal agencies, as well as the State Clearinghouse. A Notice of Availability (NOA) for the DEIS was published in the local newspaper, the Amador Ledger Dispatch, on April 22 and May 20, 2008. The BIA received 36 letters in response to the DEIS. A copy of the public hearing transcripts are included as **Comment Letter T1**. A list of the comment letters including the agency and date of submission is provided in **Table RTC-1**.

**TABLE RTC-1
COMMENT LETTERS**

	Name	Agency	Date Received
Federal Agencies (F)			
F-01	Nova Blazej, Manager	US EPA, Region IX, Environmental Review Office	2-Jul-08
F-02	James Devine, Senior Advisor for Science Applications	DOI, United States Geological Survey	26-Jun-08
State Agencies (S)			
S-01	Dan Lungren	Congressman	2-May-08
S-02	Debbie Pilas-Treadway	Native American Heritage Commission	29-May-08
S-03	J. Kyle Nast	California Resources Agency, Department of Conservation	4-Jun-08
S-04	Daniel H. Brewer	Department of Transportation, Office of Rural Planning & Administration	10-Jun-08
S-05	William A. Davis	Department of Transportation, District 3 Office	26-Jun-08
S-06	Andrea Lynn Hoch, Legal Affairs Secretary	Office of the Governor	2-Jul-08
S-07	Terry Roberts, Director	Governor's Office of Planning and Research - State Clearinghouse and Planning Unit	3-Jul-08
S-08	Terry Roberts, Director	Governor's Office of Planning and Research - State Clearinghouse and Planning Unit	9-Jul-08
Local Agencies (L)			
L-01	Kamal Atwal, P.E.	Department of Transportation, County of Sac	16-Jun-08
L-02	Richard Forster, Chair	Amador County Board of Supervisors	2-Jul-08
L-03	Jim Abercrombie, General Manager	Amador Water Agency	2-Jul-08
L-04	None Specified	City of Plymouth	2-Jul-08
L-05	Richard Shepard	El Dorado County Department of Transportation	18-Jul-08
Private Entities/Organizations (P)			
P-01	Tom Rayzor	Private Entity	6-May-08
P-02	D.W. Cranford II	Private Entity	Undated
P-03	Leedy D'Agostini	Realty World - Keller & D'Agostini	21-May-08
P-04	Maria Nunez & Barbara Nicholson	Private Entity	20-May-08
P-05	William and Alice Gibson	Private Entity	22-May-08
P-06	William Brauval	Private Entity	21-May-08
P-07	Katherine Venturelli	Private Entity	21-May-08
P-08	Jan Toberer	Private Entity	21-May-08
P-09	Chris Wright, Executive Director	Foothill Conservancy	3-Jun-08
P-10	Walter W. Dimmers	Private Entity	18-Jun-08
P-10(a)	Walter W. Dimmers	Private Entity	23-Jun-08
P-11	Walter W. Dimmers	Private Entity	18-Jun-08
P-12	Richard Minnis	Private Entity	17-Jun-08
P-13	Jennifer Minnis	Private Entity	18-Jun-08
P-14	Carrie and Steven Johnen	Private Entity	23-Jun-08
P-15	Patrick Henry	Private Entity	6-Jun-08
P-16	Elida Malick	Private Entity	27-Jun-08
P-17	D.W. Cranford II	Private Entity	2-Jul-08
P-18	Thomas Infusino & Elida Malick	No Casino in Plymouth	30-Jun-08
P-19	Nicolas Villa Jr	Historical Tribal Government	30-Jun-08
P-20	Carol Foerster	Private Entity	2-Jul-08
P-21	Elaine Zorbias	Private Entity	7-Jul-08
Public Hearing Transcripts (T)			
T-01	Valeri Thomas, Proctor	BIA, Pacific Region	21-May-08

FEDERAL (F) AGENCIES

COMMENT LETTERS AND RESPONSES

Comment Letter F1



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105-3901**

July 2, 2008

Dale Risling
Deputy Regional Director
Pacific Regional Office
Bureau of Indian Affairs
2800 Cottage Way
Sacramento, CA 95825

Subject: Draft Environmental Impact Statement, Ione Band of Miwok Indians 228.04 acre Fee-to-Trust Transfer Project and Casino Project, Amador County, California (CEQ # 20080136)

Dear Mr. Risling:

The U.S. Environmental Protection Agency (EPA) has reviewed the above-referenced Draft Environmental Impact Statement (DEIS) pursuant to the National Environmental Policy Act (NEPA), Council on Environmental Quality (CEQ) regulations (40 CFR Parts 1500-1508), and our NEPA review authority under Section 309 of the Clean Air Act. Our detailed comments are enclosed.

As a cooperating agency for the project, EPA reviewed and submitted comments on the Administrative DEIS on April 26, 2005 noting our concerns regarding the availability of groundwater resources, the wastewater treatment system, the air quality analysis, and impacts to biological resources. Thank you for addressing some of our concerns. Some comments that were not addressed are repeated here.

Based on our review, we have rated two elements of the proposed action (Alternative A) as Environmental Objections – Insufficient Information (EO-2), and the remaining elements as Environmental Concerns – Insufficient Information (EC-2). (See the enclosed “Summary of EPA Rating Definitions”.) The DEIS does not identify the preferred water supply or treated wastewater disposal option for the project but simply presents two options for these project elements. EPA objects to Water Supply Option 2 without the use of recycled water. We also object to treated wastewater disposal Option 1. Our concerns are summarized below and are detailed in the enclosed “Detailed Comments.”

Water Supply Option 2 proposes to construct wells to utilize groundwater and to supply the remaining water demand through trucked water. The groundwater basin is currently in overdraft, and it is not clear from limited pump testing that there is sufficient long-term capacity to provide a reliable water source if recycled water use is not maximized. Additionally, based on

F1-1

F1-2

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our knowledge of Tribal experiences, the use of trucked water is not likely to be feasible and is not recommended. EPA recommends the project maximize the use of recycled water to reduce water project demand.

F1-2
cont.

Treated Wastewater Disposal Option 1 includes construction of a reservoir in a nearby canyon by erecting a 75-foot earthen dam and diverting the canyon's intermittent stream through a culvert. This project element does not avoid fill to waters of the U.S. as required by the Clean Water Act Section 404 permit needed for the project. EPA instead recommends seasonal discharge to the intermittent creek be pursued using a National Pollutant Discharge Elimination System (NPDES) permit. We would like to work with the Bureau of Indian Affairs and the Tribe and project proponent to specifically resolve these two issues, as well as the concerns discussed in our Detailed Comments. We recommend setting up a meeting at your earliest possible convenience.

F1-3

EPA appreciates the opportunity to review this DEIS. When the FEIS is released, please send one hard copy and CD to this office at the above address (mail code: CED-2). If you have any questions, please contact me at 415-972-3846 or Karen Vitulano, the lead reviewer for this project, at 415-947-4178 or vitulano.karen@epa.gov.

Sincerely,



Nova Blazej, Manager
Environmental Review Office

Enclosure: Summary of EPA Rating Definitions
EPA's Detailed Comments

CC: Kathy Norton, Army Corps of Engineers
Matthew Franklin, Chairperson, Ione Band of Miwok Indians
Sarah Norris, Environmental Planner, Ione Band of Miwok Indians

SUMMARY OF EPA RATING DEFINITIONS

This rating system was developed as a means to summarize EPA's level of concern with a proposed action. The ratings are a combination of alphabetical categories for evaluation of the environmental impacts of the proposal and numerical categories for evaluation of the adequacy of the EIS.

ENVIRONMENTAL IMPACT OF THE ACTION

"LO" (Lack of Objections)

The EPA review has not identified any potential environmental impacts requiring substantive changes to the proposal. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposal.

"EC" (Environmental Concerns)

The EPA review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce the environmental impact. EPA would like to work with the lead agency to reduce these impacts.

"EO" (Environmental Objections)

The EPA review has identified significant environmental impacts that must be avoided in order to provide adequate protection for the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no action alternative or a new alternative). EPA intends to work with the lead agency to reduce these impacts.

"EU" (Environmentally Unsatisfactory)

The EPA review has identified adverse environmental impacts that are of sufficient magnitude that they are unsatisfactory from the standpoint of public health or welfare or environmental quality. EPA intends to work with the lead agency to reduce these impacts. If the potentially unsatisfactory impacts are not corrected at the final EIS stage, this proposal will be recommended for referral to the CEQ.

ADEQUACY OF THE IMPACT STATEMENT

Category 1" (Adequate)

EPA believes the draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis or data collection is necessary, but the reviewer may suggest the addition of clarifying language or information.

"Category 2" (Insufficient Information)

The draft EIS does not contain sufficient information for EPA to fully assess environmental impacts that should be avoided in order to fully protect the environment, or the EPA reviewer has identified new reasonably available alternatives that are within the spectrum of alternatives analysed in the draft EIS, which could reduce the environmental impacts of the action. The identified additional information, data, analyses, or discussion should be included in the final EIS.

"Category 3" (Inadequate)

EPA does not believe that the draft EIS adequately assesses potentially significant environmental impacts of the action, or the EPA reviewer has identified new, reasonably available alternatives that are outside of the spectrum of alternatives analysed in the draft EIS, which should be analysed in order to reduce the potentially significant environmental impacts. EPA believes that the identified additional information, data, analyses, or discussions are of such a magnitude that they should have full public review at a draft stage. EPA does not believe that the draft EIS is adequate for the purposes of the NEPA and/or Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised draft EIS. On the basis of the potential significant impacts involved, this proposal could be a candidate for referral to the CEQ.

*From EPA Manual 1640, "Policy and Procedures for the Review of Federal Actions Impacting the Environment."

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EPA DETAILED COMMENTS ON THE DRAFT ENVIRONMENTAL IMPACT STATEMENT FOR THE IONE BAND OF MIWOK INDIANS FEE-TO-TRUST TRANSFER PROJECT AND CASINO PROJECT, AMADOR COUNTY, CALIFORNIA, JULY 2, 2008

Impacts to Groundwater Resources

Groundwater basin overdraft

The DEIS indicates that the proposed action (Alternative A) may utilize recycled water for landscaping and toilet flushing (p. 2-12). Water Supply Option 2 would utilize groundwater from on and off-site wells and trucked water. The groundwater basin is in a state of overdraft, despite having average rainfall for the years analyzed (p. 4.3-9), and there appears to be uncertainty regarding the yield of the groundwater wells. Because of this uncertainty and the overdraft condition of the groundwater basin, recycled water use should be maximized. If Water Supply Option 2 is chosen and recycled water is not utilized, EPA has objections to this element of the proposed project.

F1-4

EPA has concerns with the long-term reliability of the proposed groundwater supply as described by the long-term well yields. Page 12 of Appendix B (Pumping Test and Sustainability Analysis) documents a boundary condition that could affect long-term well performance for well H1 and M3. It is not clear why the lower well performance limit was not used in calculating long-term well yields, which would provide a more conservative estimate of water supply yields.

F1-5

The DEIS indicates that groundwater on the project site primarily occurs in confined chambers at depth in the fractured bedrock zones, creating a unique groundwater chamber that allows for limited recharge from surface water infiltration (p. 3.3-9). However, the long-term well yields were calculated using an approach that assumes a significant percentage of recharge will reach the aquifer (Appendix B, 18). The calculation of safe available yield utilized a safety factor to account for "a position for the pump, drought and seasonal water level declines, and future drops in well efficiency during operation" (Appendix B, 14). The report in Appendix B does not indicate if the safety factor also considered the limited recharge situation described above. One limitation of the calculated long-term well yields is that they are based on a relatively short period of pumping (Appendix B p. 18). It is unfortunate that additional pump tests were not completed in the period since we reviewed the Administrative DEIS in 2005, which would have yielded more information and reduced uncertainty.

F1-6

We are also concerned with the long-term feasibility of utilizing trucked water, which may be too expensive to be a reliable water supply option. EPA funded a State Revolving Fund Tribal Set-Aside Grant for the Hopland Band of Pomo Indians for construction of a 10-mile water pipeline to their casino to replace trucked water that proved too costly. The DEIS indicates that if recycled water is used, trucked water will only be needed to initially fill the tanks and may not need to be relied upon for regular operations.

F1-7

Recommendation: EPA strongly recommends a firm commitment to the use of recycled water for landscape irrigation and toilet flushing and that the FEIS identify this as a definite project element of the preferred alternative and not simply an option. EPA recommends against the dependence of trucked water in project planning.

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We also recommend additional information be included in the FEIS to address how the method for determining safe well yields considered the limited recharge condition at the site. For a more conservative estimate that considers the limitations of the calculated long-term well yields, use of the lower well performance limit may be appropriate. Based on the revised calculations, include additional mitigation and monitoring measures as appropriate, discussed below.

F1-8

Mitigation of groundwater impacts

Because of the overdraft condition and uncertainty in determining long-term well yields, it is appropriate to identify all reasonable mitigation measures to mitigate groundwater impacts (40 CFR 1502.16(f) and 40 Most Asked Questions Concerning Council on Environmental Quality's NEPA Regulations, #19). The DEIS identifies one mitigation measure: to develop and implement a groundwater monitoring program in consultation with BIA and EPA to monitor levels of impact to offsite users (p. 5-7). If it is determined that offsite wells are significantly affected, the Tribe will undertake specific actions. It is not clear how a significant impact will be determined or how this agreement will be implemented with neighboring well-owners. We note that EPA does not have regulatory authority and generally does not get involved with groundwater issues not related to water quality.

F1-9

Recommendation: Provide specific information regarding the determination of significance and the mitigation commitment to impacted well-owners. Identify additional mitigation measures in the FEIS for impacts to groundwater should Option 2 be chosen. This should include the exploration of recharge mitigation options as appropriate. For example, the proposed North Fork casino project in Madera County included a proposal and Memorandum of Agreement for utilization of reclaimed water from its wastewater treatment plant for golf course irrigation at a nearby golf course, which would eliminate golf course groundwater withdrawal of over 240,000 gallons per day. Similarly, the North Fork Tribe also proposed to contribute to a reserved water bank or a groundwater recharge area to mitigate groundwater impacts.

F1-10

Treated Wastewater Disposal Options

The DEIS includes two options for disposing of treated effluent from the onsite wastewater treatment plant (WWTP). Option 1 includes utilizing sprayfields, leachfields and an onsite reservoir constructed in a nearby canyon by installing a 75-foot earthen dam and diverting an intermittent stream. Option 2 includes sprayfields, leachfields, and a seasonal discharge of treated effluent into the unnamed tributary of Dry Creek. EPA has objections to Option 1 due to the avoidable impacts to waters of the U.S. This Option would also impact 3 acres of riparian woodland habitat.

F1-11

The DEIS indicates that the WWTP will produce a high quality effluent (p. 4.9-3). As mentioned, the opportunity to utilize this effluent for landscape irrigation and toilet flushing should be maximized. The remaining effluent could be seasonally discharged to surface waters utilizing a National Pollutant Discharge Elimination System (NPDES) Permit issued by EPA.

F1-12

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The Water and Wastewater Feasibility Study, Surface Water Discharge Addendum¹ recommends an NPDES permit be pursued, either year round or seasonally, for discharges to a tributary of Dry Creek to the maximum extent possible (p. 15 of Addendum Report). It notes that while this will require extensive sampling and upfront documentation, and will require monitoring and reporting, the cost for installation, land requirements, infrastructure and maintenance is greatly reduced (p. 15 of Addendum Report).

F1-12
cont.

Construction of the onsite 10.3 million gallon reservoir will require extensive engineering and construction efforts, including an upstream headwall and longitudinal culvert to divert the maximum anticipated flow of the intermittent stream during a storm event to prevent it from entering the reservoir. The dam will need to be constructed to withstand moderate ground shaking in the event of a major earthquake (Geotechnical Report p. 9). Also, the issue of the liner is unresolved. The Geotechnical report recommends the reservoir system be designed without a liner (p. 13) but also states that the leakage of detained water, which could possibly lead to offsite seepage, will need to be minimized and HydroScience Engineers has indicated that the reservoir will likely need to be lined (p. 4). The Geotechnical report further states that "it is our opinion that, given the site topography, soil and geologic conditions, constructing and maintaining a suitable reservoir liner will be extremely difficult" (p. 12).

F1-13

Additionally, the DEIS does not fully characterize the impacts of constructing and operating this reservoir. The impact assessment should disclose all impacts to waters of the U.S. and biological resources associated with dam construction, including the upstream headwall, longitudinal culvert, possible perimeter french drain system to collect surface runoff including cleanouts and other maintenance features, access roads, and the impacts to the borrow site for the imported impervious material to construct the dam (Geotechnical Report p. 11). The DEIS indicates that 4.35 additional acres of habitat will be affected, almost 3 acres being riparian woodland, but it is unclear whether all impacts from project elements listed above have been included in the DEIS.

Additionally, there is insufficient discussion of permitting and mitigation associated with needed Clean Water Act (CWA) Section 404 permits. The DEIS mentions the need for a CWA 404 permit from the U.S. Army Corps of Engineers (Corps) but does not discuss the 404(b)(1) alternatives analysis that is required for the permit. The Corps can only permit the Least Environmentally Damaging Practicable Alternative (LEDPA) for discharge of dredged or fill material. EPA shares a regulatory role in the implementation of Section 404 of the CWA and will review the 404(b)(1) alternatives analysis. It is EPA's preliminary opinion that fill in this canyon would not constitute the LEDPA as required by the CWA Section 404(b)(1) alternatives analysis for this project.

F1-14

The DEIS states that compensatory mitigation of impacts to waters of the U.S. shall occur at a minimum of 1:1 ratio (p. xvii). We note that as of June 2008, mitigation is subject to the new Army Corps of Engineers - EPA Mitigation Rule² which will require consideration of functions

F1-15

¹ This addendum was included under the first Appendix E (there are 2 Appendix E's) after the water balance calculations in our hard copy appendices, and does not appear to be present in the electronic versions.

² "Compensatory Mitigation for Losses of Aquatic Resources; Final Rule" Corps of Engineers 33 CFR Parts 325 & 332, EPA 40CFR Part 230.

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and values lost, likelihood of mitigation success, and time lag. A mitigation plan must be submitted with the CWA 404 permit application, including long term protection, performance standards, and long term monitoring.

F1-15
cont.

Recommendations: EPA has objections to, and strongly recommends against, construction of the wastewater storage reservoir. EPA recommends seasonal discharge to the intermittent creek be pursued using a NPDES permit (Option 2), along with maximum recycled water reuse. A year-round NPDES permit may also be a possibility. For more information regarding NPDES permit requirements, please contact John Tinger of EPA's Water Division at (415) 972-3518.

F1-16

The FEIS should include additional information regarding impacts to resources from construction and operation of the reservoir, as indicated above. Impacts to dam material borrow areas should be part of the EIS scope. If this is unknown, include estimates as to quantity and potential borrow site/impacts. We recommend also including CWA Section 404 permitting requirements, alternatives analysis to demonstrate the LEDPA, and mitigation requirements.

F1-17

Watershed and Vernal Pool Impacts from Parking Lot

The parking lot footprint is large. Total buildout of the proposed action includes 3,731 parking spaces. Increasing impervious surfaces cause impacts to hydrology. The parking lot is configured to surround a vernal pool on 3 sides (Fig 2-1, 2-7). Since drainage from the lot will be directed to the detention basin, the vernal pool will be indirectly impacted by the reduction of flows. The DEIS should discuss this and way of altering the project footprint to avoid these impacts.

F1-18

Recommendation: The parking lot footprint should be reduced by reducing the number of parking spaces, using design options to reduce impervious surfaces, and designing the lot so that at least 30% of the spaces have smaller dimensions for compact cars, consistent with new car buying trends. We recommend that BIA and the project proponents include a parking structure in the site plan to reduce the project footprint and include this analysis in the FEIS. The majority of recent proposed Tribal casinos have utilized a parking structure.

F1-19

The FEIS should identify the parking ratio used to size the parking lot and indicate how this ratio is justified based on the experiences of other regional casinos. EPA recommends the parking lot design be modified to conform to "green parking" guidelines. For more information on green parking, see <http://www.epa.gov/smartgrowth/parking.htm> or http://cfpub.epa.gov/npdes/stormwater/menuofbmps/index.cfm?action=factsheet_results&view=specific&bmp=89.

F1-20

Energy Efficiency / Green Building

The electrical demand of the proposed project exceeds the capacity of the nearby power transmission lines, therefore a mitigation measure is included to upgrade the power lines to

F1-21

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support project demand (p. 4.9-6). This is the only energy-related mitigation identified in the DEIS. The project does not commit to ensuring construction of an energy efficient building nor does it explore alternative energy elements such as solar hot water. Additionally, the parking lot offers an opportunity to generate clean, renewable energy through installation of photovoltaics on carport structures. Photovoltaic carports provide highly desirable shade for parked cars and offer the opportunity for public education, energy reliability, and better air quality.

F1-21
cont.

Additionally, the project offers an opportunity to construct a high performance and sustainable building utilizing energy efficient elements. BIA and the Tribe should commit to a facility that is certified as a green building per the Leadership in Energy and Environmental Design (LEED) green building rating system. LEED emphasizes state of the art strategies for sustainable site development, water savings, energy efficiency, materials selection, and indoor air quality. More information about the LEED green building rating system is available at <http://www.usgbc.org>.

F1-22

We understand that indoor smoking provides some limitations to LEED certification. The DEIS states that nonsmoking sections of the casino would be provided (p. 2-5). An alternative would be to provide smoking sections separately which would allow the rest of the facility to pursue LEED certification. A recent survey by J.D. Power and Associates shows that a vast majority (85%) of Southern California Indian gaming casino customers prefer a smoke-free environment (See <http://www.idpower.com/corporate/news/releases/pressrelease.aspx?ID=2008082>). Additionally, a separate survey of hotel guests showed that 82 percent of hotel guests say they prefer a smoke-free hotel environment.

F1-23

(<http://www.idpower.com/corporate/news/releases/pressrelease.aspx?id=2007116>)

Recommendation: EPA recommends the FEIS identify additional mitigation measures to minimize energy use for the project. Solar hot water and photovoltaics on carport structures should be considered and the feasibility explored. These project elements should be become an integral part of the project description.

F1-24

BIA and the Tribe should specify that the project will be constructed for certification by LEED. This specification will guide the building process and create a high-performance, sustainable building. LEED certification will enable the Tribe to establish themselves as recognized leaders in the green building sector and offer them the opportunity to market their venue as an environment-friendly facility.

F1-25

Air Quality

The Air Basin is not in attainment with National Ambient Air Quality Standards (NAAQS) for ozone, and the DEIS discloses the emissions of Reactive Organic Gases (ROG) and oxides of Nitrogen (NOx) from the project, but does not disclose emissions of any other pollutants. The discussion of air emissions in the Administrative DEIS was more thorough in this regard.

F1-26

The DEIS does not disclose or discuss the emissions of diesel particulate matter (DPM) from the project. Diesel exhaust is classified by EPA as a "likely" human carcinogen at environmental exposure levels (Health Assessment Document for Diesel Engine Exhaust, EPA 2002). Exposure to diesel exhaust may contribute to respiratory irritation and lung damage. There is no

F1-27

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threshold of diesel exposure under which there is no risk.

F1-27
cont.

Recommendation: Expand the discussion of impacts to air quality from construction and operations to include other pollutants, especially diesel exhaust, which is a likely human carcinogen. Include additional measures to mitigate impacts. The following are some recommendations:

- Locate construction equipment and staging zones away from the residences east of the project site,
- Establish an activity schedule designed to minimize traffic congestion around the construction site,
- Utilize EPA-registered particulate traps and other appropriate controls to reduce emissions of diesel particulate matter and other pollutants at the construction site.

F1-28

Enforcement of Mitigation Measures

Chapter 5 of the DEIS states that to ensure mitigation measures are enforceable, they have either been included as an integral part of the project description or are enforceable by the National Indian Gaming Commission (NIGC) via the Tribal Gaming Ordinance (p. 5-2). Additional information would be useful regarding this enforcement structure. It is unclear what responsibilities the BIA will assume in its approvals and include in its Record of Decision, or if NIGC will assume the entire enforcement role. The CEQ Regulations allow for other agencies to fulfill an enforcement role (40 CFR 1505.3 states that "mitigation Section 1505.2(c) and other conditions established in the environmental impact statement or during its review and committed as part of the decision shall be implemented by the lead agency or other appropriate consenting agency"). If the enforcement by NIGC is through the Tribal Gaming Ordinance, it would be useful to include a draft of the Tribal Gaming Ordinance in the EIS as an Appendix.

F1-29

The DEIS references NIGC's enforcement authority under 25 CFR Parts 522, 571, 573, 575, and 577. However, 25 CFR Part 580³ discusses the limited enforcement of environmental measures by NIGC and it appears this policy may limit enforcement of environmental mitigation measures. An expanded discussion of this would be appropriate for the FEIS.

F1-30

Recommendation: Provide additional information regarding the enforcement structure identified in the DEIS, include a draft Tribal Gaming ordinance with committed mitigation identified in the Appendix as appropriate, and identify any limitations to this structure that 25 CFR Part 580 may present to enforcement. If there are limitations to the enforcement of environmental mitigation commitments per 25 CFR Part 280, identify the other, specific enforcement structures that will be used to ensure compliance with environmental mitigation commitments.

F1-31

Additional Comments

- The DEIS states that no connectivity between fractures was observed during the

F1-32

³ Available: <http://www.nigc.gov/LawsRegulations/CommissionRegulations/25CFRPart580/tabid/247/Default.aspx>

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hydrogeological survey (Appendix B) therefore utilizing groundwater from on- and off-site wells would have no impact on the municipal groundwater wells supplying the City of Plymouth (p. 4.9-3). We were unable to find this information or conclusion in Appendix B and request clarification in the FEIS regarding this conclusion.

F1-32
cont.

- Water Supply Option 2 (groundwater wells and water treatment plant) may be a public water system. A public water system (PWS) is defined under the Safe Drinking Water Act (SDWA) as any entity serving water for the purposes of human consumption to 15 or more active service connections or 25 or more people at least 60 days out of the year. The proposed water system being described for the project would be provisionally classified as a Non-Transient/Non-Community (NTNC) public water system and would be subject to the requirements of the SDWA for NTNC systems. Since the Tribe is not subject to State Law, the regulatory authority falls to EPA. Please contact Roger Yates of EPA's Region 9 office at 415-972-3549 with any questions. Please be aware that baseline monitoring must begin and be submitted to EPA before water may be legally used by the public.
- On page 3.3-9 and 3.9-2, the DEIS states that there are 36 domestic wells in Plymouth, however Appendix C states there are 96 wells (p. 4). Please clarify this discrepancy.
- Domestic water use estimates (average day domestic water demand) increased substantially from that estimated in the Administrative DEIS to the DEIS (from 121,300 to 200,000), however, the Design Wastewater Treatment Plant flows did not change. Please address this in the FEIS.
- The results of the Soil Mantle and Percolation Tests (Appendix S) indicate thin soil at the site and elevated levels of Total Dissolved Solids in discharge water could be a concern for the spray disposal system due to accumulation of precipitated dissolved solids. A maintenance and monitoring plan should be included to ensure the sprayfields are operating effectively and tailwater is not discharging to surface waters.
- The capacity of the wastewater treatment plant exceeds expected flows by over 22 percent for the preferred alternative. This excess capacity could induce additional development. The project purpose and need statement lists specific socioeconomic improvements including the improvement and construction of new Tribal housing (p. 1-6). The DEIS should state whether it is reasonably foreseeable that housing or other facilities will be built on the site in the future. The DEIS states that the WWTP will not service additional flows beyond the project, but this is confused by the inclusion of housing objectives in the purpose and need statement. Future expansion should be evaluated in appropriate environmental documentation.

F1-33

F1-34

F1-35

F1-36

F1-37



United States Department of the Interior

U. S. GEOLOGICAL SURVEY

Reston, VA 20192

In Reply Refer To:
Mail Stop 423

JUN 26 2008

Ms. Dale Risling
Pacific Regional Office
Bureau of Indian Affairs
2800 Cottage Way
Sacramento, CA 95825

Asst. Dir.	_____	✓
Dep. Reg. Dir.	_____	✓
Dir. of Adm. Serv.	_____	
Rec. Mgmt.	DEIS	
Response	acquired	No
Dir. of	_____	
Memo	_____	Dir.
Tele.	_____	

Subject: Draft Environmental Impact Statement for the Ione Band of Miwok Indians' Proposed
228.04-Acre Fee-to-Trust Land Transfer and Casino Project, Amador County,
California

Dear Ms. Risling:

As requested by your correspondence of April 7, 2008, the U.S. Geological Survey (USGS) has reviewed the subject draft environmental impact statement (DEIS) and offers the following comments.

SPECIFIC COMMENTS

Section 3.3.3 Groundwater, page 3.3-8, last paragraph, second-to-last sentence, and Section 4.3.2 Alternative A - Proposed Casino and Hotel, page 4.3-9, second full paragraph

The DEIS explains that pumping by the City of Plymouth has led to an overdraft of ground water in the basin even in years with average rainfall, and that pumping by the Tribe could increase this deficit. It is not immediately apparent that additional wells yielding a long-term stable supply could be drilled in the basin, as is stated in the DEIS. The analysis in Appendix C (see comments below) relies on several assumptions that warrant justification. Including relevant references to support those statements and assumptions would add credibility to the analyses.

F2-1

Appendix C, Section 3.2.2, Pumping Tests Results, Well M3, page 12, first paragraph, last sentence

The paragraph states that the calculations based on this test "...assume that additional sources of recharge are encountered as the radius of influence extends outward." As this is a best-case scenario rather than a conservative estimate, justification should be provided for the assumption that these sources exist. Likewise, the 70% range factor assumption in the second paragraph on page 18 (Table 4-1) warrants justification.

F2-2


Appendix C, Section 3.2.4, Long Term Well Yield, page 13

The methodology used to estimate the rate at which water can be sustainably extracted from a well without undesired reductions in yield relies on the assumption that after 200 days of continuous pumping, the aquifer will be recharged by winter and spring precipitation (top of page 14). The assumption that this recharge exists should be supported by a reference(s). Alternatively, two types of field data could support the assertion: (1) depth to water measurements taken over the course of one to two years documenting seasonal changes in water levels; or (2) age dating of the water produced by the well indicating that the water has been recently recharged.

F2-3

Thank you for the opportunity to review and comment on the DEIS. If you have any questions concerning our comments, please contact Lloyd Woosley, Chief of the USGS Environmental Affairs Program, at (703) 350-8797 or at lwoosley@usgs.gov.

Sincerely,



James F. Devine
Senior Advisor for Science Applications

RESPONSE TO COMMENTS

FEDERAL AGENCIES

F1 – US ENVIRONMENTAL PROTECTION AGENCY, REGION IX

F1-01 The commenter summarizes the United States Environmental Protection Agency's (USEPA's) review of the Tribe's Draft Environmental Impact Statement (DEIS) and identifies the USEPA as a cooperating agency. Refer to **Section 1.3** of the DEIS regarding cooperating agencies and a summary of the environmental review process. The commenter has concerns regarding the availability of groundwater resources, the wastewater treatment system, the air quality analysis, and impacts to biological resources. The existing setting for these environmental resource issues are addressed in **Section 3.0** of the DEIS and the analysis of the potential environmental consequences of the project alternatives are addressed in **Section 4.0** of the DEIS. The concerns identified by the commenter are specified throughout the remainder of the comment letter, and corresponding responses are provided below.

The Tribe; Bureau of Indian Affairs, Pacific Region; and the commenting agency met on July 21, 2008 to discuss the USEPA's specific concerns regarding the Proposed Project. Information regarding environmental issues discussed in the meeting and subsequent updates to the DEIS are addressed within the FEIS and summarized within the corresponding responses below.

F1-02 As discussed in **Section 3.3** of the DEIS, increased pumping by the City of Plymouth (City) has led to an overdraft of the groundwater basin. The City maintains four wells located at two sites lying about a half mile apart, east of the City. The combined firm production yield for the City's well field is 175 gallons per minute (gpm). According to the City of Plymouth Pipeline Project DEIR (City of Plymouth, 2006), the City wells are currently pumped at rates that exceed firm yield to meet average day and summer day maximum demands. The City currently has an average day water demand of approximately 204 gpm, and maximum (summer) day demand of 465 gpm, for which groundwater is utilized to meet a majority of the summer peak demand due to low resources from the arroyo ditch at this time of the year. The City's water demand is projected to increase to an average day water demand of approximately 409 gpm and maximum (summer) day demand of 924 gpm by 2025 (City of Plymouth, 2006).

Operation of the high capacity wells east of the City at rates greater than firm yield during summer months has resulted in a groundwater depression that has affected an area around the City wells that extends over one-quarter mile east of the City. The response to pumping is monitored on a semiannual basis at the City, Sutter Home Vineyards, and residential wells located east of the City. Water levels taken from these production wells indicate a general groundwater flow direction towards the City wells from the north, northeast, and east. The hydraulic response to the west and south is not monitored, but is likely also to occur radially towards the City wells due to the high cumulative pumping rates from the City and adjacent Sutter Home Vineyards (well production rate of 250 gpm) and residential wells (well production rates ranging from 150 gpm to less than 20 gpm). The elevation of the potentiometric surface “lowers during the summer months, and rises after the onset of winter rains” (Ketron, 2004, refer to **Section 8.0** of the DEIS).

The Amador Water Agency (AWA) is currently planning to construct a water transmission pipeline, known as the Plymouth Pipeline that is designed to meet the City’s existing and projected future water demands through the year 2025. The pipeline would supply the City with surface water from Lake Tabeaud, which is fed by the Mokelumne River. Construction began in February 2009, with an anticipated completion date of December, 2009 (Reece, 2009). The Plymouth Pipeline would have enough capacity such that the City would no longer be required to use groundwater except in emergencies and to meet peak demands. The implementation of the Plymouth Pipeline project will eliminate the need for the municipal well field to serve as the principal water source that is available during the maximum demand season. Over the life of the Plymouth Pipeline project, the municipal well field will no longer be excessively pumped to meet peak summer season demands or pumped to meet normal demands (City of Plymouth, 2006). This may include future abandonment of the City’s well field. The DEIR further states the Plymouth Pipeline project would alleviate the overdraft condition within the groundwater basin.

The USEPA states that there appears to be uncertainty regarding the ability of the long-term well yields of the project wells to meet water demands if recycled water use is not maximized. As noted in response to **Comment F1-01**, the BIA and the Tribe consulted with the USEPA after receipt of comments on the DEIS to discuss the proposed water options outlined for the project alternatives and other concerns in the USEPA’s comments. The Tribe has committed to pursuing two domestic water supply options that are described in the **Section 2.0** of the FEIS. Option 2 has been selected by the Tribe as the preferred water supply option, which includes wells and maximizing the use of recycled water. As discussed in **Section 2.0** of the DEIS, water supplied under Option 2 during Phase I would be provided by three groundwater wells. Two groundwater wells are located on the project site (designated as M1 and H1) and one well is located adjacent

to the project site (designated as M3). Refer to **Figure 2-4** of the DEIS for the locations of the project wells. Based on pumping tests (**Appendix B**), the combined long-term yield of the project wells is approximately 81 gpm.

The three project wells are spaced at a conservative distance apart from each other, with two of the wells a little over a half mile (approximately 3,100 feet) apart and a third offsite well located almost a mile and a half (approximately 7,500 feet) to the southeast. Water level monitoring conducted during the pumping tests in 2004 indicated hydraulic response in well M4 when pumping from M3 (located approximately 500 feet apart), but no hydraulic response was observed in project wells H1 and M2 while pumping from M3. M2 and H1 are located over 4,000 and 6,500 feet from M3 and displayed no obvious influence as a result of pumping tests that were conducted at M3 for a duration in excess of five days. Therefore, the spacing of the water wells ensures that pumping from one well would not adversely impact the performance of the other wells. The results of the pumping tests indicate the local drawdown from these wells is minimal and potential impacts to the regional groundwater table can be minimized by utilizing a rotational pumping schedule as described below.

The three project wells would be pumped at the recommended long-term well yields, which consists of 10 gpm for well M1, 37 gpm for well M3, and 34 gpm for H1, and the wells would be pumped in rotation to allow additional groundwater recharge between pumping periods. Estimates of sustainable yield are based on a significant body of field data and were developed using a methodology that considered individual well performance and uncertainties inherent in natural systems. The estimates were based on pumping tests were performed while the City was simultaneously pumping its wells. The durations of the pumping tests were in accordance with recognized standards. Refer to the response to **Comment F1-05** regarding the long-term reliability of the proposed groundwater supply for the project alternatives. The two one-million gallon water storage tanks would allow the casino to save excess water from the wells when water demand at the casino is low or well output is higher. This would provide water in times of increased demand or if well output is lower.

Trucked water would be a supplemental water source only, with groundwater as the primary water source. For example, as discussed in **Section 2.2.1** for Alternative A (which has the highest water demand of the project alternatives), with the use of recycled water, 100% of the potable water demands for Phase I would be met by the groundwater wells. For Phase II of Alternative A, with the use of recycled water, 92% of the potable water demand would be met by the groundwater wells. Water trucking would provide the remaining 8% of potable water to meet water demands. The 8% accounts for approximately 10,000 gpd, which would equate to five truck trips per day.

Based on the results of the pump tests, analysis of the regional and local hydrology, including review of existing water studies, development of the Plymouth Pipeline project, and commitment to maximize recycled water use to offset demand, sufficient water would be available to serve the project alternatives without adversely affecting the groundwater basin or other wells.

F1-03 As previously discussed under response to **Comment F1-01**, the BIA and the Tribe consulted with the USEPA regarding the project alternatives and comments received on the DEIS. In response to comments received on the DEIS, the Tribe has committed to pursuing surface water discharge during winter months (disposal option 2), with the potential for year round discharge, as the preferred alternative. Refer to **Section 2.0** of the FEIS for identification of the preferred wastewater disposal option for each proposed alternative.

F1-04 Refer to the response to **Comment F2-02** regarding a discussion on the overdraft condition within the City's groundwater basin as well as the anticipation of the alleviation of overdraft conditions when the Plymouth Pipeline project becomes operational. As noted in response to **Comment F2-02**, construction of the Plymouth Pipeline project began in February 2009 (Reece, 2009).

Please refer to the response to **Comment F1-05** below regarding the USEPA's specific comment on the long-term well yields identified within the DEIS for the project wells. As previously discussed, the Tribe has committed to maximizing recycled water use within the development alternatives and has selected Option 2 as the preferred alternative to meet projected water demands of the project alternatives.

F1-05 **Appendix C** of the DEIS, the *Pumping Test and Sustainability Analysis for Wells H1, M1, and M3, and Evaluation of Water Quality* (Pumping Test Report), was revised to provide clarification on the methodology used to calculate the long-term well yields reported in **Section 2.0** of the DEIS. The updated Pumping Test Report is included as **Appendix C** of the FEIS. **Section 3.3** of the FEIS was updated with the information contained within this response to clarify the methodology utilized in developing the long-term well yields for the project wells.

The pumping tests to determine long-term well yields were performed using established procedures. The tests were performed while groundwater was being extracted from the City's wells. Therefore, the response of the aquifer and results of the pumping tests reflect the effects of pumping from the City's wells, which would be reduced or eliminated after completion of the Plymouth Pipeline project. These results were used to

calculate the long-term well yield values. The long-term well yield (S_y) was calculated as follows:

$$S_y = S_c \times A_{dd} \times F$$

Where: S_y = Long-Term Well Yield (gallons per minute).
 S_c = Specific Capacity (gallons per minute per foot) is the pumping rate divided by the drawdown created by the pumping.
 A_{dd} = Available Drawdown (feet).
 F = The appropriate factor to account for conditions encountered and believed to be relevant (unit less).

The methodology included calculating total available drawdown as the depth to top of the primary water strike (or top of well screen) minus the static (non pumping) water level, as described in Step 2, Section 3.2.5 of the revised Pumping Test Report. This calculation is conservative as it assumes that the dynamic pumping level in the well will not be allowed to drop below the top of the aquifer. It limits the total available drawdown, and because long-term well yield and available drawdown are proportional, it provides a conservative estimate of long-term well yield. A less conservative approach would have defined total available drawdown as the depth to well bottom minus static water level.

Discharge rates obtained from the completion and analysis of step-drawdown tests were selected to maximize drawdown to adequately stress the aquifer and to ensure that the recommended rates were less than the test rates and not extrapolated outside of the tested discharge rate. This is important so it can be verified that the long-term well yield equation is linear at the calculated (long-term well yield) pumping rate.

Estimation of long-term well yields were based on individual well performance. Appropriate factors were applied to account for the uncertainties inherent in natural systems. As stated on page 17 of the revised Pumping Test Report:

*Review of **Table 3-6** and comparison of total available drawdown (Step 3) versus safe available drawdown (Step 4) illustrates the application of different safety factors based on well performance during the pumping and recovery tests. For example, the safe available drawdown for well M1 (341.11 feet) was calculated as 70% of total available drawdown (487.3 feet). This relatively high percentage of the total available drawdown reflects the favorable test results including the lack of boundary conditions and relatively rapid recovery following the cessation of pumping. Lastly, a substantially lower percentage (35%) was used to calculate the safe available*

drawdown for well M3. For well M3, only 49.6 feet of the 141.8 feet of total available drawdown was used to calculate long-term yield. This increased level of safety was selected to account for the observed boundary condition and the relatively poor recovery characteristics following the pumping phase of the test.

In addition to reductions in long-term well yield estimates relating to boundary conditions and well recovery characteristics, further reductions were applied to address factors such as natural variability in precipitation and recharge rates that could potentially affect well performance. These reductions resulted in conservative estimates of long-term well yields for the project wells.

As stated on the top of page 13 of the revised Pumping Test Report (**Appendix C** of the FEIS), “The boundary appears to be attributed to dewatering of an upper water strike ...”. The presence of the boundary condition was taken into consideration when applying the appropriate factors (refer to Sections 3.2.4 and 3.2.5 of the revised Pumping Test Report). In addition, the specific capacity for this well was calculated by extrapolating the drawdown in the well based on the slope of the curve after the boundary condition had been reached.

Based on all of the factors applied to the calculations, selecting the lower limit of the calculated long-term well yields (as suggested by the comment) appears to be overly conservative. As stated in Section 4.2 of the revised Pumping Test Report (**Appendix C** of the FEIS):

*“...These recommended long-term well yields already include factors of safety based on boundary conditions and projected safe yield (see **Appendix D**). For an additional factor of safety, the lower limit was averaged with the upper limit to calculate a more conservative value for the recommended long-term well yield”*

Based on groundwater pumping tests performed at the site, using accepted practices and conservative factors, the cumulative long-term well yield for the project wells was confirmed to be 81 gpm. The impending replacement of the City’s groundwater supply with surface water from the new Plymouth Pipeline will eliminate the overdraft condition that the City has created, significantly increasing the availability of groundwater in the region, and further reducing the City’s impacts to other wells.

F1-06 Refer to the response to **Comment F1-04** and **Comment F1-05** for a discussion of the recharge of the groundwater aquifer and the applied safety factors that were used in consideration of the limited recharge of the aquifer. As stated, the estimates of long-term

well yields were based on individual well performance, and appropriate factors were applied to account for uncertainties inherent in natural systems, including the recharge characteristics of the water-bearing unit.

The commenter questions whether the long-term well yield assumes an appropriate recharge rate and if the estimates correctly address the uncertainty of the long-term well yields of the project wells. The calculations of the long-term well yields are conservative predictions that are based on a significant body of field data and methodology utilizing a scientifically sound analysis as discussed in response to **Comment F1-05**.

The commenter states that the long-term well yields are based on relative short pumping periods. For establishing the appropriate well testing procedure, the aquifer type has a bearing on test duration. The cone of depression of a well completed in an unconfined aquifer expands slowly because the cone represents a dewatered condition. The cone of depression in a confined aquifer well expands much more rapidly because the cone represents a decrease in potentiometric head, not a dewatering condition. Consequently, shorter test durations are required for a confined aquifer versus unconfined aquifer. Standard guidance suggests that a 1-day (24 hour) test is adequate for confined aquifers and 3-day test for unconfined aquifers (Driscoll, 1986). The groundwater in the project wells occurs under confined conditions, and tests were conducted accordingly. As presented in Table 3-4 of the revised Pumping Test Report, the pumping phases for the tests of wells M1, M3, and H1 were conducted for 2.8, 5.1, and 6.9 days, respectively. The test durations were of sufficient length to adequately stress the water-bearing unit and demonstrate well performance. A longer duration testing program would not significantly improve the accuracy of long-term well yields, and therefore is not warranted.

Regarding the need to perform more recent testing, it is unlikely the results of additional pumping would vary significantly from those obtained in December 2003 and July 2004. No significant changes are known to have occurred to the geology or aquifer in the area that would produce significantly different results from the pumping tests performed a few years ago. In addition, no significant changes are known to have occurred that would impact the local and regional aquifer since the pumping tests were performed. Additional testing is not warranted.

F1-07 As stated in response to **Comment F1-02**, the Tribe is committed to maximizing the use of recycled water. Refer to **Section 2.0** of the FEIS for the revised potable water demands for each project alternative. Water trucking would only be required for full build-out of Alternative A, providing the remaining 8% (10,000 gpd) of water needed to meet potable water demands. This would equate to three to five truck trips per day,

which would not considerably increase operating costs. Trucking would be limited to peak use days and initial fill of the proposed storage tanks on the property.

In regards to development of a pipeline or other access to water supply resources, the Tribe has throughout the environmental review process expressed its willingness to enter into an agreement with the City and/or AWA for water supply and other services. Based on the lack of existing agreement, water supply Option 2, with limited trucking for full build-out of Alternative A, has been identified in the FEIS as the preferred water supply option.

F1-08 As discussed in response to **Comment F1-05, Appendix C** of the DEIS, the Pumping Test Report, was revised to provide clarification on the application of numerous factors and procedures used to calculate long-term well yields. The updated Pumping Test Report is included as **Appendix C** of the FEIS. **Section 3.3** of the FEIS was updated to clarify the methodology utilized in developing the long-term well yields for the project wells.

Refer to Section 3.2.4 and 3.2.5 of the revised Pumping Test Report and response to **Comment F1-05** and **Comment F1-06** for a discussion on the recharge of the aquifer and that the applied factors consider the limited recharge situation of the region. As stated in response to **Comment F1-05**: “In addition to reductions in long-term well yield estimates relating to boundary conditions and well recovery characteristics, further reductions were applied to address factors such as natural variability in precipitation and recharge rates that could potentially affect well performance. These reductions resulted in conservative estimates of long-term well yield for the project wells.” In addition, as discussed in response to **Comment F1-02**, the Plymouth Pipeline project would eliminate the reliance of the City on groundwater. The summer overdraft condition of the basin would be eliminated allowing adequate recharge during winter months.

Refer to the response to **Comment F1-05** for a discussion of why the use of the lower well performance limit would be overly conservative. Factors applied and measures implemented to account for potentially limited conditions, including those encountered during the pumping tests, yielded conservative estimates.

Developing and implementing a long-term monitoring plan is an appropriate method to ensure that pumping will not adversely affect the aquifer. A discussion of additional mitigation measures that were incorporated into **Section 5.0** of the FEIS is included in response to **Comment F1-09** and **Comment F1-10**.

F1-09 In addition to Sections 3.2.4 and 3.2.5 of the revised Pumping Test Report, refer to the response to **Comment F1-06** for a detailed discussion of the methods used to calculate

long-term well yields, and response to **Comment F1-02** and **Comment F1-05** for a discussion on the overdraft and recharge of the aquifer and the factors applied in consideration of the limited recharge situation. Overdraft conditions and long-term well yields are addressed in responses to **Comments F1-02** through **F1-08**.

A long-term monitoring plan would include the siting, design and installation of monitoring wells appropriately placed between the project wells and the nearest off-site wells. Siting of the wells will take into consideration the regional topography, geology, and hydrogeology along with the pump rates of offsite users and location of planned development surrounding the project site. Baseline groundwater elevations and water quality data would then be collected. This would be performed during the facility design and construction stage to allow for the monitoring to encompass an entire hydrogeologic cycle. The results of the baseline monitoring would be used to establish “not to exceed” values that would represent maximum drawdown that would be considered a less than significant impact to adjacent wells. Should drawdown occur beyond the “not to exceed” values, one or more of the following measures would be implemented to limit or minimize impacts to groundwater:

1. The Tribe may alter its groundwater-pumping regime. This may include increasing the resting period or decreasing pumping rate of individual wells.
2. The Tribe may pay for an off-site user’s well to be drilled deeper in order to recover pre-project consumptive use that was reduced or lost as the result of the Tribe’s pumping practice. The determination regarding whether the groundwater user’s pre-project consumptive use is reasonably determined to have been reduced or lost as the result of the Tribe’s groundwater pumping practice shall be made by an engineer retained by the Tribe.
3. The Tribe may pay for the development of a new well to replace an off-site user’s existing well that is no longer able to supply pre-project consumptive use as the result of the Tribe’s pumping practice or financially compensate the impacts to the well owner through mutual agreement.
4. The Tribe may replace the water used by off-site user that is lost as the result of the Tribe’s pumping practice through the import of water via tanker truck or, if practical, through the development of a connection to the municipal system.
5. The Tribe may selectively recharge portions of the basin impacted by the Tribe’s wells.

6. The Tribe may decrease the project's reliance on groundwater and increase the importation of water via tanker truck.

This discussion has been included within **Section 5.2.3** of the FEIS.

- F1-10** Refer to the response to **Comment F1-09**, which addresses the recommendations provided by the USEPA. The mitigation for potential impacts to surrounding wells is addressed in **Section 5.2.3** of the FEIS, and has been updated to specify significance criteria in correlation with the monitoring plan and measures to reduce impacts, if identified during monitoring. As previously addressed, the Tribe has committed to maximizing recycled water use, which would further reduce groundwater impacts.
- F1-11** Refer to the response to **Comment F1-03** regarding the Tribes commitment to pursue surface water discharge during winter months (disposal option 2), with the potential for year round discharge, as the preferred alternative. The construction of the treated effluent reservoir (reservoir) would only occur if a surface water discharge permit is not obtained.

The impacts associated with the development of the reservoir are addressed throughout **Section 4.0** of the FEIS. For example, **Table 4.5-1** identifies impacts to biological habitats associated with the development of the reservoir. As discussed in **Section 4.5**, mitigation measures are included in **Section 5.2** to reduce associated impacts.

- F1-12** The commenter is correct: the WWTP would produce recycled water as defined in California Code of Regulations Title 22, as stated on page 2-12 of the DEIS. As discussed in response to **Comments F1-02** and **F1-03**, the Tribe has committed to both maximizing recycled water use and pursuing a NPDES permit for surface water discharge of treated effluent. A stream assessment was prepared in response to comments on the DEIS and in support of the NPDES permit application to be submitted to the USEPA. Refer to **Appendix V** of the FEIS for the stream assessment. The purpose of the stream assessment is to provide a description of biological resources and beneficial uses within the proposed receiving waters and analyze the impacts of the proposed surface water discharge under wastewater disposal Option 2. Based on the results of the stream assessment, no adverse impacts to the designated aquatic life beneficial uses would occur as a result of direct wastewater discharge from the proposed WWTP.
- F1-13** Construction of an earthen dam has been designated as the secondary disposal option and would require extensive engineering and construction efforts. As discussed in **Section 2.0** of the DEIS, the reservoir would be constructed in compliance with the Federal Coordination Council on Science and Engineering Technology's "Federal Guidelines for

Dam Safety” and general industry standards. The reservoir would be designed by a registered professional engineer and reviewed by the BIA Pacific Region Safety of Dams Officer prior to construction. Additionally, reservoir construction would follow recommendations listed in the geotechnical study developed for the DEIS (**Appendix E**). The preliminary design of the reservoir indicated a liner would most likely be required to reduce seepage. However, based on further analysis, the geotechnical report recommended that the reservoir be constructed without a liner.

The impacts associated with developing and operating the reservoir are addressed throughout **Section 4.0** of the DEIS. For example, **Section 4.2** of the DEIS addresses the impacts to topography associated with the development of the reservoir. **Section 4.3** of the DEIS analyzes the potential impacts associated with drainage patterns, surface water quality, and flooding associated with the development of the reservoir. Impacts to biological resources, including waters of the United States, are addressed in **Section 4.5** of the DEIS. The acreage of impacts to habitats and waters of the United States are identified for each project alternative. Refer to **Table 4.5-1** for the impact acreages for Alternative A. Impact acreages include the auxiliary components of the reservoir, such as the headwall and by-pass ditches for surface water diversion.

- F1-14** The delineation of waters of the United States is located in **Appendix I** and is summarized in **Section 3.5** of the DEIS. In response to comments received on the DEIS, the site plans have been updated to reduce impacts to waters of the United States. Refer to **Figures 5-1** through **5-5** of **Section 5.0** of the FEIS for the updated site plans. Refer to **Attachments I through III** of **Appendix Y** for updated architectural renderings, lighting plan, and drainage plans. Additionally, the Tribe has agreed to pursue Option 2 for wastewater disposal, which entails surface water discharge of treated wastewater. Option 2 would not result in the construction of the dam or reservoir.
- F1-15** The mitigation requirements concerning Section 404 permitting and unavoidable impacts to waters of the United States have been updated in the executive summary table and in **Section 5.2.5** of the FEIS to ensure compliance with the Clean Water Act, Section 404 Compensatory Mitigation Requirements (40 CFR Part 230). A detailed mitigation plan will be submitted with the Section 404 permit application, at the appropriate time, detailing long-term protection, minimum performance standards and appropriate monitoring requirements. The plan will be in compliance with the most current USEPA and USACOE) Mitigation Rule, June 2008, and will include an evaluation of the value of the wetlands impacted, time lag, likelihood of success. Jurisdictional waters of the United States will be mitigated at a ratio of no less than 1:1 based on the criteria of that rule. If off-site credits in an approved mitigation bank are not used, and if on-site mitigation is chosen, the created wetlands will be of like kind and value as those

- impacted and will be at a mitigation ratio of not less than 1:1 consistent with the new USEPA and USACOE rule, and will include a 5 year monitoring plan that has a 80% success criteria for vegetative cover with native plants. The on-site mitigation, if needed, will be established by Tribal ordinance and submitted to the USEPA and the USACOE for review, as the land will be in held in trust for the Tribe by the Federal government.
- F1-16** Refer to the response to **Comment F1-11** regarding surface water discharge of treated effluent as the preferred disposal option. Refer to **Comment F1-12** regarding the Tribe's commitment to use recycled water to meet non-potable water demands and the stream assessment conducted in support of the NPDES permit for surface water discharge of treated effluent. As noted in response to **Comment F1-01**, the Tribe has considered all comments received by the USEPA and has updated the project description, analysis, and mitigation measures within the FEIS.
- F1-17** Refer to the response to **Comment F1-13** regarding impacts associated with construction of the reservoir under wastewater disposal Option 1. As discussed in the geotechnical report for the reservoir (**Appendix E** of the DEIS), the soil material on the project site would be adequate to use for construction of the dam. The impacts associated with the excavation are assessed in **Section 4.2** of the DEIS.
- F1-18** As recommended by the USEPA, the parking lot footprint has been reduced. To reduce surface parking, a parking structure is now proposed as **Mitigation Measure F** in **Section 5.2.5** of the FEIS to minimize effects to wetlands. Impervious surface coverage has been reduced from approximately 60 acres of coverage to approximately 35 acres. New site plans were developed in response to comments and are included as **Figures 5-1** through **5-5** of the FEIS.
- F1-19** As stated in response to **Comments F1- 18**, the parking lot footprint has been reduced and a parking garage has been proposed for Alternatives A through C. Refer to **Figures 5-1** through **5-5** of **Section 5.0** of the FEIS for the updated site plans. The Tribe has committed to providing compact spaces for 25% of the total parking spaces provided for the project alternatives. For example, development of Alternative A would include approximately 742 compact parking spaces.
- F1-20** In response to comments received on the DEIS, the number of parking spaces required for each project alternative was re-examined. A published methodology was utilized from a consulting firm specializing in the economic impact and feasibility of casinos and hotels (Klas, 2005). The methodology takes into account such factors such as mixed use and cross use development along with the level of potential bus patronage. For full build-out of Alternative A, a total of 2,965 spaces would be needed, resulting in a 20%

reduction in parking needs compared to the original calculations. Similarly, the Alternative B parking requirement was reduced from 3,000 spaces to 2,405 spaces and Alternative C was reduced from 1,578 to 1,120 spaces.

The recommended USEPA publications regarding “green parking” were examined and the suggested guidelines were incorporated into the updated site plans for the proposed developments (**Figures 5-1 through 5-5** of **Section 5.0** of the FEIS). The number of parking spaces and impervious surface coverage of the parking lot were reduced and 25% of the total parking spaces were designed for compact vehicles. To reduce stormwater contaminants, the number and size of the landscaped islands have been increased to provide additional bioretention capacity.

- F1-21** The Tribe has committed to increasing the energy efficiency of the project alternatives (refer to **Section 5.2.4** of the FEIS). The FEIS has been updated to include commitments by the Tribe to develop energy efficient building components and alternative energy sources on-site. The energy provisions included in **Section 5.2.4** as mitigation measures concerning air quality would also reduce impacts to energy services in the region. **Section 4.9, Public Services**, of the FEIS has also been updated to reference these provisions.
- F1-22** The project offers the opportunity to construct a high performance and sustainable building utilizing energy efficient elements. Based on a review of the project description (**Section 2.0** of the DEIS) and recommended mitigation measures (**Section 5.0** of the DEIS), various provisions of the LEED certification program are already included in the project alternatives. For example, refer to the response to **Comment F1-21** regarding the inclusion of energy-related mitigation within **Section 5.2.4** of the FEIS, which would meet on-site renewable energy provisions of LEED. Additionally, the use of recycled water for landscape irrigation as discussed in **Section 2.0** of the FEIS meets the provisions for innovative wastewater technologies and water efficient landscaping. The drainage plan included as **Appendix G** of the DEIS meets the provisions for stormwater design. The lighting design of the development project will meet provisions for reduction of light pollution. Refer to **Attachment II** of **Appendix Y** of the FEIS for the preliminary lighting plan for Alternative A. With design features to reduce environmental impacts, the Tribe has committed to developing an environmentally friendly building.
- F1-23** As discussed in **Section 2.0** of the DEIS, smoking would be allowed in the casino area and non-smoking areas would be provided. The commenter references a study stating that 85% of Southern California Indian gaming casino patrons prefer a smoke-free environment (*J.D. Power and Associates 2008 Southern California Indian Gaming*

*Casino Satisfaction Study*SM). The study further states that “(t)hose casinos that provide smoke-free gaming areas and also do a good job of educating consumers about them could benefit from increased attendance and higher satisfaction”. Based on the comment received and the results of the study, the Tribe will include signage at the entrance to the casino clearly identifying the locations of smoke-free gaming areas (refer to **Section 5.2.4** of the FEIS).

- F1-24** Refer to the response to **Comment F1-21** regarding additional provision included within the FEIS regarding energy efficiency of the project alternatives. As discussed above, the Tribe will make a commitment to energy efficient provisions of the Propose Project and the FEIS has been updated accordingly. These provisions include photovoltaic panels on the parking structure or other rooftops where feasible, a reduction in energy use by using energy efficient appliances, and increasing energy efficiency through green building techniques.
- F1-25** The commenter requests that the BIA and the Tribe specify that the project will be constructed for certification by LEED. As previously discussed in response to **Comments F1-22** and **F1-23**, the Tribe is committed to develop an environmentally friendly building; however smoking, which would be allowed in the casino, makes it difficult to obtain LEED certification.
- F1-26** The disclosure of pollutants emissions and discussion of impacts to air quality has not changed from the ADEIS to the DEIS. In accordance with the Clean Air Act, a conformity determination with the State Implementation Plan for a specific Criteria Air Pollutant (CAP) is not required for a federal project if the air basin is in attainment or unclassified for that particular CAP and the federal action will not cause change in the attainment status. As discussed in **Section 3.4** of the DEIS, the Mountain Counties Air Basin (MCAB) is classified as unattainment for ozone and attainment/unclassified for the other five CAPs. Therefore, **Section 4.4** of the DEIS analyzed the conformity of the estimated emissions of ozone precursors of the project alternatives with the de minimis standards for a conformity determination. Emission of the criteria pollutants that are designated attainment in MCAB, except lead, are disclosed in the DEIS in **Appendix Q**. As discussed in **Section 3.4** of the DEIS, with the removal of lead from gasoline, air emissions of lead are negligible.
- F1-27** A qualitative discussion of diesel particulate matter (DPM) was added to **Section 3.4** and **4.4** of the FEIS. Currently, the USEPA has not established significance thresholds for DPM. Recommended mitigation to reduce impacts associated with DPM have been added to **Section 5.2.4** of the FEIS, as discussed below in response to **Comment F1-28**.

F1-28 Refer to response to **Comment F1-27** regarding additional analysis of diesel particulate matter. The following mitigation measures recommended by the commenter have been added to **Section 5.2.4**

- The Tribe shall locate the construction staging area on the east side of the project site away from residents. This would reduce sensitive receptor exposure to DPM.
- The Tribe shall establish an activity schedule designed to minimized traffic congestion around the construction site. This mitigation measure would reduce idling; thus, reducing NO_x, ROG, and DPM emissions.
- The Tribe shall use only construction vehicles and heavy equipment that are equipped with, at a minimum, USEPA-approved emission control devices. This mitigation measure would reduce NO_x, ROG and DPM emissions.

These mitigation measures would reduce NO_x, ROG, and DPM emissions and protect sensitive receptors by reducing their exposure the DPM. Other pollutants that are discussed in the DEIS are asbestos and carbon monoxide (CO).

Refer to the response to **Comment F1-27** regarding the conformity determination of ozone analyzed within **Section 4.4** of DEIS and the need to include emissions of the other five CAPs within the text.

F1-29 As discussed in **Section 5.1** of the FEIS, enforcement of mitigation measures by the NIGC to the extent allowable under the Indian Gaming Regulatory Act (IGRA) and the Tribe would be through the implementation of the Tribal Gaming Ordinance and through the enactment of Tribal environmental ordinances. A copy of the current Tribal Gaming Ordinance has been included in **Appendix U** of the FEIS. The Tribe will enforce mitigation measures through Tribal environmental laws. The NIGC will assume an enforcement role through the Tribal gaming ordinance, to the extent allowable under IGRA.

F1-30 As discussed in **Section 5.1** of the FEIS, the Tribe, with oversight from the NIGC, will be responsible for implementing the mitigation measures identified in the FEIS. Compliance with environmental mitigation commitments will be ensured by the Tribe's authority to enforce Tribal environmental laws and regulations. As discussed in 25 CFR 580, in response to the purpose of IGRA, the NIGC must balance the need for federal oversight with Tribal sovereignty. The NIGC will enforce provisions of the Tribal gaming ordinance to the extent allowable under IGRA, while the Tribe will enforce the Tribal gaming ordinance and Tribal environmental laws.

F1-31 As discussed in response to **Comment F1-29**, the Tribe has included a copy of the Tribal gaming ordinance as **Appendix U** of the FEIS. As discussed in response to **Comment F1-30**, the Tribe primarily will enforce the Tribal gaming ordinance and Tribal environmental laws, while the NIGC will enforce provisions of the Tribal gaming ordinance to the extent allowable under IGRA.

F1-32 The hydrologic connectivity between groundwater wells on and off the project site is discussed on page 12 of **Appendix C** of the DEIS. As stated therein: “(t)he constant rate pumping test results indicate that there is no hydraulic connectivity between well M3 and wells M2 and H1.” Influence to well M4 was observed during the connectivity test; however, these wells are less than 500 feet apart.

Impacts to the City wells would only result if the capture zones of the City and adjacent high capacity wells overlap with the capture zone of the project wells. However, this scenario is unlikely. The capture zone of the City wells is located approximately a quarter of a mile northeast of the project wells (Ketrion, 2004). The capture zones for the project wells would be small due to the low recommended yields, and would not overlap with and impact other wells. In addition to being limited in extent, the capture zone for the project wells will extend from the well to up-gradient areas, which in this case will be away from the City wells. Therefore, the capture zones of City wells and the project wells will not overlap and result in groundwater impacts.

F1-33 The commenter states that under water supply Option 2, the project would be provisionally classified as a Non-Transient/Non-Community (NTNC) public water system. Therefore, the project would be subject to the requirements of the Safe Drinking Water Act for NTNC systems. The commenter notes that baseline monitoring must begin and preliminary results submitted to the USEPA before water may be legally used by the public.

Required testing and reporting will be implemented for the selected project. A water quality monitoring plan will be developed and implemented during construction of the selected alternative. This plan will be developed in coordination with the USEPA tribal drinking water unit, and will detail required monitoring provisions under the Safe Drinking Water Act, including provisions for baseline monitoring and reporting prior to consumption by the public.

F1-34 The project site lies primarily within two surface water drainage basins. Based on Department of Water Resources (DWR) well logs, there are 36 domestic wells in the smaller of the two basins, which is identified as watershed 2 in **Section 3.3.2** of the DEIS. The larger basin, described as Watershed 1 in **Section 3.3.2** of the DEIS, is reported as

having 96 domestic wells. A majority of the City of Plymouth lies within the smaller basin, watershed 2. The text within the FEIS has been clarified to mirror the information provided above and in the revised Pumping Test Report (**Appendix C** of the FEIS).

F1-35 During development of the Administrative DEIS (ADEIS) for review by cooperating agencies prior to public release, the initial water demand was initially estimated at 121,300 gallons per day. Based on comments received on the initial versions of the ADEIS, the project description was updated and expanded and the Water and Wastewater Feasibility was updated. As discussed in **Section 2.0** of the DEIS, the anticipated water demand for full build-out of Alternative A is estimated at 188,500 gpd. With the use of recycled water, full build-out water demand would be reduced by 35% to 116,700 gpd.

The commenter is correct, the design capacity of the wastewater treatment plan (WWTP) did not change between the release of the ADEIS and the DEIS. As discussed in **Section 2.0** of the DEIS, the project alternatives include the development of an on-site WWTP with an average day capacity of 200,000 gpd. As discussed in **Appendix B** of the DEIS, the capacity of the WWTP was designed to allow for peak flows and to provide redundant capacity. Therefore, as water demands were updated in response to initial review of the project alternatives during development of the ADEIS, the WWTP design remained the same as the total capacity, including storage within the equalization basin, met the updated demands.

F1-36 As stated in **Mitigation Measure 5.2.3 (C)** of the DEIS, a sampling and monitoring program would be implemented for the WWTP. The overall program would include spray field monitoring to ensure tail water is not leaving the spray field area. **Mitigation Measure 5.2.3 (C)** of the FEIS has been updated to include a detailed description of the protocols that would be implemented as part of a sprayfield monitoring program.

F1-37 As discussed in the response to **Comment F1-35**, the design treatment capacity of the WWTP is greater than the needs of the project to allow for peak flows and redundant capacity. The commenter is correct, the Tribe has committed to no other developments, such as Tribal housing or other commercial facilities, being constructed on the project site. There are no plans for future expansion as discussed in **Section 2.0** of the DEIS.

F2 UNITED STATE GEOLOGICAL SURVEY

F2-01 Refer to **Comment F1-02** and **Comment F1-05** from the USEPA for a discussion of the overdraft and recharge of the aquifer, and the applied factors used in considering the limited recharge of the aquifer. Refer to the response to **Comment F1-06** for a detailed discussion of the procedures (including references) used to calculate long-term well yield

values and **Comment F1-32** for an assessment of the potential for groundwater impacts from proposed pumping within the basin. As stated above, in response to USEPA comments, **Sections 3.3** and **4.3** of the FEIS have been updated to include an expanded discussion of the existing groundwater setting and potential impacts of the project alternatives. No additional significant impacts to the groundwater basin have been identified during development of the FEIS. Additionally, the Pumping Test Report (**Appendix C** of the FEIS) has been updated to include additional references to substantiate the conclusions.

F2-02 Refer to the response to **Comment F1-02** and **Comment F1-05** for discussions of the recharge of the aquifer and the applied factors that consider the limited recharge situation. Refer to the response to **Comment F1-05** for a detailed discussion of the procedures used to calculate long-term well yields, including the unit-less site-condition factors used to calculate the long-term well yields from the pump test results.

F2-03 As described in **Comment F1-05** above, the methodology for determining the long-term well capacity reflects a refinement in the test method to account for a potentially longer dry season in California. The test method for estimating long-term well capacity specifies that specific capacity be calculated at 100 days, which represents the dry season and a period of minimum recharge. The methodology utilized this approach, but the period of minimum recharge was increased to 200 days. Specific capacity is calculated as discharge rate divided by extrapolated drawdown. Extending the extrapolation period from 100 to 200 days results in increased drawdown and decreased specific capacity. Refer to the response to **Comment F1-05** for a discussion of recharge of the project aquifers.

STATE (S) AGENCIES

COMMENT LETTERS AND RESPONSES

DANIEL E. LUNGREN
 3RD DISTRICT, CALIFORNIA

COMMITTEE ON
 HOMELAND SECURITY

COMMITTEE ON
 THE JUDICIARY

COMMITTEE ON
 THE BUDGET

COMMITTEE ON
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Washington, DC 20515

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E-MAIL: VISIT OUR WEBSITE
www.lungren.house.gov

May 2, 2008

Comment Letter S1

Mr. Dale Risling
 Deputy Regional Director,
 Pacific Regional Office
 Bureau of Indian Affairs
 2800 Cottage Way
 Sacramento, CA 95825

Re: DEIS Comments, Ione Band of Miwok Indians' Casino Project

Dear Mr. Risling:

On behalf of constituents which I represent in the city of Plymouth, which is located in Amador County, California, I would like to request that the Bureau of Indian Affairs extend the public comment period relating to the Draft Environmental Impact Statement for the Ione Band of Miwok Indians proposed 228.04-acre Fee to Trust land transfer and Casino project for an additional 25 days. In conjunction with the 75 day public comment period provided for in the April 18, 2008 notice¹ the additional 25 day request would provide a comment period totaling 100 days.

S1-1

Both the City of Plymouth and Amador County are small jurisdictions with limited resources. In order for them to effectively analyze the contents of the voluminous 450 page Draft Environmental Impact Statement and attachments at issue, an additional 25 days would be most beneficial to that end. Furthermore, it is important to those constituents who desire an extension, that they have a sufficient opportunity to analyze the manner in which the Bureau of Indian Affairs considered the alternative courses of action in accordance with the National Environmental Quality Act² and the Council on Environmental Quality regulations.³

S1-2

As the Congressional Representative of the City of Plymouth and Amador County, it is my desire to help to facilitate a process which will be fair to all parties involved. It is my belief that this request for a 25 day extension of the public comment period would provide further assurance to all of the affected groups that they have had a meaningfully opportunity to be heard on an issue of paramount importance to them. In the end, the

S1-3

¹ Federal Register Vol. 73, No. 76 (April 18, 2008).

² 42 U.S.C. Sec. 4321 et seq.

³ 40 CFR Sec. 1500-1508.

perception of fairness will enhance the opportunity for cooperation between members of our local community.

I appreciate your consideration of my request and would invite you to contact me if you have any further questions.

S1-3
cont.

Sincerely,



Daniel E. Lungren
Member of Congress

Comment Letter S1(a)



IN REPLY REFER TO:

United States Department of the Interior

BUREAU OF INDIAN AFFAIRS

Pacific Regional Office

2800 Cottage Way

Sacramento, California 95825

MAY 15 2008

The Honorable Daniel E. Lungren, Member
U.S. House of Representatives
2448 Rayburn House Office Building
Washington, D.C. 20515

**Re: DEIS Comments, Ione Band of Miwok Indians' Proposed Fee-to-Trust Land
Acquisition for Gaming Purposes**

Dear Congressman Lungren:

Thank you for your letter, dated May 2, 2008, written on behalf of your constituents within the City of Plymouth and greater Amador County with the request to extend the public comment period related to the Draft Environmental Impact Statement (DEIS) for the Ione Band of Miwok Indians proposed 228.04 acre fee-to-trust land acquisition and casino project. Your letter seeks an additional 25 days based on the City of Plymouth and Amador County being small jurisdictions with limited resources. With that in mind, the Bureau of Indian Affairs (BIA) carefully and thoughtfully announced an extended public comment period to provide sufficient opportunity to analyze the contents of the DEIS and manner in which the BIA considered the alternative courses of action in accordance with the National Environmental Policy Act (NEPA), the Council on Environmental Quality (CEQ) regulations and the BIA's NEPA Handbook at 59 IAM 3.

The BIA's NEPA Handbook at 59 IAM 3, consistent with NEPA and CEQ regulations, provides guidance to our office as to the length of public comment period for a DEIS. The Handbook specifically guides toward a 45 day comment period. In recognition of the intense interest by your constituents, limited resources within the City and County and in balance with the applicant Tribe, the BIA through its Notice Of Availability of the DEIS extended the normal 45 day comment period an additional 30 days, for a total 75 day public comment period. The additional 30 days is viewed as a built in extension.

Although the BIA understands and appreciates your desire to further help facilitate a process which is fair to all parties, we respectfully request public comments are submitted to us by July 2, 2008. To assist your constituents further, we will accept comments faxed to either (916) 978-6099 or (916) 978-6055.

Sincerely,

Dale Morris
Regional Director

S1(a)-1

STATE OF CALIFORNIA

Arnold Schwarzenegger, Governor

NATIVE AMERICAN HERITAGE COMMISSION
915 CAPITOL MALL, ROOM 364
SACRAMENTO, CA 95814
(916) 653-4082
Fax (916) 657-5390



May 29, 2008

Comment Letter S2

John Rydzik
Bureau of Indian Affairs
2800 Cottage Way
Sacramento, CA 95825

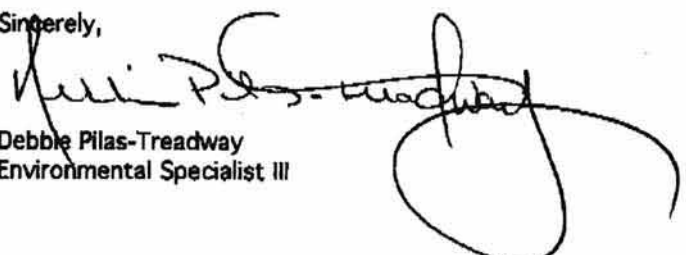
RE: Notice of proposed decision to have real property accepted into trust by the United States for the Ione Band of Miwok Indians, Amador County
SCH# 20080440022

Dear Mr. Morris:

The Commission has reviewed the above mentioned notice of proposed decision to have real property accepted into trust by the United States for the Ione Band of Miwok Indians and does not have any comments.

S2 -1

Sincerely,


Debbie Pilas-Treadway
Environmental Specialist III

CC: State Clearinghouse

Janielle Jenkins, Governor's Office of Legal Affairs - via fax 916-324-6946

Sara Drake
Deputy Attorney General
Department of Justice
PO Box 944255
Sacramento, CA 94244

Andrea Lynn Hoch
Legal Affairs Secretary
Office of the Governor
State Capitol Building
Sacramento, CA 95814

STATE OF CALIFORNIA, RESOURCES AGENCY

ARNOLD SCHWARZENEGGER, GOVERNOR



DEPARTMENT OF CONSERVATION

DIRECTOR'S OFFICE

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June 4, 2008

Comment Letter S3

John Rydzik
Bureau of Indian Affairs, Department of the Interior
2800 Cottage Way, Room W-2820
Sacramento, CA 95825

Subject: Lone Band of Miwok Indians (Tribe) Proposed 228.04 Acre Fee-To-Trust Land Transfer and Casino Project

Dear Mr. Rydzik,

The Department of Conservation has reviewed the Draft Environmental Impact Statement for the Lone Band of Miwok Indians Proposed 228.04 Acre Fee-To-Trust Land Transfer and Casino Project in Amador County and submits the following comments:

S3-1

The Department's California Geological Survey has not generated maps for Amador County that designate Zones of Required Investigation for liquefaction and earthquake-induced landslides per the Seismic Hazards Mapping Act of 1990.

The California Geological Survey has not designated Earthquake Fault Zones in Amador County per the Alquist-Priolo (A-P) Earthquake Fault Zoning Act of 1972. However, please note the project site is approximately 10.5 miles north of quaternary active strands of the Bear Mountains Fault Zone.

S3-2

We appreciate the opportunity to comment. If you have any questions about our comments, please feel free to call me at the above reference number.

Sincerely,

J. Kyle Nast
Staff Counsel

Cc: Andrea Lynn Hoch, Legal Affairs Secretary, Governor's Office
Scott Morgan, Deputy Director, State Clearinghouse
Sara Drake, Esq., Supervising Deputy Attorney General, Department of Justice

DEPARTMENT OF TRANSPORTATION

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Comment Letter S4

June 10, 2008

10-AMA-49-PM 15.0
DEIS Comments Lone Casino Project
SCH# 2008044002

Handwritten notes and signatures on routing slip, including 'DEIS' and 'ND'.

Ms. Amy Dutschke
Acting Regional Director
Pacific Regional Office
Bureau of Indian Affairs, Department of the Interior
2800 Cottage Way
Sacramento, CA 95825

Dear Ms. Dutschke:

The Department of Transportation (Caltrans) appreciates the opportunity to comment on the Lone Band of Miwok Indians Draft Environmental Impact Study (DEIS), which is to address the environmental effects for the Proposed 228.04 Acre Fee-to-Trust Land Transfer and Casino Project. Casino (Alternative A) proposes a 120,000 square-foot casino, a 166,500 square-foot hotel, and a 30,000 square-foot convention center. The casino is to consist of 2,000 slot machines, 40 gaming tables, a buffet, a specialty restaurant, a sports bar, etc. Phase 1 would construct the casino and food/beverage facilities, while Phase 2 proposes to construct a hotel and convention center. The location of the proposed project would be accessed by State Route 49, in the City of Plymouth, in Amador County.

S4-1

Caltrans' District 10 has circulated the environmental document and provides the following comments from the Traffic Operations Unit:

Note: The following DEIS review comments are for Caltrans' District 10 facilities. For DEIS review comments for highway facilities within Caltrans' District 3, please refer to their District's comment letter which will be sent to you directly from their office.

- 1. The DEIS for the Plymouth Casino, dated November 2007, uses a Traffic Impact Analysis (TIA) dated August 2005 by T.Y. Lin International as attached in Appendix M. The TIA (Appendix M) on page 24, 1st paragraph, states that the traffic counts were collected in June 2004. If so, the traffic information is approximately 4 years old and outdated.
2. The TIA is approximately 3 years old and therefore does not incorporate recent proposed projects in Plymouth. These include the following residential subdivision developments that will increase traffic volumes on SR-49 in the City of Plymouth, due to a total additional 1028 Single Family Residences(SFRs):
• Zinfandel - 350 SFR
• Shenandoah Ridge - 136 SFR

S4-2

S4-3

Comment Letter S4

Ms. Amy Dutschke
June 10, 2008
Page 2

- Shenandoah Springs - 64 SFR
- Cottage Knoll - 304 SFR
- Arroyo Woods - 127 SFR
- Oak Glen - 47 SFR

S4-3,
cont.

3. The intersection controls have changed at several intersections. Traffic signals have been installed at intersections since the TIA analyzed the following as side street stop control:

- SJ-12/SJ-88 East (Intersection #11) Signalized
- SJ-12/SJ-88 West (Intersection #12) Signalized
- AMA-16/AMA-49 (Intersection #5) Signalized

S4-4

4. The TIA has a significant omission since it does not analyze impacts to highway segments near the casino on SR-49 and SR-16. The TIA provides level of service (LOS) for specific roadway segments on the perimeter of the casino location, but has omitted the following roadway segments which are near the casino:

- AMA-49 north of the Casino entrance to Main Street in Plymouth.
- AMA-49 south of the Casino entrance to the AMA-49/AMA-16 junction.
- AMA-16 between the AMA-16/AMA-124 junction to the AMA-16/AMA-49 junction.

S4-5

By omitting the above roadway segments near the casino, the TIA may not disclose potential significant impacts to the adjacent highway segments with higher traffic volumes, and the more concentrated trip generation near the casino.

5. Refer to DEIS Table 4.8-2 "Phase I Daily Roadway Segment Level of Service". The table lists the roadway segment for "SR88 West of SR124" with a threshold LOS D. This is incorrect, since the LOS threshold for this rural highway is LOS C. Additionally the table lists the roadway segment for, "SR49 South of SR16" with a threshold LOS E. This is incorrect, since the LOS threshold for this rural highway segment is LOS C. The aforementioned incorrect LOS thresholds are also carried over into Table 4.8-6, "Alt A Phase I & II Daily Roadway Segment Level of Service".

S4-6

6. Refer to the TIA (Appendix M), "Existing Roadway Segment Operations", pg 22. The roadway segments which have been analyzed are too long if these segments are intended by the DEIS to represent entire highway corridors. The result is that the TIA attempts to represent with one location the entire highway corridor where there are significant variations with respect to geometry and traffic volumes. A calculated single value LOS to represent the substantial lengths of highway corridor is essentially meaningless. However, using the single value LOS to represent the entire highway corridor, the TIA then mentions in the "Project Impacts and Mitigation" section, to justify that there are no impacts to highway segments and therefore, no highway segment improvements are needed.

S4-7

Refer to Figure 2-1 "Study Intersections", and then to Table 2-4 "Roadway Segment Level of Service Existing No Project". As an example, attempting to represent impacts to the road segment,

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Ms. Amy Dutschke
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Page 3

Comment Letter S4

“SR 88 West of SR 124” as a single LOS value listed in Table 2-4 brings up the question, does the DEIS intend that this one LOS represent the entire SR-88 corridor from the junction SR-88/SR-124 (Intersection # 10) to the farthest intersection at the junction SR-88/Kettleman Lane (Intersection #13). If so, the volumes of various segments of SR-88 vary considerably, which will result in different LOS values. Additionally, as a result the DEIS has omitted analyzing roadway segment impacts over the entirety of the SR-88 corridor with the exception of one specific location.

S4-7, cont.

The same aforementioned problem applies to the SR-16 corridor which the DEIS attempts to represent the entire SR-16 corridor using an individual location with a lower traffic volume than westerly portions of SR-16 near Rancho Murieta. Again the result is the DEIS omits analyzing roadway segment impacts to the entirety of the SR-16 corridor with the exception of one specific location which has a lower traffic volume.

The DEIS has not analyzed a reasonable and useable roadway segment, and as a result neglects to analyze roadway segments where the project may have potential significant impacts.

7. The TIA has omitted several intersections from its analysis which the project’s generated trips may have potential significant impacts. As an example some of the more significant intersections which are missing are as follows:

- AMA-104 (Preston Ave) / W. Main St. in the City of Ione
- SJ-88 / Liberty Road
- SJ-88 / Tully Road in Lockeford

S4-8

8. Refer to the TIA (Appendix M) Table 2-4 “Roadway Segment Level of Service Existing No Project”. This table shows Existing No Project ADT’s, however these ADT’s are different from those shown on the next page in Figure 2-3 “Existing Daily Traffic Volumes”.

S4-9

9. Page 24 of the TIA states that the intersections within Sacramento County used a PHF of 1.0 in accordance with the Sacramento County Traffic Impact Analysis Guidelines. These intersections although located within Sacramento County are Caltrans facilities. Using a PHF=1.0 is contrary to recommended practice for HCM intersection analysis. Thus using a 1.0 PHF is most likely unacceptable to Caltrans District 3. Please verify with Caltrans District 3.

S4-10

10. The TIA states that it uses a calculated PHF in its analysis for Caltrans District 10 facilities. However, a review of the TIA (Appendix M) Traffix analysis printouts indicates that a calculated PHF was not always used as was stated. As an example, refer to the EPAP+ Project A, Phase 1 2006 Friday PM Peak. Additionally a PHF of 1.0 was used for the analysis at various other intersections as follows: SR-104/SR-124; SR-88/SR-124; SR-88/SR-12 (North); SR-88/SR-12 (South); SR-88/Kettleman; and SR-49/Pleasant Valley.

S4-11

The incorrect use of a PHF=1.0 is continued in other scenarios as shown in several other Traffix analysis reports provided in the Appendices.

Ms. Amy Dutschke
June 10, 2008
Page 4

Comment Letter S4

11. The casino's stated main entrance (Intersection A) on SR-49 is located north of the casino building. This main access needs to be evaluated for left-turn storage requirements. The casino's service access driveway to the south of the casino building (Intersection B) shows bus drop-off and bus parking. It would be reasonable that private vehicles would also be accessing this driveway to drop-off their passengers at the casino entrance and/or potentially valet parking. However the turning movements shown at this project access are questionable. For example refer to Figure 4-5, "2009 EPAP Alt A Phase 1 & 2". The southbound SR-49 left-turn movement into this driveway is shown as 0 vehicles during the peak hours. Additionally, the diagram shows 0 vehicles exiting the driveway with a right-turn movement during the peak hours.
12. The DEIS discusses traffic counts taken at other sample casinos to derive its traffic generation. The DEIS states on pg 4.8-7 that detailed tables and graphics showing how rates and enter and exit splits were established using logarithmic best fit curve equation are included in the Traffic Study (Appendix M) appendices. Reviewing to the Traffic Study (Appendix M) Appendices then states the information is "Bound Under Separate Cover", and that the electronic version is available online at www.ionceis.com. However reviewing the posted Appendices A through AC, the aforementioned information is not included. This supporting backup information was requested by telephone conversation to the DEIS consultant, however the information was not provided for review to Caltrans.

S4-12

The estimated trip generation rate used for the Plymouth Casino is shown in the TIA (Appendix M) in Table 4-1. However referring to the TIA Section 6, "Supplemental Analysis – Buena Vista", which was provided by the same traffic consultant shows in Table 6-1 that they used generation rates based on SANDAG studies to arrive at Buena Vista Casino's estimated trip generation. The differences in generation rates are summarized in the following table:

Scenario	Plymouth Casino (120 ksf)		Buena Vista Casino (56 ksf)	
	Rate (trips/ksf)	Trips	Rate (trips/ksf)	Trips
Weekday PM Peak Hr	4.54	545	17.3	969
Saturday PM Peak Hr	6.25	750	Not Provided	Not Provided
Daily Weekday	68.24	8189	97 to 130	5,432 to 7,280

S4-13

As summarized above, the Plymouth Casino's traffic consultant has used substantially different trip generation rates to calculate the Buena Vista Casino's traffic generation in the "Supplemental Analysis – Buena Vista" versus the rate which they used for their own Plymouth Casino weekday PM Peak-hr trip generation. Refer to the Weekday PM Peak Hr trips/1000 sq ft shown in the above summary table. The trip generation rate used for the Plymouth Casino (4.54 trips/ksf) is only 26% of the rate which was used by the same traffic consultant to calculate the supplemental

Comment Letter S4

Ms. Amy Dutschke
 June 10, 2008
 Page 5

analysis for the Buena Vista Casino (17.3 trips/ksf). Additionally, a review of the Daily Weekday traffic generation shows that the Plymouth Casino is using a much lower daily rate (68.24 trips/day versus 97 to 130 trips/ksf) than what they used for their summary of the Buena Vista Casino.

Without the aforementioned supporting data being provided for review to support the trip generation rates used in the Plymouth Casino's DEIS, the casino's trip generation as stated in this DEIS cannot be verified with respect to its applicability and validity. Since the requested information has not been provided it leaves unanswered questions regarding the substantial differences in trip generation rates used, and as a result is not available to support the basis of the derived trip generation rates used in the DEIS's traffic impact analysis.

S4-13,
 cont.

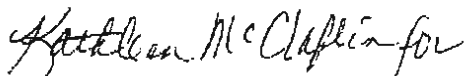
13. A review of the Traffix analysis printouts indicates that some of the description headers are for a Friday PM Peak Hour for various scenarios such as "Existing No Project", "Existing plus Approved Projects", "Existing plus Approved Plus Project A Phase 1", etc. Using Friday traffic patterns and volumes as the existing baseline to represent typical weekday traffic is questionable. The typical weekday traffic is normally represented on a Tuesday, Wednesday, or Thursday. Using a Friday PM Peak hour traffic will not provide a representative condition for an average weekday PM Peak Hour condition.

S4-14

In addition to the comments provided above, a review by Caltrans' District 10's Forecasting Unit identified inconsistencies in the document and mentioned that forecasting appears to be low.

If you have any questions or would like to discuss these comments in more detail, please contact Kathleen McClafflin at (209) 948-7647 or myself at (209) 948-7112.

Sincerely,



DANIEL H. BREWER, Chief
 Office of Rural Planning and Administration

cc: Scott Morgan, State Clearinghouse
 cc: Larry Peterson, Amador County Public Works
 cc: Charles Field, ACTC
 cc: William A. Davis, Caltrans' District 3

DEPARTMENT OF TRANSPORTATION
DISTRICT 3, SACRAMENTO AREA OFFICE
Venture Oaks -MS 15
P.O. BOX 942874
SACRAMENTO, CA 94274-0001
PHONE (916) 274-0614
FAX (916) 274-0648
TTY (530) 741-4509

Comment Letter S5

June 26, 2008

08SAC0080
Ione Band of Miwok Indians
Land Transfer and Casino Project DEIS
03-SAC-16 PM 6.22-R23.96
SCH# 200804402

Amy Dutschke
Acting Deputy Regional Director
Bureau of Indian Affairs
2800 Cottage Way
Sacramento, CA 95825

RE: DEIS Comments, Ione Band of Miwok Indians' Casino Project

Dear Ms. Dutschke:

Thank you for the opportunity to review the Draft Environmental Impact Statement (DEIS) for Ione Band of Miwok Indians' Casino Project. The project is located in the responsibility area of Caltrans District 10; however, the DEIS includes analysis of State Highways that extend into District 3. Specifically, portions of State Route (SR) 16 in Sacramento County and SR 49 in El Dorado County are included in the DEIS traffic analysis. Our comments are directed at the overall adequacy of the traffic analysis with added emphasis on District 3 facilities.

S5-1

We have had the opportunity to review the comment letter that was sent to you from District 10 regarding this project. We concur with their assessment of the traffic analysis. Traffic counts are outdated, additional traffic from new residential development in the area was not considered, roadway and intersection configurations are not accurate, and incorrect peak hour factors were used. These problems prevent any meaningful critique of the traffic analysis and are sufficient cause to require revision and recirculation of the study.

S5-2

Some specific issues affecting the analysis of District 3 roadways and intersections are as follows:

- SR16/Michigan Bar Road is now signalized while the DEIS indicates two-way stop

S5-3

✓	_____	✓

✓	_____	DEIRMS
	_____	NO

Amy Dutschke
June 26, 2008
Page 2

control.

S5-3
cont.

• "Project only" peak volumes and trip assignment are not provided.

S5-4

• At the SR 49/Pleasant Valley Road intersection Level of Service (LOS) deteriorates to "E" with the project in 2009 as indicated in Table 4-14. LOS E is unacceptable and no mitigation is provided.

S5-5

• The analysis recommends signalizing SR 49/Pleasant Valley Road intersection under the Cumulative scenario with the result of improving LOS from F to C. Our analysis indicates that excessive queues will occur with signalization. The average queue for the eastbound approach would be 650 feet and westbound approach would be 350 feet. This exceeds turn lane storage length and is not consistent with LOS C. Our analysis indicates even with the proposed mitigation the intersection would be LOS F.

S5-6

In sum, due to the above mentioned inaccuracies in the DEIS, the traffic analysis should be revised to accurately disclose the project impacts and mitigation measures. Caltrans is available to assist you if specific information is needed. If you have any questions, please contact me at (530) 634-7618.

S5-7

Sincerely,



WILLIAM A. DAVIS
Senior Transportation Planner

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OFFICE



OFFICE OF THE GOVERNOR

July 2, 2008

Via Hand Delivery

Mr. Dale Risling, Deputy Regional Director
Pacific Regional Office
Bureau of Indian Affairs
2800 Cottage Way
Sacramento, California 95825

Re: DEIS Comments, Ione Band of Miwok Indians' Casino Project

Dear Mr. Risling:

We have reviewed the Draft Environmental Impact Statement (Draft EIS) dated November 2007 for the Ione Band of Miwok Indians' (Tribe) fee-to-trust land application and proposed casino project (Project). Thank you for this opportunity to comment on the Project. From the material submitted, we believe that the Draft EIS is deficient in some respects, precluding the requisite hard look at all of the Project's environmental impacts.

S6-1

The Draft EIS has been prepared in conjunction with the Tribe's application to acquire about 227.58 acres in Amador County into federal trust for the Tribe for the construction and operation of a class II and class III gaming facility. In September 2006, the Office of the Solicitor, Division of Indian Affairs, determined the subject land is eligible for gaming as the Tribe's "restored lands" under title 25 United States Code section 2719 (b)(1)(B)(iii) of the Indian Gaming Regulatory Act (IGRA), and the Associate Deputy Secretary concurred in the determination. We commented in our December 28, 2006 letter to former Regional Director Clay Gregory that the Solicitor's findings were not supported by the facts or law and, therefore, the proposed acquisition did not qualify for IGRA's "restored lands" exception. Nonetheless, our comments on the Draft EIS are as follows.

S6-2



Mr. Dale Risling, Deputy Regional Director
July 2, 2008
Page 2

The Draft EIS evaluates four development alternatives and a “no action” alternative: Alternative A (a 120,000 square-foot casino with related facilities, a 250-room, five-story hotel, and a 30,000 square-foot event center); Alternative B (a 100,750 square-foot casino with related facilities and the same hotel and event center described in Alternative A); Alternative C (a 79,250 square-foot casino with associated facilities and no hotel or event center); Alternative D (a 123,250 square-foot retail shopping center with no casino, hotel, or event center); and Alternative E (no development). Alternatives A through D include development of a fire station, wastewater treatment plant, and varying numbers of surface parking spaces. Alternatives A, B and C also include an RV park and construction of an earthen dam to create a reclaimed water seasonal storage reservoir.

Here, the Bureau of Indian Affairs (BIA) serves as the lead agency for National Environmental Policy Act (NEPA) compliance, with the National Indian Gaming Commission, United States Environmental Protection Agency, and the City of Plymouth as cooperating agencies. (Draft EIS at p. 1-7.) NEPA requires an agency to take a “hard look” at the environmental consequences of its actions and at possible alternatives. (*Kleppe v. Sierra Club* (1976) 427 U.S. 390, 410, fn. 21.) The critical measure is whether a project will have a “significant” impact. Under NEPA, whether an effect is significant depends both on the project’s context and intensity. (40 C.F.R. § 1508.27.) “Context refers to the scope of the action, while intensity refers to the severity of the impact.” (*Environmental Protection Information Center v. U.S. Forest Service* (9th Cir. 2006) 451 F.3d 1005, 1009, citing 40 C.F.R. § 1508.27.) NEPA’s implementing regulations include a list of ten intensity factors, at least five of which are applicable to our discussion:

- (2) The degree to which the proposed action affects public health or safety.
- (3) Unique characteristics of the geographic area such as proximity to . . . wetlands, [or] wild and scenic rivers
.....
- (5) The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.
.....
- (7) Whether the action is related to other actions with individually insignificant but cumulatively significant impacts. Significance exists if it is reasonable to anticipate a cumulatively significant impact on the environment. [¶]

S6-3

Mr. Dale Risling, Deputy Regional Director
July 2, 2008
Page 3

- (10) Whether the action threatens a violation of Federal, State, or local law or requirements imposed for the protection of the environment.

S6-3
cont.

(40 C.F.R. § 1508.27(b).)

The following deficiencies in the Draft EIS preclude the lead and cooperating agencies from taking the required "hard look" at the Project's environmental consequences.

S6-4

No Demonstrated Need To Acquire In Trust Parcels 2 and 12

In determining whether to acquire land in trust, the Secretary considers, among other things, a tribe's need for the land and the purposes for which the land will be used. (25 C.F.R. Part 151.10(b), (c).) Here, the Tribe seeks to acquire in trust 12 contiguous parcels of land. (Draft EIS at p. 1-1 & Fig. 1-3.) The Draft EIS indicates parcels 2 and 12 each contain a single family residence and undeveloped grassland utilized for moderate cattle grazing and raising horses. (*Id.* at pp. 3.8-13, 3.8-16.) No development is planned for parcels 2 and 12 under any alternative evaluated in the Draft EIS. (*Id.* at p. 4.8-23.) Therefore, the Tribe has not demonstrated need for the land for gaming or other purposes.

S6-5

In addition, if land is acquired in trust for development of a retail shopping center under Alternative D, Figure 2-18 suggests the development could be reconfigured to locate the supporting infrastructure (e.g., fire station, wastewater treatment plant, subsurface disposal field and spray disposal field) entirely within parcel 3. This could accommodate the Tribe's proposed development without the need to acquire into trust parcels 1, 2 and 12, while simultaneously preserving the natural habitat existing on those parcels and reduce or eliminate potential wastewater discharge into Dry Creek, a tributary of the Mokelumne River that flows into the greater San Joaquin River and Delta. (See Draft EIS pp. 3.3-1 to 3.3-3, Figs. 3.3-1, 3.5-1 & 3.5-2.)

S6-6

Water Resources

On June 4, 2008, the Governor issued Executive Order S-06-08, proclaiming a statewide drought and ordering several state agencies to take immediate action to address the serious drought conditions and water delivery limitations that currently exist in California. Consistent with the State's drought conditions, the Draft EIS acknowledges the City of Plymouth is currently experiencing an overdraft of available groundwater. (Draft EIS at p. 3.3-8.) In 1987 the State Department of Health Services (DHS) placed a

S6-7

Mr. Dale Risling, Deputy Regional Director
July 2, 2008
Page 4

moratorium on development within the City of Plymouth because it could not provide adequate water to its residents with its existing water system. (*Id.* at p. 4.11-26.) In 1990, after the City improved its well source, DHS partially lifted the moratorium, allowing the City to issue no more than 50 building permits. (*Ibid.*) City staff has advised the State that approximately 12 permits remain.

Despite the City of Plymouth's demonstrated water shortage, the first option for each Project alternative to meet water demand is to connect to the City's municipal water system. (Draft EIS at pp. 4.9-1 to 4.9-3, 4.9-10 to 4.9-11, 4.9-19.) The Draft EIS suggests sufficient water will be available from the City when the City and the Amador County Water Agency complete the Plymouth Pipeline Project, which is scheduled to begin construction in 2008 and become operational the same year. (*Id.* at p. 2-8.) At this time, it would be speculative to conclude that the pipeline could satisfy Project demands. Also, any agreement between the City and Tribe to provide water for the Project must first comply with the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.). (See *County of Amador v. City of Plymouth* (2007) 149 Cal.App.4th 1089, 1095.) To our knowledge, no such agreement exists or has undergone CEQA review, rendering the possible effects on the human environment highly uncertain.

S6-7
cont.

We also note the Draft EIS lacks specific information about whether the City's water source will be adequate to meet Project needs without significantly impacting existing and future customers. The Draft EIS states, without supporting analysis or statistics, that "Alternative A would not increase the projected water demands for the City of Plymouth or Amador County, as the casino and hotel would be located on land designated by Plymouth for commercial use and the water supply obtained from the City of Plymouth's municipal system would be limited to that already provided to the parcels." (Draft EIS at p. 4.11-28.) This statement suggests that with full build out of Alternative A, the Project will not draw more water from the City or County than the amount currently used by the 47-room Shenandoah Inn located on parcel 5, or the two private residences located on parcels 8 and 9. (See *id.* at pp. 3.8-14 to 3.8-15.) Elsewhere, the Draft EIS indicates that with full build out of Alternative A, the Project's water demand would be 32 percent of the City's average daily water supply, or 20 percent if it utilizes recycled water from the proposed on-site wastewater treatment plant. (*Id.* at p. 4.9-2.) It seems unreasonable to conclude that a 120,000 square-foot casino with multiple restrooms, bars and restaurants, a 250-room hotel, and a 30,000 square-foot event center would require no more water than a 47-room motel and two private homes. It is also unclear whether the current commercial and residential developments on City parcels account for 32 percent (or 20 percent) of the City's average daily water supply.

S6-8

Mr. Dale Risling, Deputy Regional Director
July 2, 2008
Page 5

Without empirical evidence confirming the Project will not draw more water than existing City land uses, the conclusion that no significant cumulative effects to water resources are expected to occur appears unsupported.

S6-9

If connection to the City's water source is unavailable, the Draft EIS proposes to obtain water from groundwater wells and trucking services, with the option to utilize recycled water from the proposed on-site wastewater treatment plant. (Draft EIS at pp. 2-8 to 2-10, 2-20.) The Draft EIS states that with full build out under Alternative A, the Project can meet water demands with 60 percent groundwater and 40 percent trucked-in water, or 93 percent groundwater and 7 percent trucked-in water if recycled water is utilized. (*Id.* at p. 2-20.) It also proposes increased reliance upon trucks if groundwater levels decrease. (*Id.* at p. 5-8 [proposed mitigation measure 5.2.3(C)(4)].) The Draft EIS includes a "will serve" letter from a commercial water supplier indicating the ability to supply 50,000 to 60,000 gallons per day for a five- to ten-year period. (*Id.* at Appendix D.) If recycled water is not utilized, then 40 percent of the estimated 188,500 gallons per day required for full project build out (see *id.* at p. 2-20) is 75,400 gallons per day, or 15,400 to 25,400 gallons per day more than the amount guaranteed by the "will serve" letter. However, the letter is dated May 20, 2004, and has less than six years remaining on its guaranteed water supply period. Therefore, based on estimates in the Draft EIS, trucked-in water does not appear to be a viable option unless recycled water is utilized. In addition, the option needs to be reevaluated in light of the current drought conditions in California.

S6-10

Socioeconomic Conditions and Environmental Justice

The Draft EIS includes an economic impact analysis that is based upon a Municipal Services Agreement between the Tribe and the City of Plymouth that a state court has subsequently found invalid. (Draft EIS at Exh. R, Gov. Impacts VI-5; *County of Amador v. City of Plymouth, supra*, 149 Cal.App.4th at p. 1095.) It is also speculative because the analysis is premised upon assumed revenue sharing provisions in a Tribal-State gaming compact that has not yet been negotiated. Further, it miscalculates lost property tax value at \$22,121.96. (Draft EIS at Exh. R, Gov. Impacts VI-1, VI-5.) As indicated on page six of our December 28, 2006, comment letter, the 12 parcels were assessed \$34,689.60 in taxes in 2005.

S6-11

The Draft EIS indicates payment of school impact fees would reduce the impact on local schools to less-than-significant levels. (Draft EIS at pp. 4.7-6 to 4.7-7; see also *id.* at § 5.2.7(D)-(G).) There is, however, no confirmation from Amador County School District that the proposed one-time contribution would sufficiently offset acknowledged impacts.

S6-12

Mr. Dale Risling, Deputy Regional Director
July 2, 2008
Page 6

The Draft EIS also concludes there will be no impact on pathological and problem gambling in Amador County and its surrounding areas because the region has been exposed to many forms of gambling, including destination casinos, for many years. (Draft EIS at p. 4.7-9.) This conclusion is unsupported and fails NEPA's requirement that an agency evaluate a project's cumulative impacts. The conclusion is based upon a report published by the National Gambling Impact Study Commission in 1999. (*Id.* at pp. 4.7-8 to 4.7-9.) The 1999 report did not have the opportunity to evaluate tribal gaming in California as it exists today. Additionally, the Draft EIS does not consider more recent studies by the California Research Bureau (CRB) detailing the correlation between Indian casinos and compulsive and problem gambling and estimating that the costs associated with problem and pathological gamblers is about \$1 billion per year in California. (CRB, *Gambling in the Golden State: 1998 Forward* (May 2006) CRB 06-004, 72, 83-85, 127-139.) Approximately 77.5 percent of calls to the California Council on Problem Gambling, Inc., a nonprofit organization, are generated by gamblers whose primary preference is gambling in an Indian casino. (*Id.* at p. 84.) To combat these adverse social effects, the State has earmarked some revenues from existing compacts to fund state programs for problem and pathological gamblers (see Gov. Code, § 12012.85, subd. (g)(2)) and has included many provisions in existing compacts to address problem and pathological gambling. The Draft EIS needs to evaluate the cumulative impacts the proposed casino would have on problem and pathological gamblers, using more recent studies and in light of the proximity of an existing tribal casino near the City of Jackson and a proposed tribal casino near the City of Ione. (Draft EIS at pp. 4.11-3 to 4.11-4.)

S6-13

The Draft EIS concludes the Project will cause minimal adverse impacts on crime. (Draft EIS at p. 4.7-10.) The conclusion, however, is unsupported. For instance, the Draft EIS includes no evidence supporting the assertion that legalized gaming reduces crime by reducing illegal gaming, decreasing employment and stimulating the local economy, or that communities with casinos are just as safe as communities without casinos. (*Id.* at pp. 4.7-9 to 4.7-10.) The 2006 CRB report, however, confirms that in California higher crime rates, including aggravated assault and violent crimes, are correlated with a greater casino presence and result in increased public expenditures (\$15.33 per capita) for law enforcement. (CRB, *Gambling in the Golden State: 1998 Forward*, *supra*, at p. 72.) The Draft EIS, however, includes no information regarding the type and scope of criminal activity directly and indirectly attributable to the region, the existing gaming facility in the county, or any similarly situated hotels and RV parks.

S6-14

The contention that the introduction of "any" large scale development will result in an increased volume of crime (Draft EIS at pp. 4.7-9 to 4.7-10) does not address the nature of this proposed Project and crime impacts specifically related to a casino that are not present with other large scale development. In addition, the assertion that increased

S6-15

Comment Letter S6

Mr. Dale Risling, Deputy Regional Director
July 2, 2008
Page 7

tax revenues would fund expansion of law enforcement services required to accommodate planned growth lacks supporting detail and evidence as to what revenue would be subject to state or local taxation, rendering the impact highly uncertain.

S6-15

Conclusion

The Draft EIS appears to need work in several areas, including additional information to fully assess the nature and scope of the Project's environmental impacts, and whether the proposed mitigation measures are sufficient. These comments do not constitute the entirety of the State's comments on the Draft EIS. Other State agencies with specific technical expertise may provide additional comments in separate letters.

S6-16

Thank you for the opportunity to comment on the Draft EIS, and we look forward to your response.

Sincerely,



ANDREA LYNN HOCH
Legal Affairs Secretary

cc: Matthew Franklin, Chairman, Ione Band of Miwok Indians



ARNOLD SCHWARZENEGGER
GOVERNOR

July 3, 2008

STATE OF CALIFORNIA
GOVERNOR'S OFFICE of PLANNING AND RESEARCH
STATE CLEARINGHOUSE AND PLANNING UNIT



CYNTHIA BRYANT
DIRECTOR

Comment Letter S7

John Rydzik
Bureau of Indian Affairs
2800 Cottage Way, Room W-2820
Sacramento, CA 95825

Subject: Ione Band of Miwok Indians (Tribe) Proposed 228.04 Acre Fee-to-Trust Land Transfer and Casino Project
SCH#: 2008044002

Dear John Rydzik:

The State Clearinghouse submitted the above named Draft EIS to selected state agencies for review. On the enclosed Document Details Report please note that the Clearinghouse has listed the state agencies that reviewed your document. The review period closed on July 2, 2008, and the comments from the responding agency (ies) is (are) enclosed. If this comment package is not in order, please notify the State Clearinghouse immediately. Please refer to the project's ten-digit State Clearinghouse number in future correspondence so that we may respond promptly.

Please note that Section 21104(c) of the California Public Resources Code states that:

"A responsible or other public agency shall only make substantive comments regarding those activities involved in a project which are within an area of expertise of the agency or which are required to be carried out or approved by the agency. Those comments shall be supported by specific documentation."

S7-1

These comments are forwarded for use in preparing your final environmental document. Should you need more information or clarification of the enclosed comments, we recommend that you contact the commenting agency directly.

This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act. Please contact the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process.

Sincerely,

Terry Roberts
Director, State Clearinghouse

Enclosures
cc: Resources Agency

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008 JUL -7 PM 2:20
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OFFICE

**Document Details Report
State Clearinghouse Data Base**

SCH# 2008044002
Project Title Iona Band of Miwok Indians (Tribe) Proposed 228.04 Acre Fee-to-Trust Land Transfer and Casino
Lead Agency Project
 Bureau of Indian Affairs

Type EIS Draft EIS
Description Approval of a 228.04-acre fee-to-trust land transfer and the construction of a casino-hotel complex. The proposed project includes the development of an approximately 120,000 square-foot gaming facility, 166,500 square-foot hotel, and 30,000 square-foot event/conference center on the 228.04-acre site. The gaming facility would include a casino floor, food and beverage areas, meeting areas, guest support services, offices, and security area. The five-story hotel facility would have 250 guest rooms and the event/conference center would have seating for 1,200 people. Access to the casino would be provided from State Route 49.

Lead Agency Contact

Name John Rydzik
Agency Bureau of Indian Affairs
Phone (916) 878-6042 **Fax**
email
Address 2800 Cottage Way, Room W-2820
City Sacramento **State** CA **Zip** 95825

Project Location

County Amador
City Plymouth
Region
Lat / Long 38° 27' 57.00" N / 120° 51' 9.10" W
Cross Streets State Route 49 and Village Drive
Parcel No. 08-110-009 and 11 others
Township 7N **Range** 10E **Section** 14, 15 **Base** MDB&M

Proximity to:

Highways 49 and 16
Airports 6.7 miles SE
Railways
Waterways Tributary to Dry Creek and Little Indian Creek
Schools 1 mile N
Land Use Commercial, undeveloped, abandoned runway / commercial, residential agriculture / County-Residential, suburban; City-Commercial

Project Issues Aesthetic/Visual; Agricultural Land; Air Quality; Archeologic-Historic; Biological Resources; Cumulative Effects; Drainage/Absorption; Economics/Jobs; Fiscal Impacts; Flood Plain/Flooding; Forest Land/Fire Hazard; Geologic/Seismic; Growth Inducing; Landuse; Minerals; Noise; Population/Housing Balance; Public Services; Schools/Universities; Sewer Capacity; Soil Erosion/Compaction/Grading; Solid Waste; Toxic/Hazardous; Traffic/Circulation; Vegetation; Water Quality; Water Supply; Wetland/Riparian; Wildlife

Reviewing Agencies Resources Agency; Department of Conservation; Department of Fish and Game, Region 2; Office of Historic Preservation; Department of Parks and Recreation; Department of Water Resources; Office of Emergency Services; Caltrans, Division of Aeronautics; California Highway Patrol; Caltrans, District 10; Caltrans, Division of Transportation Planning; Other Agency(ies); Air Resources Board, Airport Projects; Integrated Waste Management Board; State Water Resources Control Board, Clean Water Program; Regional Water Quality Control Bd., Region 5 (Sacramento); Native American Heritage Commission; California Department of Justice, Attorney General's Office; Department of Health Services; Caltrans, District 3

Note: Blanks in data fields result from insufficient information provided by lead agency.

**Document Details Report
State Clearinghouse Data Base**

Date Received 04/18/2008 **Start of Review** 04/18/2008 **End of Review** 07/02/2008

Note: Blanks in data fields result from insufficient information provided by lead agency.

STATE OF CALIFORNIA -- BUSINESS, TRANSPORTATION AND HOUSING AGENCY

ARNOLD SCHWARZENEGGER, Governor

DEPARTMENT OF TRANSPORTATION
DISTRICT 3, SACRAMENTO AREA OFFICE
Venture Oaks -MS 15
P.O. BOX 942874
SACRAMENTO, CA 94274-0001
PHONE (916) 274-0614
FAX (916) 274-0648
TTY (530) 741-4509

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June 26, 2008

Comment Letter S7

08SAC0080
Ione Band of Miwok Indians
Land Transfer and Casino Project DEIS
03-SAC-16 PM 6.22-R23.96
SCH# 200804402
2008044002

Amy Dutschke
Acting Deputy Regional Director
Bureau of Indian Affairs
2800 Cottage Way
Sacramento, CA 95825

RE: DEIS Comments, Ione Band of Miwok Indians' Casino Project

Dear Ms. Dutschke:

Thank you for the opportunity to review the Draft Environmental Impact Statement (DEIS) for Ione Band of Miwok Indians' Casino Project. The project is located in the responsibility area of Caltrans District 10; however, the DEIS includes analysis of State Highways that extend into District 3. Specifically, portions of State Route (SR) 16 and SR 49 in Sacramento County are included in the DEIS traffic analysis. Our comments are directed at the overall adequacy of the traffic analysis with added emphasis on District 3 facilities.

We have had the opportunity to review the comment letter that was sent to you from District 10 regarding this project. We concur with their assessment of the traffic analysis. Traffic counts are outdated, additional traffic from new residential development in the area was not considered, roadway and intersection configurations are not accurate, and incorrect peak hour factors were used. These problems prevent any meaningful critique of the traffic analysis and are sufficient cause to require revision and recirculation of the study.

Some specific issues affecting the analysis of District 3 roadways and intersections are as follows:

- SR16/Michigan Bar Road is now signalized while the DEIS indicates two-way stop

Amy Dutschke
June 26, 2008
Page 2

Comment Letter S7

control.

- "Project only" peak volumes and trip assignment are not provided.
- At the SR 49/Pleasant Valley Road intersection Level of Service (LOS) deteriorates to "E" with the project in 2009 as indicated in Table 4-14. LOS E is unacceptable and no mitigation is provided.
- The analysis recommends signalizing SR 49/Pleasant Valley Road intersection under the Cumulative scenario with the result of improving LOS from F to C. Our analysis indicates that excessive queues will occur with signalization. The average queue for the eastbound approach would be 650 feet and westbound approach would be 350 feet. This exceeds turn lane storage length and is not consistent with LOS C. Our analysis indicates even with the proposed mitigation the intersection would be LOS F.

S7-2
cont.

In sum, due to the above mentioned inaccuracies in the DEIS, the traffic analysis should be revised to accurately disclose the project impacts and mitigation measures. Caltrans is available to assist you if specific information is needed. If you have any questions, please contact me at (530) 634-7618.

Sincerely,

WILLIAM A. DAVIS
Senior Transportation Planner

Jun. 18. 2008 12:19PM

NO. 0724 1. 2

Comment Letter S7

STATE OF CALIFORNIA - BUSINESS, TRANSPORTATION AND HOUSING AGENCY

ARNOLD SCHWARZENEGGER Governor

DEPARTMENT OF TRANSPORTATION

P.O. BOX 2048, STOCKTON, CA 95201
(1976 E. CHARTER WAY/1976 E. DR. MARTIN
LUTHER KING JR. BLVD. 95205)
TTY: California Relay Service (800) 735-2929
PHONE (209) 948-7112
FAX (209) 948-7164



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June 10, 2008

10-AMA-49-PM 15.0
DEIS Comments Ione Casino Project
SCH# 2008044002

Ms. Amy Dutschke
Acting Regional Director
Pacific Regional Office
Bureau of Indian Affairs, Department of the Interior
2800 Cottage Way
Sacramento, CA 95825

RECEIVED
JUN 18 2008
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Dear Ms. Dutschke:

The Department of Transportation (Caltrans) appreciates the opportunity to comment on the Ione Band of Miwok Indians Draft Environmental Impact Study (DEIS), which is to address the environmental effects for the Proposed 228.04 Acre Fee-to-Trust Land Transfer and Casino Project. Casino (Alternative A) proposes a 120,000 square-foot casino, a 166,500 square-foot hotel, and a 30,000 square-foot convention center. The casino is to consist of 2,000 slot machines, 40 gaming tables, a buffet, a specialty restaurant, a sports bar, etc. Phase 1 would construct the casino and food/beverage facilities, while Phase 2 proposes to construct a hotel and convention center. The location of the proposed project would be accessed by State Route 49, in the City of Plymouth, in Amador County.

Caltrans' District 10 has circulated the environmental document and provides the following comments from the Traffic Operations Unit:

Note: The following DEIS review comments are for Caltrans' District 10 facilities. For DEIS review comments for highway facilities within Caltrans' District 3, please refer to their District's comment letter which will be sent to you directly from their office.

1. The DEIS for the Plymouth Casino, dated November 2007, uses a Traffic Impact Analysis (TIA) dated August 2005 by T.Y. Lin International as attached in Appendix M. The TIA (Appendix M) on page 24, 1st paragraph, states that the traffic counts were collected in June 2004. If so, the traffic information is approximately 4 years old and outdated.
2. The TIA is approximately 3 years old and therefore does not incorporate recent proposed projects in Plymouth. These include the following residential subdivision developments that will increase traffic volumes on SR-49 in the City of Plymouth, due to a total additional 1028 Single Family Residences(SFRs):
 - Zinfandel - 350 SFR
 - Shenandoah Ridge - 136 SFR

"Caltrans improves mobility across California"

S7-3

Jun. 18. 2008 12:19PM

No. 0924 P. 5

Comment Letter S7

Ms. Amy Dutschke
 June 10, 2008
 Page 2

- Shenandoah Springs - 64 SFR
- Cottage Knoll - 304 SFR
- Arroyo Woods - 127 SFR
- Oak Glen - 47 SFR

3. The intersection controls have changed at several intersections. Traffic signals have been installed at intersections since the TIA analyzed the following as side street stop control:
 - SJ-12/SJ-88 East (Intersection #11) Signalized
 - SJ-12/SJ-88 West (Intersection #12) Signalized
 - AMA-16/AMA-49 (Intersection #5) Signalized

4. The TIA has a significant omission since it does not analyze impacts to highway segments near the casino on SR-49 and SR-16. The TIA provides level of service (LOS) for specific roadway segments on the perimeter of the casino location, but has omitted the following roadway segments which are near the casino:
 - AMA-49 north of the Casino entrance to Main Street in Plymouth.
 - AMA-49 south of the Casino entrance to the AMA-49/AMA-16 junction.
 - AMA-16 between the AMA-16/AMA-124 junction to the AMA-16/AMA-49 junction.

By omitting the above roadway segments near the casino, the TIA may not disclose potential significant impacts to the adjacent highway segments with higher traffic volumes, and the more concentrated trip generation near the casino.

5. Refer to DEIS Table 4.8-2 "Phase I Daily Roadway Segment Level of Service". The table lists the roadway segment for "SR88 West of SR124" with a threshold LOS D. This is incorrect, since the LOS threshold for this rural highway is LOS C. Additionally the table lists the roadway segment for, "SR49 South of SR16" with a threshold LOS E. This is incorrect, since the LOS threshold for this rural highway segment is LOS C. The aforementioned incorrect LOS thresholds are also carried over into Table 4.8-6, "Alt A Phase I & II Daily Roadway Segment Level of Service".

6. Refer to the TIA (Appendix M), "Existing Roadway Segment Operations", pg 22. The roadway segments which have been analyzed are too long if these segments are intended by the DEIS to represent entire highway corridors. The result is that the TIA attempts to represent with one location the entire highway corridor where there are significant variations with respect to geometry and traffic volumes. A calculated single value LOS to represent the substantial lengths of highway corridor is essentially meaningless. However, using the single value LOS to represent the entire highway corridor, the TIA then mentions in the "Project Impacts and Mitigation" section, to justify that there are no impacts to highway segments and therefore, no highway segment improvements are needed.

Refer to Figure 2-1 "Study Intersections", and then to Table 2-4 "Roadway Segment Level of Service Existing No Project". As an example, attempting to represent impacts to the road segment,

"Caltrans improves mobility across California"

S7-3
 cont.

Comment Letter S7

Ms. Amy Dutschke
June 10, 2008
Page 3

"SR 88 West of SR 124" as a single LOS value listed in Table 2-4 brings up the question, does the DEIS intend that this one LOS represent the entire SR-88 corridor from the junction SR-88/SR-124 (Intersection # 10) to the farthest intersection at the junction SR-88/Kettleman Lane (Intersection #13). If so, the volumes of various segments of SR-88 vary considerably, which will result in different LOS values. Additionally, as a result the DEIS has omitted analyzing roadway segment impacts over the entirety of the SR-88 corridor with the exception of one specific location.

The same aforementioned problem applies to the SR-16 corridor which the DEIS attempts to represent the entire SR-16 corridor using an individual location with a lower traffic volume than westerly portions of SR-16 near Rancho Murieta. Again the result is the DEIS omits analyzing roadway segment impacts to the entirety of the SR-16 corridor with the exception of one specific location which has a lower traffic volume.

The DEIS has not analyzed a reasonable and useable roadway segment, and as a result neglects to analyze roadway segments where the project may have potential significant impacts.

7. The TIA has omitted several intersections from its analysis which the project's generated trips may have potential significant impacts. As an example some of the more significant intersections which are missing are as follows:
 - AMA-104 (Preston Ave) / W. Main St. in the City of Ione
 - SJ-88 / Liberty Road
 - SJ-88 / Tully Road in Lockeford
 8. Refer to the TIA (Appendix M) Table 2-4 "Roadway Segment Level of Service Existing No Project". This table shows Existing No Project ADT's, however these ADT's are different from those shown on the next page in Figure 2-3 "Existing Daily Traffic Volumes".
 9. Page 24 of the TIA states that the intersections within Sacramento County used a PHF of 1.0 in accordance with the Sacramento County Traffic Impact Analysis Guidelines. These intersections although located within Sacramento County are Caltrans facilities. Using a PHF=1.0 is contrary to recommended practice for HCM intersection analysis. Thus using a 1.0 PHF is most likely unacceptable to Caltrans District 3. Please verify with Caltrans District 3.
 10. The TIA states that it uses a calculated PHF in its analysis for Caltrans District 10 facilities. However, a review of the TIA (Appendix M) Traffic analysis printouts indicates that a calculated PHF was not always used as was stated. As an example, refer to the EPAP+ Project A, Phase 1 2006 Friday PM Peak. Additionally a PHF of 1.0 was used for the analysis at various other intersections as follows: SR-104/SR-124; SR-88/SR-124; SR-88/SR-12 (North); SR-88/SR-12 (South); SR-88/Kettleman; and SR-49/Pleasant Valley.
- The incorrect use of a PHF=1.0 is continued in other scenarios as shown in several other Traffic analysis reports provided in the Appendices.

S7-3
cont.

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Comment Letter S7

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Page 4

11. The casino's stated main entrance (Intersection A) on SR-49 is located north of the casino building. This main access needs to be evaluated for left-turn storage requirements. The casino's service access driveway to the south of the casino building (Intersection B) shows bus drop-off and bus parking. It would be reasonable that private vehicles would also be accessing this driveway to drop-off their passengers at the casino entrance and/or potentially valet parking. However the turning movements shown at this project access are questionable. For example refer to Figure 4-5, "2009 EPAP Alt A Phase 1 & 2". The southbound SR-49 left-turn movement into this driveway is shown as 0 vehicles during the peak hours. Additionally, the diagram shows 0 vehicles exiting the driveway with a right-turn movement during the peak hours.
12. The DEIS discusses traffic counts taken at other sample casinos to derive its traffic generation. The DEIS states on pg 4.8-7 that detailed tables and graphics showing how rates and enter and exit splits were established using logarithmic best fit curve equation are included in the Traffic Study (Appendix M) appendices. Reviewing to the Traffic Study (Appendix M) Appendices then states the information is "Bound Under Separate Cover", and that the electronic version is available online at www.ioneis.com. However reviewing the posted Appendices A through AC, the aforementioned information is not included. This supporting backup information was requested by telephone conversation to the DEIS consultant, however the information was not provided for review to Caltrans.

The estimated trip generation rate used for the Plymouth Casino is shown in the TIA (Appendix M) in Table 4-1. However referring to the TIA Section 6, "Supplemental Analysis - Buena Vista", which was provided by the same traffic consultant shows in Table 6-1 that they used generation rates based on SANDAG studies to arrive at Buena Vista Casino's estimated trip generation. The differences in generation rates are summarized in the following table:

Scenario	Plymouth Casino (120 ksf)		Buena Vista Casino (66 ksf)	
	Rate (trips/ksf)	Trips	Rate (trips/ksf)	Trips
Weekday PM Peak Hr	4.54	545	17.3	969
Saturday PM Peak Hr	6.25	750	Not Provided	Not Provided
Daily Weekday	68.24	8169	97 to 130	5,432 to 7,280

As summarized above, the Plymouth Casino's traffic consultant has used substantially different trip generation rates to calculate the Buena Vista Casino's traffic generation in the "Supplemental Analysis - Buena Vista" versus the rate which they used for their own Plymouth Casino weekday PM Peak-hr trip generation. Refer to the Weekday PM Peak Hr trips/1000 sq ft shown in the above summary table. The trip generation rate used for the Plymouth Casino (4.54 trips/ksf) is only 26% of the rate which was used by the same traffic consultant to calculate the supplemental

"Caltrans improves mobility across California"

S7-3
cont.

Comment Letter S7

Ms. Amy Dutschke
June 10, 2008
Page 5

analysis for the Buena Vista Casino (17.3 trips/kst). Additionally, a review of the Daily Weekday traffic generation shows that the Plymouth Casino is using a much lower daily rate (68.24 trips/day versus 97 to 130 trips/kst) than what they used for their summary of the Buena Vista Casino.

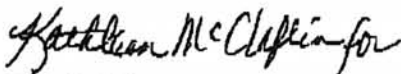
Without the aforementioned supporting data being provided for review to support the trip generation rates used in the Plymouth Casino's DEIS, the casino's trip generation as stated in this DEIS cannot be verified with respect to its applicability and validity. Since the requested information has not been provided it leaves unanswered questions regarding the substantial differences in trip generation rates used, and as a result is not available to support the basis of the derived trip generation rates used in the DEIS's traffic impact analysis.

13. A review of the Traffix analysis printouts indicates that some of the description headers are for a Friday PM Peak Hour for various scenarios such as "Existing No Project", "Existing plus Approved Projects", "Existing plus Approved Plus Project A Phase 1", etc. Using Friday traffic patterns and volumes as the existing baseline to represent typical weekday traffic is questionable. The typical weekday traffic is normally represented on a Tuesday, Wednesday, or Thursday. Using a Friday PM Peak hour traffic will not provide a representative condition for an average weekday PM Peak Hour condition.

In addition to the comments provided above, a review by Caltrans' District 10's Forecasting Unit identified inconsistencies in the document and mentioned that forecasting appears to be low.

If you have any questions or would like to discuss these comments in more detail, please contact Kathleen McClafflin at (209) 948-7647 or myself at (209) 948-7112.

Sincerely,



DANIEL H. BREWER, Chief
Office of Rural Planning and Administration

cc: Scott Morgan, State Clearinghouse
cc: Larry Peterson, Amador County Public Works
cc: Charles Field, ACTC
cc: William A. Davis, Caltrans' District 3

S7-3
cont.

STATE OF CALIFORNIA, RESOURCES AGENCY

ARNOLD SCHWARZENEGGER, GOVERNOR



DEPARTMENT OF CONSERVATION

DIRECTOR'S OFFICE

Comment Letter S7

801 K STREET • MS 24-01 • SACRAMENTO, CALIFORNIA 95814

PHONE 916 / 322-1080 • FAX 916 / 445-0732 • TDD 916 / 324-2555 • WEB SITE conservation.ca.gov

June 4, 2008

*Clear
7-2-08
e*



John Rydzik
Bureau of Indian Affairs, Department of the Interior
2800 Cottage Way, Room W-2820
Sacramento, CA 95825

Subject: Lone Band of Miwok Indians (Tribe) Proposed 228.04 Acre Fee-To-Trust Land Transfer and Casino Project

scn# 2008044002

Dear Mr. Rydzik,

The Department of Conservation has reviewed the Draft Environmental Impact Statement for the Lone Band of Miwok Indians Proposed 228.04 Acre Fee-To-Trust Land Transfer and Casino Project in Amador County and submits the following comments:

The Department's California Geological Survey has not generated maps for Amador County that designate Zones of Required Investigation for liquefaction and earthquake-induced landslides per the Seismic Hazards Mapping Act of 1990.

The California Geological Survey has not designated Earthquake Fault Zones in Amador County per the Alquist-Priolo (A-P) Earthquake Fault Zoning Act of 1972. However, please note the project site is approximately 10.5 miles north of quaternary active strands of the Bear Mountains Fault Zone.

We appreciate the opportunity to comment. If you have any questions about our comments, please feel free to call me at the above reference number.

Sincerely,

J. Kyle Nast
Staff Counsel

Cc: Andrea Lynn Hoch, Legal Affairs Secretary, Governor's Office
Scott Morgan, Deputy Director, State Clearinghouse
Sara Drake, Esq., Supervising Deputy Attorney General, Department of Justice

*The Department of Conservation's mission is to protect Californians and their environment by:
Protecting lives and property from earthquakes and landslides; Ensuring safe mining and oil and gas drilling;
Conserving California's farmland; and Saving energy and resources through recycling.*

S7-4

Comment Letter S7

STATE OF CALIFORNIA

Arnold Schwarzenegger, Governor

NATIVE AMERICAN HERITAGE COMMISSION

915 CAPITOL MALL, ROOM 364
SACRAMENTO, CA 95814
(916) 658-4082
Fax (916) 657-5390



May 29, 2008

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7-2-08
e



John Rydzik
Bureau of Indian Affairs
2800 Cottage Way
Sacramento, CA 95825

RE: Notice of proposed decision to have real property accepted into trust by the United States for the Ione Band of Miwok Indians, Amador County
SCH# 20080440022

S7-5

Dear Mr. Morris:

The Commission has reviewed the above mentioned notice of proposed decision to have real property accepted into trust by the United States for the Ione Band of Miwok Indians and does not have any comments.

Sincerely,

Debbie Pilas-Treadway
Environmental Specialist III

CC: State Clearinghouse

Janiette Jenkins, Governor's Office of Legal Affairs - via fax 916-324-6946

Sara Drake
Deputy Attorney General
Department of Justice
PO Box 944255
Sacramento, CA 94244

Andrea Lynn Hoch
Legal Affairs Secretary
Office of the Governor
State Capitol Building
Sacramento, CA 95814



Linda S. Adams
Secretary for
Environmental Protection



Department of Toxic Substances Control

Maureen F. Gorsen, Director
1001 "I" Street
P.O. Box 808
Sacramento, California 95812-0806



Arnold Schwarzenegger
Governor

July 2, 2008

Comment Letter S7

Mr. John Rydzik
Bureau of Indian Affairs
2800 Cottage Way
Room W-2820
Sacramento, California 95825
[submitted by facsimile: (916) 978-6099]

**DRAFT ENVIRONMENTAL IMPACT STATEMENT, IONE BAND OF MIWOK INDIANS
228.04-ACRE FEE-TO- TRUST LAND TRANSFER AND CASINO PROJECT
(SCH # 2008044002)**

Dear Mr. Rydzik:

The Department of Toxic Substances Control (DTSC) has reviewed the subject document that proposes constructing a casino on land previously used for mining. It describes features associated with the historical mining activities; including pits, adits, ditches, waste rock, tailings, and an abandoned hoist house. The document also states that a Phase I Environmental Site Assessment (ESA) was performed on the property. While not included in the draft Environmental Impact Statement (EIS), the ESA apparently concluded that no further investigation is necessary with regard to the previous mining activities. One sentence states that there is "non-hazardous waste rock (tailings)." However, there is no discussion about whether any sampling has been performed at the site and what the results may have been. DTSC is unable, from the information provided in the draft EIS, to determine whether the site presents a threat to human health or the environment. DTSC recommends that a Preliminary Endangerment Assessment (PEA) be performed to determine whether there is a threat to human health and the environment.

The PEA is conducted under a Voluntary Cleanup Agreement (VCA) established under DTSC's Voluntary Cleanup Program (VCP). Interested parties can apply for the VCP by utilizing the California Environmental Protection Agency's Brownfield Memorandum of Agreement (MOA) application to request agency oversight of the investigation and remediation of the site. The application form can be found at:

<http://www.calepa.ca.gov/Brownfields/MOA/>

S7-6

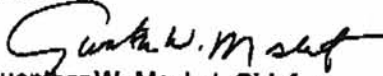
Comment Letter S7

Mr. John Rydzik
July 2, 2008
Page 2

Please contact Tim Miles at email tmiles@dtsc.ca.gov or by telephone at (916) 255-3710 if you have any questions.

S7-6
cont.

Sincerely,



Guenther W. Moskat, Chief
Office of Planning & Environmental Analysis
Department of Toxic Substances Control

cc. State Clearinghouse
Governor's Office of Planning and Research
1400 10th Street, Room 121
Sacramento, California 95814-0613

Andrea Lynn Hoch
Legal Affairs Secretary
Governor's Office of Legal Affairs
State Capitol
Sacramento, CA 94814

Sara Drake
Supervising Deputy Attorney General
California Department of Justice
Bureau of Gambling Control
1425 River Park Dr., Suite 400
Sacramento 95815

Mr. Mike Israel
Amador County Environmental Health Department
500 Argonaut Lane
Jackson, California 95642



ARNOLD SCHWARZENEGGER
GOVERNOR

July 9, 2008

STATE OF CALIFORNIA
GOVERNOR'S OFFICE of PLANNING AND RESEARCH
STATE CLEARINGHOUSE AND PLANNING UNIT



CYNTHIA BRYANT
DIRECTOR

John Rydzik
Bureau of Indian Affairs
2800 Cottage Way, Room W-2820
Sacramento, CA 95825

Subject: Ione Band of Miwok Indians (Tribe) Proposed 228.04 Acre Fee-to-Trust Land Transfer and Casino Project
SCH#: 2008044002

Dear John Rydzik:

The enclosed comment (s) on your Draft EIS was (were) received by the State Clearinghouse after the end of the state review period, which closed on July 2, 2008. We are forwarding these comments to you because they provide information or raise issues that should be addressed in your final environmental document.

The California Environmental Quality Act does not require Lead Agencies to respond to late comments. However, we encourage you to incorporate these additional comments into your final environmental document and to consider them prior to taking final action on the proposed project.

Please contact the State Clearinghouse at (916) 445-0613 if you have any questions concerning the environmental review process. If you have a question regarding the above-named project, please refer to the ten-digit State Clearinghouse number (2008044002) when contacting this office.

Sincerely,

Terry Roberts
Senior Planner, State Clearinghouse

Enclosures
cc: Resources Agency

S8-01



Department of Toxic Substances Control

Maureen F. Gorsen, Director
1001 "I" Street
P.O. Box 806
Sacramento, California 95812-0806



Arnold Schwarzenegger
Governor



Linda S. Adams
Secretary for
Environmental Protection

July 2, 2008

Mr. John Rydzik
Bureau of Indian Affairs
2800 Cottage Way
Room W-2820
Sacramento, California 95825
[submitted by facsimile: (916) 978-6099]



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DRAFT ENVIRONMENTAL IMPACT STATEMENT, IONE BAND OF MIWOK INDIANS
228.04-ACRE FEE-TO- TRUST LAND TRANSFER AND CASINO PROJECT
(SCH # 2008044002)

Dear Mr. Rydzik:

The Department of Toxic Substances Control (DTSC) has reviewed the subject document that proposes constructing a casino on land previously used for mining. It describes features associated with the historical mining activities; including pits, adits, ditches, waste rock, tailings, and an abandoned hoist house. The document also states that a Phase I Environmental Site Assessment (ESA) was performed on the property. While not included in the draft Environmental Impact Statement (EIS), the ESA apparently concluded that no further investigation is necessary with regard to the previous mining activities. One sentence states that there is "non-hazardous waste rock (tailings)." However, there is no discussion about whether any sampling has been performed at the site and what the results may have been. DTSC is unable, from the information provided in the draft EIS, to determine whether the site presents a threat to human health or the environment. DTSC recommends that a Preliminary Endangerment Assessment (PEA) be performed to determine whether there is a threat to human health and the environment.

The PEA is conducted under a Voluntary Cleanup Agreement (VCA) established under DTSC's Voluntary Cleanup Program (VCP). Interested parties can apply for the VCP by utilizing the California Environmental Protection Agency's Brownfield Memorandum of Agreement (MOA) application to request agency oversight of the investigation and remediation of the site. The application form can be found at:

<http://www.calepa.ca.gov/Brownfields/MOA/>

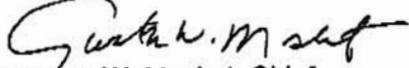
S8-02

Mr. John Rydzik
July 2, 2008
Page 2

Please contact Tim Miles at email tmiles@dtsc.ca.gov or by telephone at (916) 255-3710 if you have any questions.

S8-02
cont.

Sincerely,



Guenther W. Moskat, Chief
Office of Planning & Environmental Analysis
Department of Toxic Substances Control

cc. ~~State Clearinghouse~~
Governor's Office of Planning and Research
1400 10th Street, Room 121
Sacramento, California 95814-0613

Andrea Lynn Hoch
Legal Affairs Secretary
Governor's Office of Legal Affairs
State Capitol
Sacramento, CA 94814

Sara Drake
Supervising Deputy Attorney General
California Department of Justice
Bureau of Gambling Control
1425 River Park Dr., Suite 400
Sacramento 95815

Mr. Mike Israel
Amador County Environmental Health Department
~~500 Argonaut Lane~~
Jackson, California 95642

RESPONSE TO COMMENTS

STATE AGENCIES

S1 CONGRESSMAN DAN LUNGREN, 3RD DISTRICT CALIFORNIA

- S1-01** The commenter requested a 25-day extension of the 75-day comment period. The BIA responded to the commenter's request with a letter dated May 15, 2008, respectfully declining the extension request [**Comment Letter S1(a)**]. As stated in the BIA's letter, a 30-day built-in extension was included in the 75 day comment period announced within the Notice of Availability published on April 18, 2008. The BIA's National Environmental Policy Act (NEPA) Handbook (59 IAM 3) (Handbook), consistent with NEPA and CEQ regulations, specifies that a 45-day comment period shall be the minimum allotted for public review.
- S1-02** The commenter states that the request for an extension of the comment period is in response to the limited resources available to Amador County (County) and the City of Plymouth (City) for review of the DEIS and to allow sufficient opportunity to analyze the BIA's consideration of alternative courses of action. As discussed in the BIA's letter [**Comment Letter S1(a)**], the built-in extension to the comment period was provided in recognition of the intense interest of the Congressman's constituents, limited resources within the City and County, and to provide sufficient opportunity to analyze the BIA's consideration of alternative courses of action, while considering the needs of the Tribe.
- S1-03** The BIA shares this concern and has sought to maintain a balance between the requirements of NEPA, participation of the public environmental review process, and the needs of the Tribe. Public participation during preparation of the EIS included scoping hearings held on November 19, 2003, and February 4, 2004. After release of the DEIS, over 30 days were allowed for review prior to the public hearing held on May 21, 2008. With the inclusion of a 75-day comment period and multiple opportunities for the public to comment on the Proposed Action and project alternatives, the BIA has met all the obligations of NEPA and provided balance between the needs of the Congressmen's constituents and the needs of the applicant Tribe.

S2 NATIVE AMERICAN HERITAGE COMMISSION

S2-01 The commenter states that the Native American Heritage Commission has reviewed the NOA for the Proposed Action and does not have any comments. No response required.

S3 CALIFORNIA RESOURCES AGENCY, DEPARTMENT OF CONSERVATION

S3-01 Comment noted. As stated in **Section 3.2.4** of the DEIS, based on the soil associations on the project site and low seismic activity within the region, the potential for liquefaction and landslides on the project site are minimal.

S3-02 As noted by the commenter and discussed in **Section 3.2.4** of the FEIS, the project area is not within a special study area of the Alquist-Priolo Earthquake Fault Zoning Act. The two traces of the Bear Mountain Fault Zone mentioned by the commenter are addressed in **Section 3.2.4** of the DEIS. According to the USGS Earthquake Hazards Program, the fault traces mentioned by the commenter are categorized as “other faults”, indicating the last known seismic event was later than beginning of the quaternary period. These faults are not considered quaternary active strands according to USGS classifications (USGS, 2008a). **Section 3.2.4** of the FEIS has been updated to clarify that while there are two unclassified faults located north and south of the project site, neither of these strands is classified as potentially active quaternary faults by the USGS.

S4 CALIFORNIA DEPARTMENT OF TRANSPORTATION, DISTRICT 10, OFFICE OF RURAL PLANNING AND ADMINISTRATION

S4-01 The commenter summarizes the Proposed Project and notes that comments from Caltrans District 3 are provided in a separate letter. Comments noted. Refer to **Comment Letter S5** for responses to comments received from Caltrans District 3.

S4-02 At the time of the release of the Notice of Intent (NOI) to prepare the EIS, the traffic counts were current and fully supported the analysis within the Traffic Impact Analysis (TIA) included as **Appendix M** of the DEIS. Based on the time lapse between the release of the NOI and release of the DEIS for public review and the changes to the existing roadway network during that period, supplemental traffic counts were collected in August 2008. The updated counts constitute the basis for the revised TIA provided as **Appendix M** in the FEIS. **Sections 3.0, 4.0, and 5.0** of the FEIS have been updated to

- incorporate the changes to the existing environment and results of the analysis within the revised TIA.
- S4-03** During development of the TIA for the DEIS, the planning departments for Amador, Sacramento, and San Joaquin Counties were contacted to obtain approved projects with the potential to add trips to the study roadway network. These counties, with the inclusion of El Dorado County, were contacted to update the list of planned projects within the revised TIA. Table 10 of the revised TIA (**Appendix M** of the FEIS) lists the approved projects.
- S4-04** The existing setting, including stop controls and lane geometry, was updated within the revised TIA. Refer to Figure 8 of the revised TIA for the updated lane geometry and stop controls, which identify traffic signals at the intersections of SR-12/SR-88 and SR16/SR-49.
- S4-05** The roadway segments were analyzed as entire highway corridors within the TIA. Within the revised TIA, the highway corridors were split into smaller roadway segments. Refer to Table 2 of the revised TIA for the roadway segments, including the segments of SR-49 between the project site and Main Street in the City, SR-49 south of the project site to SR-16, and SR-16 between SR-49 and SR-124.
- S4-06** Comment noted. The level of service (LOS) thresholds for the roadway segments have been corrected in the revised TIA. Refer to Table 2 of **Appendix M** of the FEIS for the updated threshold for the roadway segments. For roadway segments SR-88 and SR-49, the LOS thresholds are identified as LOS C.
- S4-07** Refer to the response to **Comment S4-05** regarding the analysis of roadways segments within the TIA of the DEIS and the revised TIA of the FEIS. As depicted in Table 2 of the revised TIA, a total of 22 roadway segments are analyzed. The length of the roadway segments within both the TIA and the revised TIA are reasonable and useable to determine impacts from the project alternatives as summarized in **Section 4.8** of the EIS.
- S4-08** In response to comments received on the DEIS, the scope of analysis within the revised TIA has been expanded to include additional intersections. The intersections of Preston Avenue/West Main Street, SR-88/Liberty Road, and SR-88/Tully Road have been included in the existing roadway network for the project study area. Refer to Table 1 of the revised TIA for a list of the intersections included as the existing roadway network for the study area. Within Table 1, the above intersections are identified as Intersections 10, 15, and 16, respectively.

- S4-09** Comment noted. The revised TIA identifies the updated existing average daily trip (ADT) counts in Table 8 of **Appendix M** of the FEIS. There are no discrepancies in the revised TIA between the ADTs mentioned in Table 8, and those utilized to determine the existing setting for the planned year of operation for the project alternatives (2010).
- S4-10** In response to comments on the DEIS, a peak-hour factor (PHF) was utilized within the revised TIA according to the appropriate jurisdiction for each study intersection. The Caltrans District 3 PHF was utilized for intersections under state jurisdiction. Refer to the revised TIA in **Appendix M** of the FEIS for the PHF utilized for each intersection.
- S4-11** Refer to the response to **Comment S4-10** regarding the use of the correct PHF based on the jurisdiction of each study intersection.
- S4-12** A queuing analysis was performed for all turning movements at the study roadway intersections. Refer to the appendix of the revised TIA in **Appendix M** of the FEIS. Figure 19a of the revised TIA identifies the turning movements at the secondary access driveway associated with PM peak hour trips for full build-out of Alternative A. The turning movements identify 33 Friday peak hour trips entering the project site via the secondary access highway from southbound SR-49. Additionally, 34 trips are identified as exiting the property by turning right on northbound SR-49.
- S4-13** In response to comments on the DEIS, the revised TIA has included a supplemental discussion on the methodology utilized to calculate the trip generation rate for the project alternatives. The trip generation rate was calculated through analysis of existing Tribal casinos with similar characteristics as the proposed gaming alternatives, including location and distance to major roadways, in accordance with San Diego Association of Governments (SANDAG) methodology. Refer to **Section 4.0** of the revised TIA for the rationale behind the calculation of the trip generation rates.
- S4-14** Friday counts were collected and the timeframe utilized to conservatively determine impacts to the existing roadway network during peak hours. For gaming developments, the highest project trips would occur during the Friday PM peak hour of 4-6 PM, which is an evening commute peak period. This timeframe is considered the peak periods because the project is expected to have the greatest impact on the local roadway network during this timeframe. The calculation of weekday peak hour impacts using Friday traffic counts provides for conservative results.

S5 CALIFORNIA DEPARTMENT OF TRANSPORTATION, DISTRICT 3

- S5-01** The commenter notes that, although the project site is located within the jurisdiction of Caltrans District 10, the DEIS analyzes highways that extend into Caltrans District 3. Comment noted.
- S5-02** Refer to the responses to **Comments S4-02** through **S4-05** regarding updated traffic data, changes in intersection configuration, and additional traffic from new residential development included in the revised TIA (**Appendix M** of the FEIS). Refer to the responses to **Comments S4-10** and **S4-11** regarding the peak-hour factors utilized in the revised TIA to determine LOS for the project intersections.
- S5-03** Refer to the response to **Comment S4-04** regarding update of the lane geometry, including stop controls, of the existing roadway network with the revised TIA. The BIA is unaware of an intersection at SR-16 and Michigan Bar Road. Ione Road south of SR-16 becomes Michigan Bar Road. However, Ione Road is identified in the revised TIA as having a single-stop controlled intersection with pass through of SR-16. Regardless, the existing roadway network has been updated with the most recent lane geometries and stop controls for the study area roadways (see **Appendix M** of the FEIS).
- S5-04** In response to comments on the DEIS, project only peak hour trip volumes and distributions on the roadway network are provided in the revised TIA provided as **Appendix M** in the FEIS. For example, refer to Figure 13 of the revised TIA for the project only PM peak hour trips for Phase I of Alternative A.
- S5-05** The intersection at SR-49 and Pleasant Valley Road has been reevaluated on page 83 of the revised TIA using updated (2008) traffic counts. In addition, the revised TIA has defined and uses the proper significance criteria for intersections along SR-49 (refer to Table 2 of the revised TIA). The results of the revised TIA indicate that the intersection of SR-49/Pleasant Valley Road would operate under unacceptable conditions with the inclusion of traffic generated during the operation of Alternative A. Signalization would occur if the signal warrant is met for SR-49/Pleasant Valley Road. Refer to **Section 2.0** of the revised TIA, provided as **Appendix M** of the FEIS, for the discussion of warrant analysis for unsignalized study intersections.
- S5-06** Based on the results of the revised TIA, the intersection of SR-49 and Pleasant Valley Road would continue to operate under unacceptable conditions with signalization during the cumulative condition. Refer to **Section 4.11** for the results of the revised TIA for the cumulative condition.

S5-07 As previously discussed, the TIA for the project has been updated and is included as **Appendix M** of the FEIS. Project impacts, including cumulative impacts, are disclosed for Phases I and II of Alternatives A and B and for Alternatives C and D within the revised TIA. Refer to **Section 5.2.8** of the FEIS for the recommended mitigation measures for the project alternatives impacts to the existing roadway network.

S6 OFFICE OF THE GOVERNOR

S6-01 The commenter states an opinion that the DEIS is deficient in some respects thereby preventing the BIA from taking a “hard look” at all of the projects environmental impacts. In this comment, no specific examples from the DEIS are provided. The information included within the DEIS complies with the requirements of NEPA and CEQ, which require that descriptions and analyses within a DEIS be no longer than is necessary to understand the effects of the alternatives (40 CFR § 1502.15). The procedures outlined within the BIA’s NEPA Handbook have been rigorously followed, consistent with the regulatory requirements of NEPA and CEQ regarding the required content of the EIS. Where adverse impacts to the existing environment were identified, mitigation measures were included to reduce potential impacts to less-than-significant levels. Descriptions of the existing environment and analyses of potential adverse impacts of the project alternatives were developed based on various technical studies, including a water supply and wastewater feasibility study (**Appendix B** of the DEIS), a groundwater well study (**Appendix C** of the DEIS), a cultural resources study (**Appendix K** of the DEIS), a drainage analysis (**Appendix G** of the DEIS), an economic impact study (**Appendix R** of the DEIS), a traffic study (**Appendix M** of the DEIS), and a biological resource assessment (**Appendix H** of the DEIS).

S6-02 The commenter states that the Office of the Governor had previously commented on the Tribe’s restored lands opinion. The Tribe’s restored lands opinion is a separate process from the environmental review process. The purpose of the EIS is to determine the environmental impacts associated with the trust application, and not to discuss the provisions of the trust application itself.

S6-03 The commenter provides a summary of the project alternatives and identifies the lead agency and cooperating agencies. The commenter then summarizes the requirements of NEPA regarding taking a “hard look” at the environmental consequences and provides definitions of significance as outlined in 40 CFR § 1508.27(b).

The intensity factors listed by the commenter are addressed throughout **Sections 3.0** and **4.0** of the DEIS. For example, public health and safety is addressed in **Sections 4.9** and **4.10** of the DEIS, wetlands are addressed in **Section 4.5** of the DEIS, the uncertainty

regarding groundwater quality impacts is addressed in **Section 4.3** and **Section 5.2.3** of the DEIS, and the cumulative environment is addressed in **Section 4.11** of the DEIS. Compliance with applicable laws and regulations are addressed throughout **Sections 3.0** and **4.0** as they pertain to each specific environmental resource discussed in the DEIS.

- S6-04** The commenter again gives the opinion that the deficiencies (described in subsequent comments that are addressed below) preclude the BIA and cooperating agencies from taking a “hard look” at the project environmental consequences. As discussed in the response to **Comment S6-01**, the DEIS has been prepared in compliance with the BIA’s NEPA Handbook, which is consistent with NEPA and the CEQ Guidelines.
- S6-05** All parcels included in the Tribe's fee-to-trust application are integral to the project. Parcels 2 and 12 are necessary for sprayfields and other wastewater and groundwater mitigation measures, and to mitigate the aesthetic impacts of the project. As the Tribe currently has no land in trust, there is a need for all of the project parcels to be taken into trust in order to promote Tribal economic development and self-sufficiency.
- S6-06** The commenter states that all components of Alternative D may be developed within Parcel 3, referencing **Figure 2-18** of the DEIS, and questions the need to take the entire 228 acres into trust. Although the footprint for disturbance is reduced for Alternative D compared to the Alternative A, the auxiliary components require the entire 228 acres. For example, as shown on **Figure 2-18** of the DEIS, the development is proposed within Parcels 4 through 11. The location of the development was selected based on visibility from the highway and compatibility with the adjacent commercial land uses. The remaining parcels are required to provide support for the auxiliary components of Alternative D. Parcel 3 is required for stormwater detention and Parcels 1 and 2 are required to meet the water demands, as the wells are located on these parcels. Parcel 12 is required to provide a continuous land base between the project wells and the project development.
- S6-07** The Tribe has selected water supply Option 2, on-site development of groundwater, as the preferred option to meet the demands of the project alternatives. As described in the response to **Comment F1-02**, construction of a water transmission pipeline (the Plymouth Pipeline) began in February 2009, with completion of the pipeline anticipated in December 2009 (Reece, 2009). The City has included commercial development consistent with the Proposed Project in its recent Water Supply Assessment (WSA) (refer to Table 1 of the WSA) (Peterson. Brustad. Inc, 2008). The results of the WSA indicate adequate supplies to meet demands up to year 2030. As indicated in Table 1 of the WSA, these demands include commercial development that entail 120,000 square feet (sq. ft.) for commercial space, 166,500 sq. ft. for a 250 room hotel, and 30,000 sq. ft for an event

center. The WSA references the DEIS for the development units, and the square footages are identical to the facility program outlined in Table 2-1 of the DEIS and FEIS.

Therefore, it can be assumed that the City's water supplies would be sufficient to serve the Proposed Project. Nonetheless, the Tribe would develop the on-site groundwater supply system unless an agreement between the City and the Tribe can be reached. A services agreement would only be entered into if it is determined that connection of the selected project alternative to the municipal water supply system would not result in significant impacts to the City's capacity to serve existing and planned development.

- S6-08** Comment noted. The assumption by the commenter regarding the meaning of the quoted statement from **Section 4.11** of the DEIS is incorrect. The cumulative analysis of the City's water supply assumes the same volume of water currently provided to the commercial parcels within the City would continue to be provided after the parcels are taken into trust by the BIA. The remaining water demand of the selected alternative would be met by the two water options described in **Section 2.0** of the DEIS. **Section 4.11** of the FEIS has been updated to clarify the differences between implementation of water supply Option 1 and the preferred water supply Option 2 relating to cumulative impacts to the City's water supply system.
- S6-09** Refer to the response to **Comments S6-08** and **S6-09** regarding City planning for the land use of the project parcels and clarification within the text regarding the water demands of the project alternatives versus the water demand of the existing commercial developments.
- S6-10** The Tribe has committed to maximizing its use of recycled water. Refer to the revised description of the water supply options for the project alternatives within **Section 2.0** of the FEIS.
- S6-11** As discussed in **Section 5.1**, the California Superior Court voided the MSA between the City and the Tribe. The MSA was found invalid because the City did not properly comply with CEQA. Although the economic impact study included as **Appendix R** of the DEIS and FEIS References the MSA and potential revenue-sharing provisions in a Tribal-State compact, the economic impact analysis is not based on the MSA or the potential revenue-sharing provisions. The reference to the MSA in **Appendix R** of the FEIS is there to show that payments from the Tribe to the City could mitigate impacts to the City associated with providing municipal services, including water service, to the Tribe. Notwithstanding the invalidation of the MSA, the Tribe has throughout the environmental review process expressed its willingness to enter into an agreement with the City and/or County for water, wastewater treatment, and other municipal services.

Property tax values presented in **Section 3.7** are for the tax year 2005-2006. While the amount of property taxes may differ when the project site is taken into trust, the Tribe shall provide compensation to the County for lost property tax revenues, as discussed in **Section 4.7** and **5.2.7**. The Tribe would negotiate in good faith with the County determine the amount of compensation provided.

S6-12 **Section 3.7** provides a breakdown of the sources of revenue for the Amador County School District for the 2005-2006 school year. Based on this information, the Tribe would make a contribution to the school district in lieu of property tax revenues that would be lost due to the placement of the project site into trust status for the Tribe. The Tribe would also pay developer fees typically charged to commercial-industrial development projects. Refer to **Mitigation Measures 5.2.7 (D)** through **(G)** for the commitment by the Tribe to pay school district impact fees.

S6-13 The 2006 study on gambling in the State of California, prepared by the California Research Bureau, was reviewed in response to the Governor's Office's comment. The report indicates that problem gambling can occur as a result of Indian casinos; however, statistics show the State lottery has similar percentages of problem gamblers. The study further shows that horse racing affects approximately 300 percent more problem gamblers than do Indian casinos. The report also states that approximately 83 percent of calls received by the California Council on Problem Gambling (Council) are related to casino gambling (out-of-state and intra-state), with 75 percent of those attributable to intra-state Indian casinos.

The report assumes that the number of calls to the Council are attributable to the total number of gamblers, and does not take into account other factors like educational programs on problem gambling and other types of assistance offered at Indian casinos, which may account for the high percentage of callers. The percentage of calls attributed to Indian casinos may represent a more successful program of awareness and education compared to other types of legalized gambling. However, because the report does not identify the percentages of gambling patrons by category (Indian casino, horse racing, and lottery) compared to the total number of estimated problem gamblers in the State, a comparison of Indian casino gambling versus lottery and horse racing gambling cannot be made.

S6-14 The discussion of crime in **Section 4.7** of the DEIS acknowledges that the volume of crime increases with the introduction of a large volume of people into a community, such as would occur under the project alternatives. Any new criminal incidences are expected to be similar to existing crime in Amador County. The Proposed Project would not result in any substantial new types of criminal activity, but could increase the rate of crimes

that already occur within the County. As discussed in **Section 5.2.9** of the DEIS, the Tribe would provide compensation to local law enforcement service providers so that these agencies have the capacity (i.e. employees and/or equipment) necessary to address any increase in demand for law enforcement services resulting from the proposed project.

- S6-15** The cost of law enforcement services associated with the project alternatives would be mitigated by payments by the Tribe. Refer to response to **Comment S6-14** for a discussion of the anticipated types of crime related to the project alternatives and the commitment by the Tribe to financially compensate Amador County law enforcement services.
- S6-16** The commenter provides an opinion that the DEIS “appears to need work in several areas,” including the need for additional information, to fully assess the project’s environmental impacts and whether the proposed mitigation measures are sufficient. Refer to the responses to **Comments S6-01** through **S6-15** regarding specific concerns expressed by the Governor’s office regarding the contents of the DEIS. In response to comments received on the DEIS, discussions throughout the FEIS have been expanded to clarify various descriptions of the existing environmental setting (**Section 3.0**) and conclusions within the environmental consequences section (**Section 4.0**). Where applicable, descriptions of the mitigation measures have also been expanded and clarified.

It is understood that the letter from the Governor’s office does not constitute the entirety of the State’s comments on the DEIS. Comment letters have been received from other State agencies (designated “S” within this group of comment letters) and subsequent responses have been provided where applicable.

S7 STATE CLEARINGHOUSE

- S7-01** The State Clearinghouse provides a summary describing the submittal of the DEIS to selected state agencies (refer to the Document Details Report of **Comment Letter S7**) for review. No response required.
- S7-02** Comments were previously received from Caltrans, District 3. Refer to **Comment Letter S-05** for comments and the subsequent responses, where applicable.
- S7-03** Comments were previously received from Caltrans, District 10, Office of Rural Planning and Administration. Refer to **Comment Letter S-04** for comments and the subsequent responses, where applicable.

- S7-04** Comments were previously received from California Resource Agency, Department of Conservation. Refer to **Comment Letter S-03** for comments and the subsequent responses, where applicable.
- S7-05** Comments were previously received from the Native American Heritage Commission. Refer to **Comment Letter S-02** for comments and the subsequent responses, where applicable.
- S7-06** In response to this comment, samples were collected for natural occurring asbestos (NOA) and heavy metals from the waste rock piles surrounding the Historic Pioneer Mine. CARB Method 435 is the primary method used for determination of NOA in serpentine aggregate. The analytical results are reported in terms of percent asbestos fibers per the positive identification protocols contained in the CARB Method 435. All samples collected from the project site resulted in “non-detect” for naturally occurring asbestos. Therefore, no impacts associated with naturally occurring asbestos would occur.

Levels of selected heavy metals (CAM-17 metals, which are commonly referred to as Title 22 metals), were also assessed using EPA Test Method 6020/7000. CAM-17 metals include antimony, arsenic, barium, beryllium, cadmium, chromium, cobalt, copper, lead, mercury, nickel, selenium, silver, thallium, vanadium, and zinc. The results of the selected heavy metals analysis were compared to residential and commercial USEPA Preliminary Remediation Goals (PRGs). The results are attached to the Phase I Environmental Assessment (ESA) as Appendix H. The Phase I ESA is included as **Appendix O** of the FEIS.

Samples collected from the on-site mine tailings were above the USEPA PRGs for arsenic; however they were within typical Sierra Foothills background arsenic levels. According to published data from the Association for the Environmental Health of Soils, background levels within the Sierra Foothills often exceed 1,000 ppm (AEHS, 2008). The samples collected within the areas of disturbance of the project alternatives were between 8 and 10 ppm. The result of the sampling are included as **Appendix O** of the FEIS. Mitigation would ensure potential impacts remain less than significant. As discussed in the DEIS (**Page 2-22**), the areas adjacent to the mine are not proposed to be developed, and a 50-foot buffer would be established with a barrier, such as chain-linked fencing, surrounding the mine and any associated appurtenances. The mine tailings would be capped with a vegetative cover thereby reducing the risk of human exposure. Capping mine tailings is an accepted risk reduction approach utilized by federal agencies (UDSA, 2003). As such, leaving the mine tailings in place does not pose an immediate

risk to human health and the environment. These mitigation measures are included in **Section 5.2.2**.

S8 STATE CLEARINGHOUSE

S8-01 The State Clearinghouse encourages the BIA consider the late comments from DTSC be included in the decision making process. Responses to comments from the DTSC have been included within **Comment Letter S7**.

S8-02 Comment letter previously received. Refer to the response to **Comment S7-06** regarding the comments provided by the California Department of Toxic Substance Control.

LOCAL (L) AGENCIES

COMMENT LETTERS AND RESPONSES



Comment Letter L1

Municipal Services Agency

Terry Schurten, County Executive
Paul J. Hahn, Agency Administrator

Department of Transportation

Michael J. Penrose, Interim Director

County of Sacramento

Long Dir _____
 Dep Reg Dir _____
 Reg Adm Ofc _____
 Route _____
 Response Required No
 Due Date _____
 Memo _____
 Date June 2, 2008

Mr. Dale Risling, Deputy Regional Director
Pacific Region Office
Bureau of Indian Affairs
2800 Cottage Way
Sacramento, CA 95825

SUBJECT: COMMENTS ON TRAFFIC IMPACT ANALYSIS FOR THE IONE BAND OF MIWOK INDIANS CASINO

Dear Mr. Risling:

The Sacramento County Department of Transportation has reviewed the traffic impact analysis for the Ione Band of Miwok Indians Casino project, dated July 2005. We appreciate the opportunity to review this document and have the following comments to offer:

- Page 21. Standards of Significance.** The County's traffic impact analysis/study (TIA/TIS) guidelines are consistent with the Caltrans District 3 LOS standards of significance. The TIS is considering all of SR 16 to be urban. It should be noted that some of these intersection fall outside of urban services boundaries (USB) and these roadway facilities shall be considered rural. Sacramento County has LOS D standards for rural areas and LOS E for urban areas. The determination of rural or urban area for the study facilities are based on this USB map. The Urban Services Boundary map can be downloaded from <http://www.planning.saccounty.net/maps/docs/USB-UPA.pdf> web-link. Please be consistent with the rural and urban setting as shown on this map.
- Page 22. Table 2-4.** All of the roadway segment volumes shown in this table do not match with Figure 2-3. This comment applies to all of the roadway volumes, tables, and figures under all scenarios. Please correct.
- Page 24.** The counts were done in June 2004. This count date is now four years old. The TIS should be updated to reflect recent conditions.
- Page 47.** The new primary trip generation is significantly lower for casino and hotel uses. Please see attached ITE journal for comparison. Please use the latest available trip generation information for the impact analysis.
- Page 49. Table 4-6.** The average rates were used to compute a trip generation estimate for the

L1-1

L1-2

L1-3

L1-4

L1-5



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www.sacdot.com

Comment Letter L1

Mr. Dale Risling
June 2, 2008
Page 2

shopping center. According to ITE trip generation manual, a regression equation shall be used to compute a trip generation for the shopping center. Please correct.

L1-5
cont.

6. **General.** The Saturday ADT analysis was not performed. Please add this analysis to the TIS as the casino has a higher traffic generator for the Saturday daily conditions.

L1-6

7. **General.** The TIS studies SR16 from west of Old Sacramento Road to Bradshaw Road as one segment. It should be noted that traffic volumes vary a lot from east to west; therefore, this roadway segment shall be studied in more detail with appropriate section breaks. Please include this analysis in the next updated TIS.

L1-7

8. **General.** The TIS shall identify the project proponent's fair-share contribution towards each feasible mitigation measure. It should be noted that project shall be 100% responsible for all mitigation measures under the existing plus project conditions. The County's TIS guidelines are included for your reference.


L1-8

9. **General.** Prior to initiating the TIS, the list of assumptions used in the analysis shall be coordinated and approved by the respective jurisdiction. These assumptions may be project trip generation, trip distribution and assignment, travel forecasting modeling assumptions, 7-year transportation improvement projects, and SACOG's MTP long range roadway improvement projects. Our staff will gladly review these assumptions at the early stage and provide feedback to avoid costly revisions to the TIS.

L1-9

We look forward to working with the project proponent, Amador County, and Caltrans regarding this project. Should you have any questions, please feel free to contact me at (916) 875-2844 or atwalk@saccounty.net.

Sincerely,



Kamal Atwal, P.E., T.E.
Associate Transportation Engineer
Department of Transportation

Attachments: Excerpt from ITE journal
County of Sacramento TIA Guidelines, July 2004
County of Sacramento - Urban Services Boundary Map

KA:ka

Cc: Mike Penrose, DOT [w/o attachment]
Dan Shoeman, DOT [w/o attachment]
Dean Blank, DOT [w/o attachment]
Matt Darrow, DOT [w/o attachment]
Angie Raygani, DOT [w/o attachment]
Steve Hong, IFS [w/o attachment]
Larry S. Peterson, Amador County, Public Works, 810 Court St, Jackson, CA 95642-2132 [w/ attachment]

OFFICE OF
BOARD OF SUPERVISORS

910 COURT STREET • JACKSON, CA 95642 • (209) 223-6470 • FAX (209) 257-0619



July 2, 2008

Dale Risling, Deputy Regional Director
Pacific Regional Office
Bureau of Indian Affairs
2800 Cottage Way
Sacramento, CA 95825

RE: DEIS Comments, Ione Band of Miwok Indians' Casino Project

Dear Mr. Risling:

Amador County appreciates the opportunity to provide comments on the Draft Environmental Impact Statement (Draft EIS) for the Ione Band of Miwok Indians' 228.04-Acre Fee-to-Trust Land Transfer and Casino Project. These comments identify issues that need to be considered by the Bureau of Indian Affairs (BIA) in either a revision to the Draft EIS or the preparation of a Final Environmental Impact Statement (Final EIS) for the proposed project.

The mission of the elected officials and staff of Amador County is to maintain and protect the quality of life for our residents. Our review of potential projects strives to ensure the safety of Amador County residents; maintain the quality of life of Amador County residents by protecting our infrastructure, environment, agriculture, historical integrity, and open space areas; and ensure the cost effective operation of County services without undue and unfair financial burdens on County residents. This mission underscores the importance of the environmental review process, which, as required by the National Environmental Policy Act (NEPA), must include an analysis of all of the direct and indirect environmental impacts of the proposed project alternative.

As you will see from the County's comments, we believe that there are serious deficiencies in the Draft EIS. Much of the data in the Draft EIS, including the technical appendices, was created in 2004. Because the data and information is so seriously out of date, it is not possible for the Draft EIS to adequately identify the impacts of the proposed action, nor is it possible to identify mitigation measures to address those impacts.

The Draft EIS also fails to properly identify levels of significance or assess what would constitute a potentially significant impact for major areas of concern. Some issues receive only cursory mention or evaluation. Others are not evaluated at all. In other cases, assumptions are made that are neither supported nor supportable by extrinsic evidence.

These flaws in the Draft EIS lead the County to conclude that the document does not meet the standard described in the Bureau of Indian Affairs NEPA Handbook (30 BIAM Supplement 1):

L2-1

L2-2

L2-3

L2-4

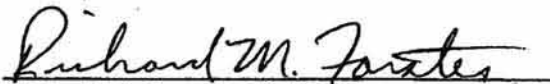
Mr. Dale Risling
July 2, 2008
Page two

[A] diligent attempt [shall] be made to obtain the information necessary to include a full evaluation of all significant impacts in NEPA documents ... The Bureau should not move ahead on proposals where relevant information is lacking as this may preclude the meaningful analysis of alternatives, impacts or the means to mitigate impacts.

The County has devoted significant time and resources reviewing the Draft EIS in an attempt to point out those areas where updated information and additional analysis are needed to adequately address the impacts of the proposed action. The County offers these comments in order to enable the Bureau of Indian Affairs to supplement the Draft EIS and make it a meaningful document. The County urges BIA to revise the Draft EIS in response to these comments and recirculate it in order to allow appropriate public input and review.

We look forward to working with the BIA staff in resolving the issues identified in this response. Thank you for the opportunity to provide these comments. If you have any questions regarding the issues raised by the County, please contact Terri Daly, County Administrator, at (209) 223-6470 or Martha Shaver, County Counsel, at (209) 223-6366.

Respectfully,



Richard M. Forster, Chair
Amador County Board of Supervisors

Cc: Senator Dianne Feinstein
Senator Barbara Boxer
Congressman Dan Lungren
Governor Arnold Schwarzenegger
Senator Dave Cox
Assemblyman Alan Nakanishi
Members, Amador County Board of Supervisors
County Administrative Officer Terri Daly
County Counsel Martha Shaver
Cathy Christian, Nielsen, Merksamer, Parrinello, Mueller & Naylor, LLP

L2-4
cont'd



County of Amador

DEIS Comments Ione Band of Miwok Indians' Casino Project

Terri Daly, County Administrative Officer
County of Amador
810 Court Street
Jackson, CA 95642
Telephone: (209) 223-6470

**Comments on the Draft Environmental Impact Statement
for the Ione Band of Miwok Indians' 228.04-Acre
Fee-to-Trust Land Transfer and Casino Project**

To Whom It May Concern:

Amador County appreciates the opportunity to provide comments on the Draft Environmental Impact Statement (Draft EIS) for the Ione Band of Miwok Indians 228.04-Acre Fee-to-Trust Land Transfer and Casino Project. These comments identify issues that need to be considered by the Bureau of Indian Affairs (BIA) in either a revision to the Draft EIS or the preparation of a Final Environmental Impact Statement (Final EIS) for the proposed project.

General Comments

Much of the information and data included in the Draft EIS is woefully outdated; evidently, very little was added or modified since the development of the Administrative Draft EIS over three years ago. Use of stale information and inadequate data casts doubt upon the analysis and conclusions in the Draft EIS. For example, as more particularly described in the Transportation/Traffic section below, typical industry standards recommend that traffic count data be no more than one to two years old when an environmental document is being reviewed to assure that significant traffic impacts and mitigation measures are properly identified, but the information used in the Draft EIS is in some instances as old as 1999. In another example, the cumulative effects analysis in Section 4.11 is completely outdated. The section refers to the "recent" release of a Draft TEIR in May 2005 for the Buena Vista Flying Cloud Casino. In fact, the Buena Vista Tribe reissued a new Draft TEIR in January 2007, certified a final TEIR in May 2007, and has completed the negotiation process prescribed by the Compact for a casino facility that differs dramatically from what is described in the Draft EIS. The Draft EIS also makes no mention of the approved Shingle Springs Casino and the expected synergy from four casinos (Jackson Rancheria Casino, Buena Vista Flying Cloud Casino, Shingle Springs Casino, and proposed Plymouth Casino) in such close proximity to one another.

L2-5

The Draft EIS suffers in general from a lack of specificity. The document is replete with conclusory statements without supporting data that are insufficient to substantiate that impacts are less than significant, or that proposed mitigation will be adequate to address impacts.

L2-6

The entire Section 4.0, Environmental Consequences, suffers from a lack of clarity in presenting impacts. The Draft EIS fails in many cases to identify thresholds of significance, and therefore it is difficult to determine at times how effective mitigation measures would be in reducing impacts to a less than significant level. Although Section

L2-7

4.1 states that significance thresholds are identified for every resource area, this does not seem to be the case when reviewing the individual impact discussions. It would also greatly aid the reader to have impacts summarized in each issue area and numbered or otherwise organized in a more succinct fashion. In addition, the discussion of certain topic areas (example: libraries and parks) states that impacts will be reduced to less than significant with incorporation of mitigation measures; however, no mitigation measures are apparent in the Draft EIS. Because rarely, if ever, is the reader directed to an impact's corresponding mitigation measure(s), it is very difficult to track whether measures are in fact included in the document. CEQ Regulations for Implementing NEPA, Section 1502.16(h), state that environmental consequences should possess "means to mitigate adverse environmental impacts..." and while the Draft EIS does provide those means in Section 5.0, it is not always clear which impact corresponds to which mitigation measure. Appropriate references to mitigation measures should be placed in Section 4.0 to facilitate reader comprehension.

L2-7
cont'd

In numerous places, information is not made available, appendices are missing (e.g. Appendix O, Phase I Hazardous Materials Study), and tables and figures that are referenced are not included. (See, for example, comments on Water Resources and Wastewater Services below.) It is not possible to complete comments in the absence of critical material. That material must be made available and the Draft EIS recirculated for reviewers to be able to make meaningful comments.

L2-8

Introduction

The Draft EIS incorrectly states on page 1-1 that "In 2006, the BIA determined that the Tribe is eligible to have lands taken into trust as its initial reservation pursuant to 25 U.S.C. §465." There has been no determination that the Tribe may have lands taken into trust as an initial reservation.

L2-9

The Department of Interior (the "Department") determined that the Plymouth Parcels were eligible for gaming in a September 19, 2006 letter from Associate Solicitor, Division of Indian Affairs Carl J. Artman, in which Associate Deputy Secretary James E. Cason concurred by letter dated September 26, 2006. In those two letters, Mr. Artman and Mr. Cason, on behalf of the Department of Interior, determined that the Plymouth Parcels are eligible for gaming under IGRA. Their conclusions were in error. The County challenged these incorrect determinations in Federal court (*County of Amador v. Department of the Interior, et al.*, United States District Court for the Eastern District of California, Case NO. 2:07-CV-00527-LKK-EFB), but the court dismissed the action on the grounds that "final" agency action had not yet occurred that would be susceptible to challenge. The County expressly reserves the right to challenge these incorrect determinations in court and all other appropriate forums when a "final" agency action has been deemed to occur.

L2-10

IGRA prohibits Indian gaming on lands acquired after October 1988 unless (1) the tribe complies with a two-part process in which the Secretary and the Governor of the State in which gaming is sought both conclude, after extensive consultation with affected

interests, including local governments, that gaming would be “in the best interest of the Indian tribe and its members, and would not be detrimental to the surrounding community,” 25 U.S.C. § 2719(a) & (b)(1)(A), or (2) one of the following exceptions applies:

- (B) lands are taken into trust as part of—
 - (i) a settlement of a land claim,
 - (ii) the initial reservation of an Indian tribe acknowledged by the Secretary under the Federal acknowledgment process, or
 - (iii) the restoration of lands for an Indian tribe that is restored to Federal recognition.

25 U.S.C. § 2719(b)(1)(B).

The Department concluded that the Plymouth Parcels would not, and could not, be taken into trust as part of a settlement of a land claim or as part of the initial reservation of an Indian tribe acknowledged by the Secretary under the Federal acknowledgement process. These conclusions were correct, and Amador County does not dispute them. The Department erred in concluding, however, that the Plymouth Parcels can be taken into trust as part of “the restoration of lands for an Indian tribe that is restored to Federal recognition.”

The basis of the Department’s action, contained in the Artman opinion and confirmed by Mr. Cason, is as follows:

1. The federal government “recognized” the Tribe through a letter to the Tribe from the Commissioner of Indian Affairs, Louis Bruce, dated in October, 1972, and the act of recognition was authorized by the Indian Reorganization Act of 1934.
2. The federal government “terminated” the Tribe of Indians by taking a position in Federal court and before the IBIA contrary to the position taken by Commissioner Bruce in 1972.
3. The federal government “restored” the recognition of the Tribe by a March 1994 letter to the Tribe from Assistant Secretary Ada Deer “reaffirming” portions of the Bruce letter.
4. The Plymouth Parcels are determined to be lands “restored” to an Indian tribe that is restored to federal recognition.

Each of the determinations made by the Department in order to characterize the Plymouth Parcels as restored lands eligible for gaming under the “restored lands” exception set forth in Section 20 of IGRA are incorrect and without any merit.

L2-10
cont'd

1. The 1972 Letter from the Commissioner of Indian Affairs to the Tribe Does Not “Recognize” the Tribe.

In support of its position that the Tribe was recognized, a necessary predicate to a determination that it was later terminated and then restored, the Department points only to a 1972 letter from Louis Bruce, then Commissioner of Indian Affairs, which stated that “federal recognition was evidently extended to the Ione Band of Indians at the time that the Ione land purchase was contemplated.” (Emphasis added.) By its own terms, the 1972 letter refers to an earlier action by the federal government, “at the time the Ione land purchase was contemplated.” It is noteworthy that the “Ione land purchase” that was referenced in the 1972 Bruce letter was not the 228 acres that the Department has currently tried to deem “restored lands” under IGRA, but rather approximately 40 acres in another location. Those 40 acres were never purchased by the federal government; title to the 40 acres is currently held by several Ione Band members, Historical Ione Band members, and others.

L2-11

2. The Federal Government Did Not “Terminate” Its Recognition of the Tribe Because The Tribe Was Never Recognized, a Position Which the Federal Government Itself Conceded In Litigation Against the Tribe.

To establish that a tribe has been “restored” to federal recognition under 25 U.S.C. § 2719, a tribe first must show that its recognition was at some point lost or terminated. The Tribe has not and cannot make such a showing. It is beyond dispute that the Tribe was never formally terminated by Act of Congress.¹ Rather, the position of the Department is that the Tribe was recognized by Louis Bruce in 1972, and thereafter was *implicitly* “terminated” by the Department’s subsequent adverse position in litigation and administrative proceedings, where it argued that the Tribe was required to seek formal recognition through the Department’s recognition regulations. This position is inconsistent with the position taken by the United States in litigation, where, in order to defeat the Tribe’s claim that it had been recognized and therefore did not need to follow the acknowledgement procedures, the federal government argued that the 1972 Bruce letter did not recognize the Tribe. The government can’t have it both ways.

L2-12

In its Memorandum In Support of Motion to Dismiss and for Summary Judgment in *Ione Band of Miwok Indians, et al. v. Burris, et al.*, (No. S-90-0993LKK/EM (E.D. Cal. 1992)), the United States asserted that:

“In 1972, the head of the BIA, Louis Bruce, was not entirely convinced that the Ione Band was federally recognized (‘Federal recognition was evidently extended

¹ There are a number of California rancherias that were terminated by the federal government pursuant to the Rancheria Act of 1958. Ultimately, several tribes filed suit to re-establish the rancherias which were “un-terminated” pursuant to that action. See *Hardwick v. United States*, No. C-79-1710 SW (N.D. Cal. filed 1979). The resulting Stipulation and Order that re-established these rancherias did not equate to a specific tribal restoration act. See *Hardwick*, Stipulation and Order, December 22, 1983. Ione was not among the tribes involved in the *Hardwick* litigation.

to the Ione Band of Indians at the time that the Ione land purchase was contemplated’).” *Id.* at p. 2.)

The government also contended that:

“Art Barber, the Area Tribal Operations Officer, repeatedly told [Plaintiffs] that the Ione Band was not federally recognized....” (*Id.* at p. 5.)

Finally, the government stated that:

“The essence of plaintiffs’ argument is that the Ione Band was a federally-recognized tribe as of 1972 and was subsequently ‘unrecognized.’ The government submits that plaintiffs at least in 1977 that the United States did not recognize the Ione Band and certainly no later than 1979 when notice of the same was published in the Federal Register. To the extent that plaintiffs viewed this decision as a change from recognition status to nonrecognition status, *which change the government disputes*, plaintiffs were bound to bring suit no later than 1985 pursuant to the statute of limitations set forth at 28 U.S.C. 2401(a).” (*Id.* at p. 8; emphasis added.)

L2-12
cont'd

These statements are entirely inconsistent with the Department’s current position, *viz.*, that the 1972 Bruce letter recognized the Tribe, but that the *Burris* litigation terminated the Tribe. These contentions were later adopted by the District Court judge who held that the Tribe was not recognized and was required to follow the acknowledgement procedures. If the Department desires to recognize the Tribe, then the Tribe should follow the same acknowledgement procedures required of all entities seeking such recognition – procedures which the Department in numerous communications and decisions told the Tribe that it must follow. The Department cannot now do an about face and assert a different state of facts in order to justify its desire to label the Tribe as a “restored tribe” entitled to “restored lands” under IGRA, and thereby avoid the two-part determination of both secretarial and gubernatorial approval of any land acquired after 1988 that is intended to be used for gaming purposes.

3. The 1994 Letter from Assistant Secretary Deer Did Not Restore the Tribe Because (a) the Tribe Was Never Terminated and (b) Department Regulations in Effect in 1994 Mandated that the Tribe Must Go Through the Acknowledgment Process Before It Can Be Recognized.

The Department determined that the Tribe’s “restoration” as a tribe stems from a letter dated March 22, 1994, in which Ada Deer, then Assistant Secretary of Indian Affairs, issued a letter to the Tribe reaffirming the Tribe’s relationship with the federal government and stating that the Tribe would be included on the list of tribes eligible to receive BIA services.

L2-13

The language of the Ada Deer letter is inconsistent with the Department’s conclusion that she was “restoring” a previously-terminated tribe. That letter did not use the terms

“restore,” “acknowledge,” or even “recognize.” Instead, Assistant Secretary Deer merely stated that she was “reaffirming” a portion of the 1972 letter from Louis Bruce, which as noted earlier, only referenced the Tribe’s previous status. There is no discussion of any termination of the Tribe’s “recognition” that the Deer letter was meant to “restore.” That being the case, it is evident that the Tribe cannot qualify as being “restored.” If the Tribe did not lose its federal recognition in the first place, there was nothing to restore to it.

Further supporting this conclusion is the fact that if the Department’s logic was correct, and the Tribe was “terminated” by the Department’s litigation position, the inevitable conclusion would be that the Tribe *is not now a federally-recognized tribe*. (Obviously if it’s not a recognized tribe, it likewise cannot be a “restored” tribe.)

Even if the Tribe was actually terminated, Assistant Secretary Deer’s letter would have been legally insufficient to “restore” the Tribe because, as now, the only means by which a terminated tribe’s recognition could be officially restored in 1994 was through the administrative acknowledgment process set forth in 25 C.F.R. Part 83, (formerly 25 C.F.R. Part 54). *Ione Band of Miwok Indians v. Sacramento Area Director*, 22 I.B.I.A. 194, 192 I.D. LEXIS 112, *3 (1992) (“The Board agrees that the Department has authority to correct any errors it may have made with respect to the recognition of appellant. However, the forum in which any corrective action must be taken is the forum established in the acknowledgment regulations.”). Moreover, Assistant Secretary Deer was obviously in a position to know that to be the case (*id.*), so interpreting her letter as a “restoration” would require the Board to assume that she affirmatively acted in direct contradiction of the law.

It is indisputable that the Tribe has not been formally acknowledged through the administrative acknowledgement process, which fact, on its own, precludes the determination that the Tribe was restored and therefore entitled to have its land acquisitions deemed “restored lands” under IGRA.

4. The “Plymouth Parcels” Do Not Qualify As “Restored Lands” Within The Meaning Of IGRA Section 20.

Not all lands previously held by a restored tribe and subsequently reacquired by the tribe qualify for the “restored lands” exception. *Wyandotte Nation v. Nat’l Indian Gaming Comm’n*, 437 F. Supp. 2d 1193, 1213-14 (D. Kan. 2006). Rather, the courts have held that whether such lands are eligible for gaming requires the application of a three-prong test: “land that could be considered part of such restoration might appropriately be limited by the factual circumstances of the acquisition, the location of the acquisition, or the temporal relationship of the acquisition to the tribal restoration.” *Id.* at 1214, quoting *Grand Traverse Band of Ottawa & Chippewa Indians v. United States Att’y*, 46 F. Supp. 2d 689, 700 (W.D. Mich. 1999); *see also Confederated Tribes of Coos, Lower Umpqua & Siuslaw Indians v. Babbitt*, 116 F. Supp. 2d 155, 164 (D.D.C. 2000). The purpose of these restrictions is to avoid a result—obviously contrary to the intention of the statute—that “any and all property acquired by restored tribes would be eligible for gaming.”

L2-13
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L2-14

Wyandotte Nation, 437 F. Supp. 2d at 1214, quoting *Confederated Tribes of Coos*, 116 F. Supp. 2d at 164.

To fulfill the first criterion, “the factual circumstances of the acquisition must provide indicia of restoration.” *Wyandotte Nation*, 437 F. Supp. 2d at 1214. The second criterion relates “to the location of the land in relation to the tribe’s historical location. Courts have been careful to observe that the restoration of lands encompasses more than simply the return of a tribe’s former reservation, although ‘placement within a prior reservation of the [tribe] is significant evidence that the land may be considered . . . restored.’” *Id.*, quoting *Grand Traverse Band of Ottawa & Chippewa Indians v. United States Attorney for the W. Dist. of Mich.*, 198 F. Supp. 2d 920, 937 (W.D. Mich. 2002) (“*Grand Traverse II*”), *aff’d*, 369 F.3d 960 (6th Cir. 2004). At the very least there should be a “significant, longstanding historical connection to the land . . .” *Wyandotte Nation*, 437 F. Supp. 2d at 1215, quoting *In re Wyandotte Nation Amended Gaming Ordinance*, NIGC Final Decision (Sept. 10, 2004). And finally, a significant time gap between a tribe’s “restoration” and its subsequent reacquisition of the land in question may defeat a claim that lands are “restored.” For the reasons discussed in the letters of Amador County to Philip Hogen, Chairman of the NIGC, dated December 23, 2005, April 17, 2006, and May 1, 2006, and also discussed in the letter from the office of California’s Governor to Ms. Andrea Lord at the NIGC, also dated May 1, 2006, these factors militate against a conclusion that the Plymouth Parcel constitutes “restored lands” within the meaning of IGRA § 20. Those letters are incorporated herein by this reference.

L2-14
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Furthermore, the D.C. District Court has concluded that “The plain meaning of IGRA’s exception for ‘lands ... taken into trust as part of ... the restoration of lands for [a restored] Indian tribe’ dictates that the Court turn to principles of restitution.” *City of Roseville v. Norton*, 219 F. Supp. 2d 130, 163 (D.D.C. 2002). Restitution is an equitable remedy, and therefore requires that the Secretary balance the interests of the Tribe against the interests of other parties, including Amador County, who would be affected by the determination, and including other federally recognized tribes in the area. Restitution, after all, is an equitable remedy. *Mertens v. Hewitt Assocs.*, 508 U.S. 248, 255 (1993); *British Motor Car Distrib. v. San Francisco Auto.*, 882 F.2d 371, 374 (9th Cir. 1989); *FTC v. H. N. Singer, Inc.*, 668 F.2d 1107, 1113 (9th Cir. 1982). The land determinations of the Department entirely failed to include any consideration of the potentially competing interests of other affected parties.

Finally, an independent, separate and additional reason for rejecting the application is that the Tribe is not a tribe and has never established a historic tribal identity that would justify federal recognition; this fact has been recognized in numerous Department memoranda and correspondence, and demonstrated in factual history submitted by the County in its aforementioned letters dated December 23, 2005, April 17, 2006, and May 1, 2006.

Purpose and Need

Purpose and Need Are Too Vague to Allow Evaluation of Ability of the Project to Meet Goals – The Draft EIS states that the purpose and need of the project are: increased employment opportunities for Tribal members; improvement of the socioeconomic status of the Tribe; improvement of existing Tribal housing; construction of new Tribal housing; funding for a variety of social, governmental, administrative, educational, health and welfare services to improve the quality of life of Tribe members; capital for other economic development and investment opportunities; restoration of a lost land base; acquisition of land needed to exercise governmental powers, and economic self-sufficiency, thereby eventually removing Tribal members from public assistance programs.

L2-15

The Draft EIS does not address how any of the alternatives would further long-term sustainable employment for Tribal members. There is no indication that the employment being generated by the project or the project alternatives would generate jobs suitable to the skill sets of Tribal members. There is no indication that Tribal members reside in the vicinity of the project, and therefore would be within commute distance for any of the jobs offered. Also, there is no indication that revenue will be used to effectively address the factors that cause the unemployment or underemployment among Tribal members cited in the Draft EIS. If employment is part of the purpose of the Bureau of Indian Affairs, this issue needs thorough examination and analysis. Such an analysis is important in assessing the adequacy of the alternatives evaluated in the Draft EIS.

Impact on surrounding community needs thorough assessment – Fee-to-trust land acquisitions subject to Section 20(b)(1)(A) of the Indian Gaming Regulatory Act (“IGRA”), 25 U.S.C. § 2719(b)(1)(A), require findings by the Secretary of the Interior that the establishment of gaming on newly acquired lands is not only in the best interests of the Tribe and its members but it is also *not detrimental to the surrounding community*. Since no “final agency action” based upon a restored lands opinion has been taken and the issue of applicability of the restored lands exception has not been adjudicated, these provisions of IGRA should guide the content of the Draft EIS. The Final EIS should thoroughly address community impact issues, which is not the case with the Draft EIS. In the Final EIS, the purpose should be expanded to include a statement such as “The BIA’s purpose is also to assess the impacts of the Fee-to-Trust application on the surrounding community.”

L2-16

Economic Analysis

Draft EIS's Economic Analysis Overestimates Economic Impacts – The County has reviewed the Economic Impact Analysis (“EIA”) prepared by GVA Marquette Advisors and the conclusions subsequently carried forward into the Draft EIS. While the new casino likely will bring new jobs and economic activity to the region, some of the EIA’s underlying assumptions about the extent of the economic, and hence fiscal, impact are incorrect and have led to an overestimation of the impact on the region and on Amador County, in particular.

L2-17

Basic Economic Assumptions – The most fundamental and influential assumption made by the EIA is that all the revenue generated at the casino – \$181 million in year three – will be recycled through the state and local economies and taxed.² However, a significant amount of this revenue likely will be spent on debt service, profit, payments to casino operators, and other uses that will result in expenditures made outside of California. The EIA itself estimates that only 40 percent of this revenue (\$74.1 million) will actually be spent on goods and employment each year. Therefore, this figure is the more reasonable starting point for an economic and fiscal analysis.

L2-18

In addition, the EIA assumes that all of these direct expenditures will be spent in Amador County. However, given that Amador County does not have the employment base or suppliers necessary to serve the entirety of the casino’s hiring and buying needs, it is very likely that a significant majority of these expenditures will be made outside of the county. Table 1 (next page) shows assumptions for each purchasing category that will be spent in the county in order to develop a more accurate assessment of the economic and fiscal impact on the county.³ These calculations also reflect the 10 percent substitution rate used by the EIA to account for the fact that some of this spending will not be new spending, but will be replacement of purchases lost to the Jackson Rancheria Casino. This is a conservative estimate given that the Jackson Rancheria Casino may see more consumers switch to the larger casino in Plymouth, which will serve alcoholic beverages.

L2-19

Table 1: Amount of Direct Casino Purchases in Amador County

Classification	Assumed in EIA	County Assumption
Gaming supplies	100%	0%
Hotel supplies	100%	10%
Food and beverage	100%	20%
Gift shop	100%	10%
Administrative	100%	5%
Marketing	100%	25%
Utilities	100%	80%
Maintenance	100%	80%
Security	100%	10%

For similar reasons, the EIA assumption about the number of new jobs created overstates the true economic impact in the county. In the Draft EIS, the number of jobs anticipated to be held by Amador County residents was assumed to equal 60 percent of the total new jobs created, based on the assumption that some of the jobs would be filled by non-county residents. Based on the experience of the Jackson Rancheria Casino, this figure

L2-20

² These comments do not challenge the basic assumption that the Tribe will make \$181 million in year three. Bringing in this revenue would indicate that the casino was making \$198 per machine per day, which is in the plausible range.

³ Note that these estimates are based on judgment and experience, but do not reflect the results of an analysis of the casino operations or the Amador County economy.

overstates, potentially significantly, the proportion of new jobs likely to be filled by Amador County residents. However, our calculations reflect the Draft EIS's 60 percent figure for county hires. Our calculations also reflect the 10 percent substitution from Jackson Rancheria Casino described above and a 5 percent substitution from other Amador County jobs.⁴

L2-20
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Estimated Fiscal Impact of Proposed Plymouth Casino – After adjusting the total amount of direct county impacts as described above, we estimated the likely fiscal and economic impact on Amador County using the original assumptions contained in the EIA. Specifically, we applied the multiplier contained in the EIA to the direct economic effects (casino purchases plus employee wages) to develop an estimate of the total economic impact on the county.⁵ We then estimated the fraction of these economic effects that would produce a sales tax impact and calculated the likely increase in sales tax revenue to the county. Only sales tax impacts were considered. It is possible that over time property values in the area surrounding the casino will increase and thereby increase property tax revenues, but the extent is impossible to estimate. Likewise, lodging or other tourism might develop in areas adjacent to the casino, although the likely extent of these activities is impossible to estimate.

Based on these assumptions, the proposed Plymouth casino would generate approximately \$72,000 annually in additional sales tax revenue to the county. This figure is significantly smaller than the \$11.8 million annual statewide figure reported in the EIA for Phase I. In the EIA, all direct and indirect expenditures are assumed to be taxable. However, services are not subject to sales tax, nor are goods purchased by the casino and taken possession of on tribal land. In addition, a significant portion of employee earnings are spent on food, housing, taxes, car insurance, or other non-taxed services. Thus, none of the \$30.5 million in direct casino purchases will be subject to sales tax and only an estimated 40 percent of direct earnings of Amador-based employees will be spent on taxable goods. In addition, some of these goods will be purchased outside the county. The above calculation uses a conservative estimate of 10 percent for out-of-county purchases. Similarly, for indirect expenditures (*i.e.*, purchases made by Amador County-based businesses that supply goods or services to the casino), it is assumed that 25 percent will be spent on taxable goods in Amador County.

L2-21

By combining these direct and indirect taxable purchases, it is possible to estimate the amount of sales tax likely to go to Amador County. To do this, we multiply the taxable purchases by the local share of the sales tax, 1 percent and then the amount of this likely to be purchased in the unincorporated portion of the county, 55 percent.^{6,7} Using this

⁴ Again, this is a conservative assumption, but likely near the actual figure given that most casino visitors are likely to be from outside of Amador County, affecting non-Amador jobs. The Amador County District Attorney indicates that nearly 82 percent of Jackson Rancheria-related offenses involved non-county residents.

⁵ The implied multiplier is calculated by dividing the total economic impact (\$332 million) by the direct impact (\$181 million). This resulted in a multiplier of 1.83.

⁶ Note that currently the local general purpose sales tax in the county is 0.75 percent as a result of the imposition of a 0.25 percent rate by the state to retire the 2004 Economic Recovery Bonds. Once these bonds are paid off, the local general purpose sales tax rate will return to 1 percent.

formula, the county would receive about \$72,000 per year in additional sales tax revenue as a result of the establishment of the Plymouth casino. With the completion of a planned hotel in year five, this figure would increase by \$5,000 per year.⁸

L2-21
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In addition, the County would receive about \$35,000 annually from the one-quarter percent transportation tax rate, including both Phases I and II.⁹

Impact of Construction Activities –The one-time economic and fiscal impact of casino construction is not included. Although this activity is expected to bring some additional workers into Amador County, the fiscal impact in the county is likely to be modest and is not ongoing.

L2-22

EIA Overstates the Economic and Fiscal Impact of the Proposed Project – The EIA uses several unrealistic assumptions in the economic and fiscal analysis of the impact of the proposed Plymouth casino. In summary, the starting amount of revenue actually being cycled through the regional economy is too high and the successive impacts on the county in particular are too generous. Revising these assumptions to reflect more realistic assumptions regarding production, employment, and taxation yields a significantly more modest estimate of the economic and fiscal benefit to Amador County than that predicted by the Tribe’s EIA.

L2-23

These calculations more accurately reflect the economic and fiscal gains to be seen by Amador County compared to the EIA or EIS reports. Any assumptions carried throughout the EIS based upon unrealistic estimates of economic and fiscal benefit to Amador County shown in the EIA should be revised in the Final EIS.

No Discussion of Significance Criteria in EIA – The EIA quantifies many of the socioeconomic impacts based on its stated assumptions. However, no discussion of significance criteria is provided that would explain when any of these impacts might be of sufficient intensity or magnitude to require mitigation. Furthermore, given that the environmental setting section does not provide baseline data on the County’s retail or other economic sectors, it is not possible to either verify the reasonableness of the analysis assertions on the Amador County economy’s ability to absorb the project’s job demand and provide the necessary casino-support goods and services so that its economy can retain the project’s potential spending benefits. If there is a mismatch, then it is likely that most of the projected economic benefits will leak out of the economy to benefit non-Amador County businesses and residents.

L2-24

While the methodology acknowledges that recognizing potential “substitution” effects is relevant, the analysis asserts that 90% of future casino revenue will be “new” revenues.

L2-25

⁷ The percent of goods bought in unincorporated Amador County was estimated by dividing the amount of sales tax revenue brought in by unincorporated Amador by the total revenue brought in the county. This information can be found in Table 21-A of the State Board of Equalizations’ 2005-2006 Annual Report.

⁸ All of the figures in the EIA report are stated in terms of 2004 dollars. Adjusting our results for the impact of inflation through this year brings the Phase I sales tax revenue estimate to \$83,000 and the amount attributable to Phases I and II to \$89,000.

⁹ Adjusting for inflation brings this figure to \$40,000.

This seems to be an optimistic proportion given the proximity of an established existing casino operation at Jackson Rancheria and several other existing and planned competing casinos in the region. The basis for the substitution figure is the EIA (Appendix R). However, the analysis provides little substantial evidence for its assertions about the project's expected revenues, market reach and level of likely "sales shift" of casino revenues from the Jackson Rancheria Casino. Consequently, it seems that the 90% assumption is optimistic and likely overstates the net potential economic benefits generated by the project. More detailed information supporting the project's revenues, market and performance estimates (*i.e.* from comparative analysis of other similar casino operations and especially the Jackson Rancheria Casino) should be provided to better support the key assumptions and findings of the analysis.

L2-25
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The EIA's economic analysis of goods and service spending benefits focuses on the Statewide economic benefits. The analysis focus should be clearly on the economic effects to Amador County – supply and service contracts to non-Amador County businesses would have minimal economic benefits to Amador County and its communities and businesses, which are the primary affected population. Additional information should be provided to substantiate the analysis's assertion that locational and market advantages will ensure that purchases would be primarily from existing vendors in Amador County and surrounding counties. Information would include evidence from Jackson Rancheria Casino operations, identification of service and supply distributors that would be able to meet the casino needs.

L2-26

Project Description and Alternatives

Insufficient Range and Description of Alternatives – The Draft EIS should examine a range of alternatives that are consistent with the need and purpose of the project. Currently the range of alternatives is not sufficient to satisfy this criterion, particularly since all alternatives are located on the same site (in Amador County and the City of Plymouth). None of the County parcels are consistent with the Amador County General Plan or the zoning ordinance.

Additional alternatives need to be considered in order to comply with 40 CFR §1502.14, which requires the agency to "*vigorously explore and objectively evaluate all reasonable alternatives...*" (Emphasis added.) Furthermore, Section 1502.14 "requires the Draft EIS to examine all reasonable alternatives to the proposal. In determining the scope of alternatives to be considered, the emphasis is on what is 'reasonable' rather than on whether the proponent or applicant likes or is itself capable of carrying out a particular alternative. Reasonable alternatives include those that are practical or feasible from the technical and economic standpoint and using common sense, rather than simply desirable from the standpoint of the applicant." (40 CFR §§ 1500 – 1508.)

L2-27

The courts have consistently employed principles that suggest a full evaluation of the proposed action with environmental risks, with a comparison to alternative courses of action. Other sites, not just alternative intensities of the same uses or alternative uses on the same site, should be fully evaluated in the alternatives section.

The Draft EIS declined to evaluate as an alternative the approximately 40-acre parcel that was the subject of the Bruce and Deer letters referenced in Appendix A. Among the reasons cited for declining to evaluate this parcel were the fact that development of the site would result in the loss of trees and vegetation, as well as displace existing residents. In this regard, the 40-acre parcel is no different from the proposed Alternative A and Alternatives B through D.

L2-28

In addition, the description of each alternative needs to be more complete, with information for each proposed use that includes estimated number of employees by job type and shift, number of patron trips per day, day of week and time of day, etc. The formatting of the Draft EIS document also makes it difficult for the reader to compare the proposed uses among the alternatives. A spreadsheet should be included in the EIS.

L2-29

Insufficient Justification for Selection of Preferred Alternative – The Draft EIS is silent as to the reasoning behind the adoption of Alternative A as the proposed project. The Draft EIS does state that Alternative E would not meet the purpose and need for the Proposed Action, but there is no discussion as to why Alternatives B through D were not selected. Currently, the analysis of the alternatives is not sufficient for a quantitative and qualitative assessment of the relative advantages and disadvantages of each of the alternatives in order to make a decision on the “preferred alternative.”

L2-30

Improper Assessment of Significance for Alternative E – The Draft EIS does not adequately evaluate Alternative E, the no-project alternative. For example, no mitigation measures are proposed for Alternative E. In addition, there are instances where impacts of Alternative E are listed as “significant,” while the same or similar impacts for Alternatives A through D are listed as “less than significant with mitigation.” The purpose of the Draft EIS is to objectively analyze the effects of the project and alternatives. That cannot occur if one alternative is simply ignored because it is not the favored alternative of the Tribe.

L2-31

Without any information on the work skills of tribal members (which should be included), it cannot be concluded that Alternative A, the largest casino project, best meets employment needs of the Tribe’s members. Similarly, without an analysis of community needs for such businesses, the retail alternative should not be eliminated. Employment for community residents should also be considered in the selection process.

L2-32

In light of the very summary and conclusory nature of the discussion of the respective environmental impacts from each of the alternatives and the likelihood that Alternative A, the largest and most intrusive project, would have environmental impacts exceeding the other alternatives to the detriment of the surrounding community, the Draft EIS should provide further justification for selection of Alternative A.

L2-33

Parking Area Location Incorrectly Identified – The discussion of site access and parking on page 2-5 of the Draft EIS references a secondary, smaller parking area located

L2-34

southwest of the main casino entrance. However, no such parking lot exists on the site plan for Alternative A (Figure 2-1). This reference needs to be corrected in the Final EIS.

L2-34
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Plymouth Pipeline Project Not Located Entirely within City's Sphere of Influence – The description of the Plymouth Pipeline Project on page 2-8 of the Draft EIS incorrectly states that the project is located within the City of Plymouth's sphere of influence and falls under the City's General Plan. The alignment of the Plymouth Pipeline Project, as identified on Figure 2-3 on page 2-9, extends far beyond the City's sphere of influence. The discussion of the City's sphere of influence as it relates to the Plymouth Pipeline Project needs to be corrected in the Final EIS.

L2-35

Figure Missing from Document, Incorrect References – Figure 2-1 on page 2-6 of the Draft EIS refers the reader to Figure 2-2 for further details on wastewater options. This reference is incorrect; the reference should be to Figure 2-5. Figure 2-3 on page 2-9 of the Draft EIS references Figure 3.9-1a. However, no such figure exists in the Draft EIS. This figure needs to be included in the Final EIS or this reference needs to be corrected.

L2-36

Land Resources

Incorrect Assertion of No Development on Parcel 1 – On page 3.2-3 of the Draft EIS, the last sentence states that no development will occur in Parcel 1. However, comparing the map of Parcel 1 shown in Figure 1-3 to Figures 2-1, 2-9, 2-14, and 2-18, Parcel 1 will be used for construction of a fire station, service entrance, service court, bus parking, roadways, an 8.5 acre spray field, and a 2.9 acre subsurface disposal field, a 5.2 acre spray field, a water treatment plant, a wastewater treatment plant, an operations building, a dewatering building, and a potable water line. These facilities should all be considered development. Therefore, a discussion of the geology, soils, and mineral resources for this parcel needs to be added. The above-mentioned facilities and Parcel 1 should be specifically addressed in Section 4.2.

L2-37

No Analysis of Effect of Wastewater Reservoir Construction on Floodplain – The Alternative A Phase I and Alternative B descriptions in Chapter 4.2 of the Draft EIS include construction of a 37.4 acre-foot reservoir (sometimes inconsistently described for Alternative B as a 31.6 acre-foot reservoir) with a 75' high dam. The Draft EIS later states on page 4.2-5 that "An inspection of the area within five miles downstream of the proposed reservoir site on Dry Creek indicated that the area as primarily ranchland and open space, with no land uses that would expose structures or residents to flooding associated with dam failure. However, the town of Drytown is approximately 3.5 miles downstream from the proposed reservoir site. While most of the structures in town are elevated approximately 20 feet or more above the top of the channel bank, there are a few residences and a motel and café with a picnic area that are approximately 20 feet or less above the top of the channel bank." This stretch of Dry Creek is currently listed as a Zone A floodplain. The Draft EIS should describe the effect of a dam failure on this inundation area, as well as on existing flood maps. This is a significant impact and the county's flood maps may need to be amended. The Draft EIS should clearly analyze the effects of these changes and the cost impact to the County and to FEMA. Additionally,

L2-38

landowners should be notified of any change in flood status/insurance needs and potential impact on future development of the area.

L2-38
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Page 4.2-9 states that a 31.6 acre-foot dam may be constructed for Alternative B; the same facility is described on page 4.2-7 as a 37.4 acre-foot capacity.

The last sentence of the second paragraph on page 4.2-2 of the Draft EIS concludes that “even with the inclusion of wastewater disposal Option 1 earthwork, [Alternative A] would result in a less than significant effect associated with on-site topography.” However, it is not explained how construction of a “75-foot tall, 25-40 foot wide earthen dam ... [spanning] 50 feet across the canyon” would not be a significant impact to onsite topography. The dam would be equivalent in height to a 6 to 7 storey building. This significance conclusion needs additional discussion and support for why a topographic change of this magnitude would be considered less than significant, and would likely require mitigation and/or a change in the level of significance.

L2-39

Incorrect Location and Assertion of No Mining Activity – On page 3.2-7 of the Draft EIS, the last sentence of paragraph 2 indicates that one mineshaft is located near the project site. Page 4.2-5 states that a mineshaft is located “on the eastern border of the project site.” However, Figure 1-2 indicates that Pioneer Mine is located within the project site. Either the figure is not drawn correctly, or the background information provided is inaccurate. If the mineshaft is on the project site, the Draft EIS must discuss proximity of project components to the mineshaft under each alternative, and indicate whether the project would be affected by mineshaft collapse or subsidence during seismicity. References to this mineshaft and any environmental impacts should be corrected throughout the Draft EIS.

L2-40

Page 4.2-6 of the Draft EIS states that proposed alteration in land use “will not significantly diminish the potential for extraction of important ores or minerals” and that “[N]o significant mineral resources are known to exist in the project area.” These statements are misleading. The Planning Department has an application “on hold” for a mining project on Parcel #1, which is an indication that there is a valuable mineral resource located on the property and in the project’s proximity. Additionally, this site is located on or adjacent to the historical Mother Lode. The presence of mineral resources and the effect on those resources of the casino project must be analyzed in the Draft EIS.

L2-41

On page 4.2-15, the Draft EIS discusses the potential for the No Action Alternative to hinder the reclamation of mining lands. Alternatives A-D should also address this specific issue.

Grading Analysis is Outdated and Incomplete – The Preliminary Grading Analysis (Appendix P) was prepared in 2004. It is based on assumptions because, as stated on the first page, “A soils report was not available at the time of this preliminary analysis...”. A soils report has now been prepared (Appendix T). The Preliminary Grading Analysis should be updated using information and assumptions based upon the completed soils report.

L2-42

The Preliminary Grading Analysis shows substantial export volumes for Alternatives A, B and C. It states that “[v]arious amounts of export or import [...] will be mitigated onsite by development of an onsite stockpile/waste area or borrow site which will be identified during final engineering.” These stockpile and borrow sites must be evaluated and mitigated in the EIS.

L2-42
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There is no discussion in the Preliminary Grading Analysis of the effect on earth volume due to construction of the wastewater storage dam. This is a major oversight that must be analyzed and mitigated in the EIS.

Portions of the Draft EIS refer to materials that are either missing or stated as being provided under separate cover, which they were not. All materials upon which statements and conclusions in the Draft EIS are based must be provided for analysis. Further comments may be warranted when that information is provided and analyzed.

L2-43

Water Resources

Project Would Constitute 33 Percent of City’s Water Supply – Water Supply Option 1 for the proposed project includes connecting to the City of Plymouth’s municipal water supply system. In connecting to this system, the project is projected to use 33 percent of the City’s average daily water supply during full buildout. However, no analysis is provided regarding the ability of the City’s water system to meet this increased demand or the environmental impacts associated with allocating such a large volume of water to the proposed project. This increased water supply demand would have long-term implications on the City’s ability to meet its own water supply requirements. The City’s water is supplied from both surface and groundwater sources, and as described below, the City’s groundwater resources are overdrafted. A 33 percent increase in City water demand could have serious impacts on the City’s groundwater and surface water resources, particularly during prolonged droughts. The Final EIS needs to include a much more detailed discussion of the City’s municipal water supply system and what the long-term effects of the proposed project would be on this system.

L2-44

Baseline Usage of Existing Wells Is Not Described – On pages 3.3-9 to 3.3-11, the Draft EIS discusses the existing wells and their measured pumping capacity. However, in order to establish how water usage of the project alternatives would compare to the No Action Alternative (and to existing conditions), a reference rate of water usage at these wells should be determined and provided (*e.g.* how much water is currently being pumped from these wells and during what periods?). This information is relevant because groundwater in the vicinity of the project site has been determined to be in a state of overdraft, “even in years with average rainfall” (Draft EIS, page 3.3-8). Section 4.3 needs to assess how water usage would decrease or increase as compared to the No Action Alternative, and then discuss how groundwater resources would be affected as a result, for each alternative.

L2-45

Project Groundwater Pumping Could Further Overdraft City's Groundwater Supplies –
 The City of Plymouth is currently in a groundwater overdraft condition, as identified on page 3.3-8 of the Draft EIS. One or more seasons of above average rainfall would be necessary to remedy this situation (page 3.3-8). As discussed on page 4.3-9 of the Draft EIS, groundwater pumping associated with implementation of the Water Supply Option 2 could further overdraft wells within the City. However, the Draft EIS concludes that based on short-term sustainable pump tests, the groundwater pumping would be maintained within the safe yield of the wells. This conclusion is inconsistent with the long-term yield discussion included on page 18 of Appendix C. This discussion states the following:

The long-term well yields calculated and discussed in Section 3.2.4 are based on aquifer response to a relatively short period of pumping. Drawdown is extrapolated to 200 days to allow sufficient time for recharge to stabilize drawdown and improve well performance. This approach assumes that sufficient precipitation will occur and that a significant percentage of recharge will reach the aquifer. It also assumes that the interconnected fracture network extends beyond the radius of influence created during the test, and that these fractures have sufficient storage to produce sustainable yields. However, these conditions may not be realized. Recharge may be limited by the thick sequence of relatively low K slate and shale aquitard or recharge may be slow due to distant recharge areas. The fractures that store and transmit water in the confined unit may pinch out laterally or become less interconnected, effectively reducing aquifer transmissivity and limiting well yield.

L2-46

This discussion clearly indicates that the actual safe yield for the three project wells is unknown at this time due to the large number of variables that can affect long-term well yield. The Draft EIS approach of developing a groundwater monitoring program to determine whether the project's groundwater pumping will significantly affect offsite groundwater users after project construction is clearly inconsistent with the National Environmental Policy Act, which requires that the project's environmental effects be disclosed to the public prior to approval of the proposed project. The Bureau of Indian Affairs needs to conduct sufficient technical analysis to determine whether the proposed project will result in significant environmental impacts. For groundwater impacts, the BIA has inappropriately deferred this analysis until after project construction is completed and the proposed project is operational.

Performing pump tests ensures well functionality and well production rate, but does not address potential for groundwater drawdown. Because the basin is in a state of overdraft, substantial additional pumping, such as that related to operation of the proposed casino, would have strong potential to result in a significant impact on groundwater levels. Therefore, the Draft EIS should either (1) provide information in addition to the results of pumping tests to support the less than significant conclusion or (2) reach a conclusion of increased impact significance.

L2-47

Incomplete Reference to "Cistern" – Page 3.3-11 of the Draft EIS refers to samples collected from "the cistern." Please provide a description of the "cistern" somewhere in this section or the project description. If it is located somewhere else in the document, please provide a reference to that description.

L2-48

Daily Water Demand Incorrectly Calculated and Continuous Pumping Assumption is Unrealistic – The Draft EIS concludes on page 4.3-8 that the safe yield of the wells on the site is estimated to be approximately 81 gpm, which translates to 119,520 gpd. Converting 81 gpm to a daily rate would actually translate to 116,640 gpd (81 gallons per minute x 60 minutes x 24 hours) not 119,520 gpd. The Draft EIS assumes this safe yield for the three identified groundwater wells is achievable even though to actually generate this yield, continuous 24-hour pumping would be required from all three wells. Assuming that the pumps would operate at their maximum yield for 24 hours a day and 365 days a year is clearly unrealistic and is inconsistent with the rotational pumping approach identified in the Draft EIS, which is discussed in more detail below. Also, assuming continued pumping of all three wells allows little-to-no margin of safety in the event one or more of the wells is inoperable or yields are diminished during summer months or periods of drought. Without a more reliable water source, chronic water shortages would be expected to occur at the site, which could result in direct public health hazards that have been ignored in the Draft EIS.

L2-49

Availability of Groundwater Has Not Been Shown – California Code of Regulations, Title 22, Section 64554 lists appropriate guidelines for determining water demand and peaking factors, methods for 72 hour or ten day well capacity tests, and determination of long term yield based on 25% or 50% of the pumping rate at the end of a completed test's pumping. Table 3.9-1 recommends long term well yields for three wells be assumed at values near the pumping rate at the end of testing.

L2-50

Title 22, Section 64554, describes a methodology to determine maximum day demand as a multiple of average monthly or average annual demand. The approach used in this document appears to be the reverse, assigning assumed flow per seat, per day, determining that these represent peak events, and using factors to reduce presumed flows for the average design and weekday flows. This approach would be more likely to underestimate water demand. It does not appear that methods used to determine groundwater supply or demand are consistent with those in Title 22. It is likely this could result in off site impacts to groundwater availability and possibly quality.

Section 3.5.1 of Appendix B indicates reverse osmosis treatment of well water, which produces as finished water only a fraction of the raw supply, further reducing the supply available.

L2-51

A reduction in water consumption is proposed via the use of reclaimed water for some purposes. The existence of a dual plumbed system on the project site presents the potential for cross connections resulting in public health risk and potential impacts to medical services. Wastewater treatment plant upset conditions are likely and will require

L2-52

the project revert to use of potable water, which means that the reduction in demand should not be considered permanent.

L2-52
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Landscape water is among the uses proposed for reclaimed water and is proposed to be applied at 5.6 AF/acre/yr. This appears to be significantly higher than evapotranspiration potential and may result in runoff, erosion, and possibly other impacts in the event of poor treatment plant performance or plant upset. Additional information is needed to justify this assumption.

L2-53

Groundwater Supply Estimate Does Not Account for Well Pumping Rotation –The safe yield for the three proposed water supply wells is estimated in the Draft EIS as 10 gpm for Well M1, 36 gpm for Well M3, and 35 gpm for Well H1. In order to allow the groundwater reservoirs to recharge, these wells are proposed to be pumped in rotation. With rotational pumping, a single well is pumped while the other wells are resting. As the yield begins to diminish on the first well, it is shut off and the second well begins pumping. This rotates for each of the wells to minimize overpumping beyond the safe yield of the individual wells. However, the effect of rotational pumping is a reduction in total output because only one well at a time is producing water. Based on this approach, the maximum safe yield would vary between 36 gpm or 51,840 gpd for Well M3 to only 10 gpm or 14,400 gpd for Well M1.

L2-54

Bulk Hauled Water Is Not a Safe or Reliable Source of Water – The project’s full buildout has a projected water demand of 200,000 gpd. Based on the estimated maximum safe yields identified above, the proposed project would have a substantial deficit in available water. This deficit is proposed to be met through the trucking of water to the site. However, this would require trucking in between 74 and 93 water trucks (assuming 2,000 gallons tanks per truck) on a daily basis. The feasibility of trucking in this volume of water is not addressed in the Draft EIS.

L2-55

The Draft EIS includes a letter provided by Aero Pure Water, a bulk water delivery business, which is included as Appendix D. David E. Phillips with Aero Pure Water states in this letter that they can guarantee 5 to 10 years of supply based on an estimated usage of 50,000 to 60,000 gallons per day. However, the project would likely require between 148,000 and 185,000 gpd to be trucked to the site.

The State of California Department of Health Services adopted a policy in September 2002 concerning bulk hauled water. That policy pressured local governmental agencies to prohibit construction of new commercial and industrial facilities and residential dwellings that would be served by non-conforming water systems. Included in the definition of such non-conforming systems is “bulk hauled water (regardless of the source).” The Department of Health Services lists the following public health risks from use of bulk hauled water:

L2-56

- Potential for contamination when water is transferred from tanker trucks to onsite storage facilities.
- The fact that storage tanks often are the source of bacterial contamination.

- Failure of licensed haulers to follow State guidelines, resulting in unsafe water being delivered to the consumer.
- Costs associated with bulk hauled water may jeopardize future reliability of such a source.
- Higher risk of contamination that may result in serious illness or death due to waterborne disease outbreaks from the use of water not intended for drinking water purposes.

For all of the above reasons, the State of California determined that bulk hauled water does not provide the equivalent level of public health protection or reliability as that provided from a permanent water system from an approved onsite source of water supply. The Draft EIS makes no mention of the public health risks of relying upon hauled water.

L2-56
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The hauled water option referenced in sections 3.2.2 and 3.5 of Appendix B should be eliminated since there is virtually no evaluation of potential impacts. Relying on groundwater resources and water trucking is clearly an infeasible approach to meeting the project's projected water supply needs and should be eliminated as a project component in the Final EIS.

Winter Pump Tests Results in Well Yield Overestimates – According to Table 3-3 included in Appendix C, the well tests that determined the well yields were conducted in January for Wells H1 and M1. Seasonal variations in rainfall directly affect groundwater resources and the yields of groundwater wells. By conducting the well tests during the wettest period of the year when groundwater levels would be at their peak and assuming that these groundwater levels would remain static throughout the year, the Draft EIS has substantially overestimated the well yields from these two wells.

L2-57

Simultaneous Pumping Not Studied – Because the well tests were not conducted at the same time, the Draft EIS lacks any analysis of the effect of pumping from all three wells simultaneously, which would be required to achieve the 81 gpm groundwater yield identified in the document. Due to the interconnected nature of the fractured geology under the site, it would not be unusual for pumping the maximum yield from one well to diminish the maximum yield of the other wells. This issue needs to be explored further in the Final EIS.

L2-58

Impacts of Mine on Groundwater – Figure 3.3-3 shows Pioneer Mine as being located within the Project Site. This mine needs to be addressed in this section: is there any surface water discharge from the existing mine? Are there any known groundwater contamination issues related to the mine? What was the mine used for (mining of what material)? Other background information relevant to water resources, groundwater supply, surface and groundwater quality should be discussed. The Draft EIS should discuss and address to what extent the Pioneer Mine (Figure 1-2) contains or may contain contaminated groundwater, and to what extent this contaminated groundwater could/would be pulled into nearby aquifers if groundwater pumping is expanded during casino operations.

L2-59

Surface Discharge of Wastewater Could Degrade Local Surface Waters – The project includes an option to discharge recycled wastewater into a tributary of Dry Creek. A detailed analysis of the potential downstream effects on water quality associated with this discharge is not included in the Draft EIS. The Draft EIS concludes that significant surface water quality impacts would not occur based solely on the requirement for an NPDES permit. The Bureau of Indian Affairs’ responsibility in preparing the Draft EIS is to disclose to the public the environmental impacts that will occur with project implementation. By deferring this analysis to the NPDES permitting process, it is not possible for the public to understand the ramifications of wastewater disposal to surface waters, which completely defeats the purpose of the National Environmental Policy Act.

L2-60

Wastewater Disposal Impacts on Groundwater Quality Inadequately Evaluated - The project’s wastewater disposal options include injecting treated wastewater into the ground. The Draft EIS states that the Tribe will monitor the quality of the effluent wastewater prior to injecting it into the ground and concludes that this disposal approach will not result in significant adverse effects to groundwater quality. However, no actual analysis of the potential environmental impacts associated with injecting recycled wastewater into a confined fractured groundwater basin is provided in the Draft EIS. The Water and Wastewater Feasibility Study included as Appendix B to the Draft EIS specifically states on page 4-1 that it would be necessary to perform a hydrogeological study to establish pollutant transport patterns in the nearest identifiable groundwater basin. This analysis would be required to determine the down-gradient environmental impacts to the beneficial users of the groundwater. However, no such study has been completed for the proposed project. Without such a study, the conclusory statements included in the Draft EIS can not be supported.

L2-61

Appendix B recommends direct discharge pursuant to an NPDES permit, with spray irrigation to be used if direct discharge is not feasible. Since the performance of this type of treatment plant and the efficacy of USEPA oversight of similar facilities has been called into question, verifiable documentation regarding treatment unit performance and regulatory oversight activities should be provided to better quantify how great an impact the proposed on site wastewater system may be.

L2-62

The Draft EIS does not include any analysis of potential groundwater quality impacts to nearby wells. Groundwater quality impacts can be significant for downgradient or crossgradient wells within the capture zone of the casino wells. Reversal of the hydraulic gradient could cause septic systems and other contaminant sources that are currently downgradient of a domestic well to become potential sources of contamination to the project’s well. The Final EIS needs to include a detailed description of surrounding groundwater wells, potential local sources of contamination, and the project’s effects on the groundwater basin’s water quality.

L2-63

Potential long-term groundwater quality impacts, such as increases in salinity or other constituents resulting from the proposed wastewater disposal options, are a significant concern to the County. The Final EIS should quantify the potential groundwater quality degradation that would be expected due to these activities. The groundwater monitoring

L2-64

program should include pre-project (baseline) and post-project water quality sampling for private domestic wells near the casino so that any future impacts can be determined.

L2-64
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Several pages are missing from appendix S, Results of Soil Mantle and Percolation Tests; the remainder of the report is necessary to complete this review. Portions of the report available for review reflect soil conditions similar to those observed by this department within the project boundary as well as on other nearby properties. Conclusions in the report do not appear to support the recommendation of spray irrigation as the primary means of wastewater disposal. The document states that the vertical migration through unweathered rock was not measured, but is likely dependent on fractures. The report further states that review of the area after an extremely heavy rain indicated heavy flow to the surface. This has been interpreted to indicate very poor vertical transport into the clayey soil. Other than perc testing, which is a rough guide to determine the rate of acceptance of liquid by the soil interface, there is no indication of analysis of site hydraulic capacity. The recommended subsurface application rate of 0.2 should be supported by documentation to provide high confidence that effluent/groundwater mounding would not result in resurfacing of effluent and uncontrolled runoff.

L2-65

Groundwater Impacts from Construction of Unlined Wastewater Reservoir Are Not Evaluated or Mitigated – Appendix E, Geotechnical and Geological Reconnaissance Study prepared by Geocon Consultants, Inc., recommends the construction of an unlined treated wastewater storage reservoir due to the difficulties associated with construction of either a clay liner or synthetic liner. However, there is no discussion of the potential impacts to groundwater quality from seepage, or mitigation proposed. The Geocon report on page 13 states “Additionally, as the age of the reservoir increases, siltation will occur. This siltation will aid in ‘plugging’ potential drainage paths that could cause offsite seepage.” This proposal is totally inadequate to protect groundwater quality. The Draft EIS should add mitigation measures to ensure that there is no impact to groundwater quality due to seepage from the wastewater retention reservoir, in the event that a liner is not used. This would most likely include downgradient groundwater quality monitoring.

L2-66

The treated wastewater storage reservoir embankment dam should be designed under U.S. Bureau of Reclamation or U.S. Army Corps of Engineers requirements, as well as California Division of Dam Safety requirements. A dam-break inundation analysis and map must be developed to show the flood extent from a dam break. These are not included or discussed in the Draft EIS.

L2-67

Missing Information in Geotech Report – Table of Contents for Appendix E, Geotech Report for Wastewater Facility, includes Figures 2a and 2b, Site Plan/Geologic Maps for dam area and reservoir pool area, and Figure 3, Downstream Watershed Map. No such maps are included in the document.

L2-68

Other than limited on site applications there is no further discussion of beneficial reuse of reclaimed water. The potential for beneficial use deserves further exploration, especially with agricultural property in close proximity.

L2-69

In sum, the project proposes to discharge many tens of thousands of gallons per day of wastewater at a site with conditions that the County of Amador would be unlikely to find suitable for a septic system to serve a modest home. While the proposal does include a membrane bioreactor treatment plant and oversight by USEPA, these features do not instill confidence based on anecdotal reports and experiences with similar arrangements. Additional analysis and documentation must be provided in the Final EIS to support the conclusory allegations that there will be no impact to groundwater.

L2-70

Description of Drainage Structures is Incomplete – Section 4.3.2 describes the need to design and construct a detention basin for storm runoff. However, the Draft EIS does not discuss construction of the basin, an associated embankment dam, or outflow structures. These items need to be completed and added to the Draft EIS.

L2-71

On page 4.3-2, the Draft EIS states “The detention basin was designed to more than compensate for post-project runoff conditions.” However, Table 2 on page 3 of Appendix G indicates that 100-year flood flows along the middle reach of Little Indian Creek at its confluence with Shed 10 would increase by 22 cfs with the proposed project, while food flows along the upper reach of Little Indian Creek at confluence with Sheds W and 11 would increase by 7 cfs. These projected increases in flood flows need to be accounted for in the impacts analysis for Alternative A and other alternatives as appropriate. Because the project would potentially increase flood flows in Little Indian Creek, an assessment of related increase in flooding potential along the affected areas of Indian Creek should be provided.

L2-72

On page 4.3-3, the Draft EIS states that the proposed drainage controls would be designed to convey the maximum anticipated natural flows around the proposed wastewater reservoir, based on the model presented in Appendix G. However, Appendix G contains hydrologic modeling only for potential additional flows in Little Indian Creek, and does not address Dry Creek. Dry Creek is in a separate watershed from Little Indian Creek. If the drainage study of Appendix G is to be used to support a conclusion of less than significant impact along Dry Creek, then the drainage study must be updated to include modeling of Dry Creek.

L2-73

On page 4.3-3, the Draft EIS estimates pre-and post-project implementation runoff rates. However, 63 cfs and 62 cfs are not indicated in Appendix G as pre- and post-development runoff rates. This information needs a cited source.

L2-74

On page 4.3-4, the Draft EIS states that the project would not impede floodplain management on Parcel 3. However, immediately downstream of Parcel 3, the FEMA Zone A crosses directly through a housing development, as shown on Figure 3.3-2. Any additional flows discharged into this stretch of Little Indian Creek could therefore result in a flooding-related impact to downstream residences and other land uses located immediately downstream of the Project site. In addition, as shown in Table 2 of Appendix G of the Draft EIS, and as discussed in comments above, the proposed action would increase 100-year runoff flows in Little Indian Creek by up to 22 cfs. The EIS must address this impact and provide feasible mitigation that would reduce this impact to

L2-75

a less than significant level. Failure to do so would potentially result in worsening of flooding conditions downstream of the proposed casino.

L2-75
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Air Quality

Outdated Air Quality Model Used – The Draft EIS states on page 4.4-3 that the air quality analysis was conducted using the most recent version of the URBEMIS air model. However, the URBEMIS 2002 air model is substantially outdated. The most recent version of this model is the California Air Resources Board-approved URBEMIS 2007 model Version 9.2, which was available in June 2007 prior to the date of the Draft EIS. URBEMIS 2007 incorporates updated EMFAC 2007 emission factors for traffic and also calculates carbon dioxide (CO2) from off-road equipment, on-road traffic, and area sources. Use of URBEMIS 2007 would provide more complete and accurate estimates of emissions generated by project construction and operations than the estimates reported in the Draft EIS. The updated on-road and off-road emission factors incorporated into URBEMIS 2007 would most likely increase the emissions estimates for some of the criteria pollutants. This could potentially change the significance determinations reported in the Draft EIS. The air quality impacts of the proposed project should be recalculated using the URBEMIS 2007 model.

L2-76

On page 4.4-3, traffic trip allocations for operational phases are 98% primary and 3% pass-by, which totals more than 100 percent. Percentages should be corrected or a statement made that the apparent inconsistency is due to rounding errors, if that in fact is the explanation.

L2-77

Construction Emissions Substantially Underestimated – The construction equipment assumptions included in the Draft EIS substantially underestimate the construction emissions that will be generated by the proposed project. The air quality modeling in Appendix Q identifies the assumptions used to quantify the project’s construction air quality impacts. Based on these assumptions, the maximum daily acreage disturbed by site grading and construction activities is 1.4 acres. The maximum total disturbance area is identified as 5.5 acres. However, the footprint of the proposed development is approximately 60 acres (page 4.3-2 of the Draft EIS). Limiting the construction disturbance on any one day to 1.4 acres and the total disturbance area to approximately 5.5 acres would be impossible based on the size of the proposed development footprint. Using the correct acreage in the air quality modeling would likely result in significant construction air quality impacts. This miscalculation needs to be corrected in the Final EIS.

L2-78

Conformity Analyses Do Not Address Regional Significance – The conformity analyses for the various alternatives and scenarios (Draft EIS pages 4.4-7, 4.4-8, 4.4-10, 4.4-11, 4.4-12, 4.4-14, 4.4-15, 4.4-17, 4.4-18, and 4.4-19) compare annual emissions from construction and operations to the Federal Conformity *de minimis* thresholds, but do not determine if the emissions are regionally significant. A Federal action that does not exceed the *de minimis* threshold rates may still be subject to a general conformity determination if the sum of direct and indirect emissions would exceed 10 percent of the

L2-79

emissions of the non-attainment or maintenance area. If emissions would exceed 10 percent, the project is considered “regionally significant”, and thus general conformity rules apply. The Draft EIS briefly mentions this step on page 4.4-2 under step 4 of Conformity Review, but does not address it further in the actual analyses:

“4. Estimate the total emissions of the pollutants of concern from the proposed action and compare the estimates to the *de minimis* threshold of 40 CFR 93.153 (b)(1) and (2) and to the non-attainment or maintenance area’s emissions inventory for each CAP.” (Draft EIS, page 4.4-2)

L2-79
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These calculations and analysis should be performed.

Inclusion of Events Center Trips in Analysis – Although the Event Center trips are included in the operational emissions estimates under the applicable Alternative analyses, they are described in Appendix Q only. The trip rate information should also be included in Tables 4.4-6 and 4.4-11. Otherwise, without digging into Appendix Q, it would seem that the Event Center trips were not included in the analysis.

L2-80

Limiting Air Quality Modeling to Summer Months is Misleading – The URBEMIS air quality modeling conducted for the proposed project was only conducted for the summer months. No analysis is included of the winter month emission estimates, which can be substantially higher than summer months due to localized meteorological conditions (e.g., inversion layers, ground fog conditions) that can trap emissions within the local air basin. Without an analysis of the project’s air quality impacts during winter conditions, the air quality impact conclusions of the Draft EIS are misleading.

L2-81

Low Trip Generation Rates Underestimate Air Quality Impact – The Draft EIS states that the operational air quality impacts were calculated based on the estimated trip generation rates for the proposed project. However, as discussed in detail under the traffic section of this letter, the trip generation rates included in the Draft EIS substantially underestimate the anticipated vehicle trips generated by the proposed project. Therefore, not only are the trips underestimated but the air quality impacts associated with these vehicle trips are underestimated. The vehicle trip emissions need to be recalculated based on corrected vehicle trip estimates, which could potentially change the significance determinations reported in the Draft EIS.

L2-82

Modeling Results Erroneously Reported – Table 4.4-3 of the air quality analysis erroneously reports the modeled construction emissions identified in Appendix Q. As identified in Appendix Q, construction activities in 2009 would generate 245.26 pounds per day of nitrogen oxides NO_x and 242.02 pounds per day of reactive organic gases (ROG). Assuming an average of 22 construction days per month for one year, as identified on page 4.4-3 of the Draft EIS, this would equate to 32.37 tons per year of NO_x and 31.94 tons per year of ROG. However, Table 4.4-3 identifies NO_x and ROG emissions during construction of 7.66 and 3.45 tons per year, respectively. For ROG, the estimates included in Table 4.4-3 are close to ten times less than actually calculated in the air quality modeling. This error needs to be corrected in the Final EIS.

L2-83

Modeling Assumptions Need to be Included as Mitigation – The air quality modeling assumes construction activities will generally be limited to five days per week, based on the assumption of an average of 22 construction days per month. However, no mitigation is included in the Draft EIS that would limit construction to five days per week. If this assumption is accurate, then a Draft EIS should clearly state that no construction activities will occur on weekends. Otherwise, the construction air quality analysis should be revised to accurately reflect the anticipated construction activities.

L2-84

Dust Mitigation Measures Required - Site construction activities can generate significant fugitive dust if not adequately controlled. This is acknowledged in the Draft EIS by the inclusion of dust control measures in the project’s air quality modeling (see Appendix Q). However, inexplicably, no dust control mitigation measures are included in the Air Quality Section of the Draft EIS. Without any construction dust control, fugitive dust emissions can be a nuisance and can cause significant adverse health effects for residents in the local area. Detailed mitigation measures need to be identified in the Final EIS to reduce the severity of the project’s fugitive dust impacts.

L2-85

Appendix Q contains URBEMIS 2002 air quality modeling runs estimating emissions from the various phases of the project. The vast majority of these emissions estimates are for “unmitigated emissions” with very few for “mitigated emissions.” The data from Appendix Q should be placed in a table clearly showing the project’s potential to emit each air contaminant, the quantities in tons per year of each contaminant and the quantities in tons per year for each contaminant after specific mitigation measures are taken. For example the modeling runs often refer to controlling dust from unpaved roads by the application of water twice per day. This should be changed to the application of water to all unpaved areas before any vehicles traverse them and throughout the day to prevent visible emissions of dust.

L2-86

Odor Impact Analysis is Conclusory and Lacking in Factual Substantiation – The analysis of the project’s operational odor impacts is conclusory and without any factual substantiation. No background was given on the site assessment of odors and whether or not consideration was given to prevailing winds, time of day, season or other factors. A more detailed explanation of the odor impact analysis needs to be provided in the Final EIS.

L2-87

Health Risks Associated with Diesel Particulate Matter Ignored – In August 1998, the California Air Resources Board (CARB) identified Diesel Particulate Matter (DPM) as a Toxic Air Contaminant. The California Office of Environmental Health Hazard Assessment, which is a branch of California EPA, established toxicity values for DPM, both as a carcinogen and a non-carcinogen. The emissions of DPM from construction and operations are not addressed in the Draft EIS, but should be evaluated in the Final EIS either through a health risk assessment or an assessment of its significance.

L2-88

Project Will Exacerbate Failure to Attain Ozone Standards – The Amador Air District is a nonattainment area for the federal 8-hour ozone standard and the California 1-hour

L2-89

ozone standard. The proposed project would be responsible for the emission of ozone precursors within the Amador Air District during all phases including initial grading, demolition of existing structures, construction of infrastructure, buildings, access roads and parking areas and for increased motor vehicle traffic that would be attracted to this proposed facility during operation. Any potential ozone precursor that can be attributed to this project that is emitted in a quantity greater than one ton per year would exacerbate the Amador Air District’s failure to attain mandated federal and state ozone standards and push its attainment farther into the future.

L2-89
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Table ES-1, Section 4.4 Air Quality, Subsections AA through AE: in Subsections AA through AE are rated as less than significant for vague reasons using such language as “whenever reasonable and practical.” If the District is nonattainment for ozone and the project will emit many tons of ozone precursors, the project impact is significant. Providing “onsite pedestrian facility enhancements” will do nothing to reduce NOx and ROG emissions from the motor vehicles the pedestrians used to travel to and leave from this facility. The Draft EIS mitigation measures for ozone precursors associated or attributed to this project are inadequate and must be redone in the Final EIS.

If definitive mitigation measures that would substantially reduce emissions of ozone precursors at all stages of this project are not, or cannot be developed by the Tribe for this project, the Tribe should provide funding to Amador Air District to develop alternative strategies and programs that would reduce emissions of ozone precursors throughout the District.

L2-90

Greenhouse Gas (GHG) Analysis Incomplete – For indirect GHG emissions, there are up-to-date average emission factors for CO2, CH4, and N2O from electrical generation that should be used, rather than simply converting to natural gas emission factors (as shown in Appendix Q). These factors can be found in the California Climate Action Registry General Reporting Protocol.

L2-91

In addition, whenever the GHG and climate change impact is discussed for each Alternative, the Draft EIS states that “extensive mitigation measures are included in Section 5.2.4 that are designed to reduce this impact” (Draft EIS, pages 4.4-6, 4.4-11, 4.4-15, 4.4-18, 4.4-20). However, after review of Section 5.2.4, the mitigation measures included seem deficient in addressing GHG emissions. Additional measures should be considered and implemented where feasible. A description of some of these measures, as recommended by the Office of the California Attorney General, are described on the Attorney General’s webpage (http://ag.ca.gov/globalwarming/pdf/GW_mitigation_measures.pdf).

L2-92

Biological Resources

Discussion of Impacts is Vague, Conflicts with Technical Reports, and Lacks Specific Information – Although the biological technical reports attached in the Appendices seem to be well written and substantiated with citations and scientific reasoning, the sections in the EIS at times conflict or lack specific information. The impact discussion fails to

L2-93

substantiate discussions with hard evidence or specific calculations. The impact analysis should be consistent with a project-level analysis and provide acreage calculations of direct and indirect as well as temporary and permanent impacts to sensitive habitats, wetlands and other waters, as well as habitat for special-status species consistent with appropriate protocols and guidelines.

L2-93
cont'd

Justification for Selection of "Affected Environment" – This section does not define the "study area" and why that boundary was chosen for analysis. In addition, throughout the document the author switches from "study area" to "project area" to "project site" without defining these terms or clarifying that they are identical. Generally, it is conventional to use "action area" in an EIS to designate the area subject to the federal authorization and any other area where a federal agency determines there is adequate federal control and responsibility. The action area may be greater than the parcel(s) being developed and would include the total area that may be affected by the proposed action.

L2-94

The author conducted a quad search for the Amador City, California USGS quadrangle and four surrounding quadrangles. The standard nine quad search was not used and the author does not state why the remaining quads were not searched (i.e. Aukum, Ione, Jackson, and Mokulemne Hill) (Page 3.5-11). The Biological Resources Report (Appendix H) states that the full nine quad CNDDDB search was conducted for the project; this is inconsistent with what is stated in the EIS.

L2-95

The methodology section (page 3.5-2 and 3.5-3) is unclear and disorganized. Sec. 1502.24 of CEQ regulations state that the EIS "shall identify any methodologies used and shall make explicit reference by footnote to the scientific and other sources relied upon for conclusions in the statement." It is uncertain what surveys were conducted, when, and by whom. The author should state the type of survey conducted (i.e. the wetland delineation, botanical survey, CRLF survey, VP Branchiopod survey), the dates they were conducted, who conducted the survey, and the methodology used for each survey (i.e. protocols, guidelines). Since the document states that some special-status species can be ruled out since they were not observed during their respective blooming seasons, the author should state what level of survey was conducted and if certain protocols were followed. Were the species not incidentally observed during reconnaissance-level surveys, or did the biologist conduct surveys using defined protocols for special-status plant species? In addition, protocols that were mentioned are not cited. The Biological Resources Report (Appendix H) states the methodology more definitively, but in the EIS it is incoherent and jumbled, calling into question the validity of the methods used.

L2-96

The author does not state what classification system was used to define the habitat types within the study area (Page 3.5-3). Although the Biological Resources Report (Appendix H) states which classification system was used, it should be stated in the section for clarity. In addition, the EIS should state how the areas were delineated. Were they drawn on an aerial photograph and digitized?

L2-97

The names of habitats should be consistent throughout the document. The wetlands and other waters are named differently in Table 3.5-2, Figure 3.5-2 and the descriptions on pages 3.5-10 and 3.5-11. For example, in Figure 3.5-2 there is a label for “Intermittent Ephemeral Drainage,” whereas in the text and in Table 3.5-2 this label is not used and instead “intermittent drainage” and “ephemeral drainage” are used. In addition, the text does not define each feature type. Emergent wetlands referenced in Table 3.5-2 (page 3.5-8) are not defined at all in the text or shown in Figure 3.5-2. Intermittent Roadside Ditch, Intermittent Stream, and Intermittent Ephemeral Drainage are used but not defined. Vernal pools and ponds are lumped under the same heading with no apparent correlation between the two types of features. There needs to be a clear definition of each type of habitat/feature since each has specific habitat characteristics and support different species. This is especially important when considering what special-status species would occur in these habitats. Species that occur in vernal pools may not occur in ponds so there is no justification to lump the two under the same heading.

L2-98

Species Listed on Table But Not in Text – Several species occur in Figure 3.5-3, but are not mentioned in the tables (Table 3.5-3 and 3.5-4) or in the text; these include a cuckoo wasp, pallid bat, and Central Valley drainage hardhead/squawfish. In addition, without scientific names it is difficult to ascertain which species are referenced in the figure. If these species are not mentioned in the text, then there should be a sentence discussing why they are not discussed even though they occur within five miles of the study area. Although there is a brief sentence in the methodology section (page 3.5-11) stating: “Those species considered in the 2005 Biological Resources Assessment that no longer have a state or federal listing and those species without state or federal listing that occur within five miles of the site were eliminated from the assessment,” it would seem there is no purpose to include Figure 3.5-3 since no federal or state-listed species occur within five miles of the study area. This needs to be explained.

L2-99

State and CNPS Listed Species – Under the heading *State and CNPS Listed Species*, the Draft EIS states: “[no state or CNPS listed plant species/one state-listed reptile species/one state-listed bird species] occurs within five miles of the project site.” This is an incorrect interpretation of the CNDDDB data. There is a previously recorded occurrence within five miles of the project site. This species may no longer be present at that location. The author also does not state when this record was recorded with CNDDDB since some may have since been extirpated from the site (Page 3.5-16). This needs to be addressed throughout the document (*i.e.* under the Federally Listed Species heading). Information with specific information on a species habitat and range (*i.e.* vernal pool fairy shrimp habitat Page 3.5-17) needs to be cited. Without citation the validity of the information is called into question.

L2-100

Impacts to Vernal Pool Fairy Shrimp and Vernal Pool Tadpole Shrimp – Although vernal pool fairy shrimp and vernal pool tadpole shrimp were not observed during two wet-season protocol-level surveys, they could still be present in the surrounding habitat and may be adversely affected from indirect impacts (Page 3.5-17 and 3.5-19). The area outside of the study area was not surveyed. Generally, USFWS evaluates the area within

L2-101

250 feet of construction activities to determine if indirect impacts to these species' habitats may occur.

L2-101
cont'd

Discussion of Sensitive Habitats Improperly Omits Vernal Pools – There is no discussion of impacts to vernal pool habitat. Vernal pool habitat is a sensitive resource; impacts to this habitat would be significant. Table 4.5-1 does not separate the impacts to ponds, ditches and vernal pools (page 4.5-2). Vernal pools have the potential to support listed special-status species and an exact calculation of acreages impacted is necessary to determine the significance of the effect. Mitigation measures may be required for impacts to this sensitive habitat.

L2-102

Indirect impacts to vernal pool habitat may occur if construction activities occur within 250 feet of suitable habitat; the discussion fails to mention indirect impacts to this sensitive habitat type that may be located offsite.

Although Table 4.5-1 outlines the acreages of habitat types affected by both options, there is no written discussion on the difference between wastewater disposal options 1 and 2. The table might be more effective if it showed the difference between these two options. It is unclear how each habitat type will be affected, either on a temporary basis during construction or over the operating life of the project. How much of the area will be subject to the construction and operational effects of each wastewater disposal option? How will the increase in water availability affect existing habitats? Further discussion is needed to properly evaluate the significance of impacts to habitat for Alternative A.

L2-103

Waters of the U.S. Fails to Discuss Indirect Impacts – The Draft EIS discusses direct impacts to wetlands and other waters of the U.S. associated with the full build-out of Alternative A, but fails to discuss indirect impacts. In addition, the Draft EIS fails to discuss if and how these features will be permanently, temporarily, directly or indirectly impacted. The Draft EIS states that the “measures identified in Section 5.2.5 would minimize potential impacts to wetlands and waters of the U.S.”; however, the U.S. Army Corps of Engineers requires a “no net loss” of wetlands, so minimizing impacts does not fulfill that agency’s objective. A more extensive discussion on impacts to wetlands and waters of the U.S. is necessary to evaluate the significance of this impact.

L2-104

Special Status Species – The species discussed in the impact section (4.5) were not discussed in previous sections. If a species or any biological resource will be evaluated in an impact section, there needs to be a discussion in the “Affected Environment.”

L2-105

Mitigation measures for impacts to wetlands and other waters would not fully mitigate for impacts to northwestern pond turtle if they are present during construction and operation of the facility (Page 4.5-3). This species occurs in upland habitat as well as in aquatic habitats. If this species is present within aquatic habitat slated for removal within the study area, project action would result in direct mortality.

L2-106

No Northwest Pond Turtle Mitigation Provided – The Draft EIS states on page 4.5-3 that northwestern pond turtle, a California Species of Special Concern, would be adversely

affected by implementation of the proposed project due to the direct removal of wetland features. Although replacement wetlands are proposed to be constructed, no mitigation is provided for the direct physical impacts that could occur to this sensitive species. The Final EIS needs to include detailed mitigation measures for the project's impacts on northwestern pond turtles.

L2-106
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No Valley Elderberry Longhorn Beetle Mitigation Provided – The Draft EIS states that the Valley Elderberry Longhorn Beetle has the potential to occur on the project site due to the presence of elderberry plants on the site. The document then concludes that no exit holes were identified within the bark of the elderberry shrubs and, therefore, this species does not occur on the project site. However, although the presence of exit holes within elderberry stems generally indicates presence of this species at some time, the absence of exit holes does not preclude their presence. In addition, this conclusion conflicts with the conclusion of the April 2005 Biological Resources Assessment included as Appendix H to the Draft EIS. This Biological Resources Assessment concludes that the proposed project may result in indirect and/or direct impacts to the federally threatened Valley Elderberry Longhorn Beetle. The Biological Resources Assessment further identifies mitigation measures for the project's impacts on this species that include consultation with the USFWS prior to any construction activities within 100 feet of elderberry shrubs and compliance with the July 1999 Conservation Guidelines for Valley Elderberry Longhorn Beetle. The Final EIS needs to explain why the mitigation measures included in the Biological Resources Assessment were ignored in the biological discussion in the Draft EIS. In addition, the Final EIS needs to adopt appropriate mitigation measures for the project's impacts on this species.

L2-107

Mitigation for California Red Legged Frog Must Be Developed – In the Biological Resources Report (Appendix H), Figure 7 shows the Cosumnes River California Red Legged Frog (CRLF) Core Recovery Area as occurring within the project site (page 3.5-21). This evidence as well as historic records of CRLF occurrence in the study area are strong indicators that this species may occur in the study area. Although the presence of bullfrogs, a predator of CRLF (Hayes and Jennings 1986) may indicate that CRLF is not present, that factor is not in itself sufficient to eliminate the possibility that CRLF is present. Kiesecker *et al.* (2001) indicate that, although bullfrogs may displace CRLF, bullfrog effects on CRLF populations are dependent on food resource distribution, and these species may co-inhabit within an area. In addition, Padgett-Flohr and Jennings (2002) have argued that the USFWS 1997 protocols for CRLF frequently result in false negatives. Although protocol-level surveys for CRLF produced negative results, surveys were not conducted in the surrounding habitat which has the potential to support this species. Removal of suitable habitat for CRLF within the study area may significantly affect this federally listed species. The project has the potential to indirectly impact the Cosumnes River CRLF Core Recovery Area since the study area includes and is adjacent to this sensitive area. Consultation with USFWS is required and additional mitigation measures may be required.

L2-108

Effects to Listed Species in Surrounding Areas Must Be Addressed – In accordance with Section 7 of the Endangered Species Act, a responsible agency must prepare a biological

L2-109

assessment (BA) whenever a project has the potential to adversely affect a listed species. Suitable habitat is present in and possibly surrounding the study area for vernal pool branchiopods, VELB, California tiger salamander, and CRLF. These species could be directly or indirectly affected by project run-off, noise, lighting, introduction of predators, changes to hydrology, and other factors. Although the Draft EIS states that these species are not present in the study area, they may occur in the surrounding area. Per NEPA and 30 BIAM Supplement 1, an impact that is uncertain but potentially significant should be considered significant for the purpose of the EIS (*i.e.*, it cannot be shown to be less than significant).

L2-109
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Migratory Birds – The discussion does not detail how migratory bird species may be impacted by the proposed action to substantiate the “moderate adverse effects” determination (page 4.5-4 and 4.5-5). It also does not state how the mitigation measures listed in Section 5.2.5 would reduce these impacts.

L2-110

Oak Tree Mitigation Inappropriately Revised – The April 2005 Biological Resources Assessment included as Appendix H to the Draft EIS identifies specific mitigation for the loss of oak trees. As stated on page 30 of this report, if an oak tree is removed, it shall be replaced at a ratio of 5:1 (5 oak trees replanted for every single oak tree removed). The success of the plantings shall be monitored for ten years by a qualified biologist with any failed oak tree plantings being replaced. However, the oak tree mitigation requirements have been substantially diminished in the biological section of the Draft EIS. The mitigation ratio has been reduced to between 2:1 and 3:1, depending upon the size of the tree removed, and monitoring would only occur for seven years. This “watering down” of oak tree mitigation measures is inappropriate and the measures identified in the Draft EIS do not appropriately address the severity of the project’s impacts on oak woodlands.

L2-111

Riparian Woodland Mitigation Inappropriately Revised – The April 2005 Biological Resources Assessment included as Appendix H to the Draft EIS identifies specific mitigation for the loss of riparian woodland habitat. As stated on page 30 of this report, riparian woodland habitat shall be restored and revegetated with appropriate species at a ratio of 5:1 following construction activities. The success of the revegetation shall be monitored for ten years. However, these riparian woodland mitigation requirements have been substantially diminished in the biological section of the Draft EIS. The mitigation ratio has been reduced to 1:1 and the monitoring would only occur for five years. Replacing riparian woodlands at a 1:1 ratio would guarantee a net reduction in habitat values over time due the expectation of less than 100 percent planting success over a five year period. This “watering down” of riparian woodland mitigation measures is inappropriate and the measures identified in the Draft EIS do not adequately address the severity of the project’s impacts on riparian woodlands.

L2-112

Inappropriate Deferral of California Tiger Salamander Mitigation – The Draft EIS states on page 4.5-4 that potential habitat for California tiger salamander occurs within the project site and that mitigation identified for this species would minimize any effects. However, no detailed mitigation is provided for this species. The mitigation discussion on page 5-11 of the Draft EIS states that if the U.S. Fish and Wildlife Service determines

L2-113

that potential habitat existing on the site, measures recommended by USFWS, including conducting protocol level surveys, shall be adhered to. The Draft EIS erroneously concludes that this impact is mitigated when no actual mitigation has been identified. Without identifying a specific mitigation proposal, the feasibility or effectiveness of some future mitigation measures can not be determined. A detailed mitigation plan for California tiger salamander needs to be included in the Final EIS.

L2-113
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Wetland Mitigation Ratio is Inconsistent with USFWS Policy – The mitigation for the loss of wetland resources includes either creating or restoring wetlands at a ratio of 1:1. However, the USFWS typically requires creation and/or replacement ratios of 3:1 to account for the fact that it is difficult to replace the habitat values of naturally occurring wetlands through the creation of new artificial wetlands. The wetland mitigation measures in the Final EIS should include creation and/or replacement of wetlands at a 3:1 ratio, consistent with USFWS policy.

L2-114

Inadequate Discussion of Alternatives B, C and D – The discussion of the inadequacies of the EIS under the Alternative A heading above apply to Alternative B analysis in the EIS for habitats, wetlands and other waters, and special-status species. The discussion of the impacts of Alternative B is inadequate to determine significance level.

The special-status species impact discussion for Alternative B is minimal. The EIS states that the impacts are similar to the impacts in Alternative A, but does not go into further detail. The discussion is inadequate to determine the significance of the impacts of Alternative B to special-status species. The EIS states that the “mitigation measures provided in Section 5.2.5 would minimize impacts to VELB habitat” (page 4.5-6). There is no discussion of elderberry shrubs within Section 5.2.5.

L2-115

The discussion of the inadequacies of the EIS under the Alternative A heading above apply to Alternative C analysis in the EIS for habitats, wetlands and other waters, and special-status species. The discussion of the impacts of Alternative C is inadequate to determine significance level.

The footnote (1) in Table 4.5-6 does not reference anything in the table (page 4.5-8).

The discussion of the inadequacies of the EIS under the Alternative A heading above apply to Alternative D analysis in the EIS for habitats, wetlands and other waters, and special-status species. The discussion of the impacts of Alternative D is inadequate to determine significance level.

Cumulative Effects – The greenhouse gas emissions table (Table 4.11-5) is in the middle of the Biological Resources Section.

L2-116

Although the federally listed riparian brush rabbit is mentioned as occurring within habitats found in Amador County and in the study area, this species was not discussed previously in sections 3.5 or 4.5 (page 4.11-11).

L2-117

The discussion of cumulative impacts is the same for all of the alternatives. Given this, there would seem to be no difference between the alternatives. If there is no difference, this should be stated in the EIS.

L2-118

Since the impact discussion for each of the alternatives (Section 4.5) is inadequate to accurately assess whether the project will have significant effects on biological resources, the cumulative impact discussion, which is based on this analysis, is also inadequate. The mitigation measures listed in Section 5.2.5 would not reduce significant effects to biological resources, and therefore the effects would contribute to the cumulative effects of development throughout Amador County. In addition, the cumulative impact discussion is scattered and incoherent, jumping from one subject to the next without a clear connection between thoughts.

L2-119

Mitigation Measures for Biological Resources – There are no mitigation measures for special-status species other than CTS. Although section 4.5 states there are mitigation measures to potential impacts to VELB habitat, none are present in section 5.2.5. Although other special-status species were determined to be unlikely to occur within the project site, suitable habitat is present within the study area and these species may migrate to the site any time before construction activities begin. Pre-construction surveys are recommended to prevent incidental take of federally listed species.

L2-120

Traffic-related impact is located under the Biological Resources Heading (Mitigation Measure O – Off-site Roadway Improvements).

L2-121

Cultural Resources

New Information on Prehistory of the Region Is Not Incorporated – The prehistoric setting (Section 3.6.2, page 3.6-2) for the cultural resources section fails to incorporate the findings of the East Sonora Bypass Project (Rosenthal 2006) in its description of the chronology for the Sierra Nevada Foothills. The East Sonora Bypass Project developed an entirely new chronology focusing on a synthesis of local data from more than 100 excavated sites. This new data illuminated five major time periods differentiated by changes in subsistence, land use and technology — Early Archaic, Middle Archaic, Late Archaic, Recent Prehistoric I, and Recent Prehistoric II. This study should be incorporated into the current setting section to reflect the most up to date information on the prehistory of the region.

L2-122

No Paleontological Baseline – Section 3.6 does not include a discussion of a paleontological baseline setting, although section 4.6 refers to impacts to paleontological resources.

L2-123

Cultural Resource Conclusions Not Appropriately Supported – The Draft EIS states that two cultural resource surveys have been conducted on the project site and references Appendix K for the latest survey conducted by ECORP in June 2004. However, no such survey is included in Appendix K and no maps are provided in the document identifying the area of potential effect (APE) that was presumably surveyed. Without additional

L2-124

documentation, it can not be determined whether the entire site was actually surveyed. The County should be provided with a copy of Appendix K in order to verify that all potential areas of disturbance have been appropriately surveyed for sensitive cultural resources.

L2-124
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Native American Consultation Required – The Draft EIS states on page 3.6-13 that letters detailing the proposed project were mailed to applicable Native American contacts and that information received from Native Americans concerning the project are included in Appendix K. As stated above, Appendix K is not included in the Draft EIS. Therefore, it could not be determined whether the Tribe consulted with the “Historic Ione Band of Miwok Indians” (who are not a part of the BIA-recognized Ione Band of Miwok Indians) or the Buena Vista Rancheria of Me-Wuk Indians regarding sensitive cultural resources on or near the project site. These groups have extensive knowledge of this area and are required to be consulted.

L2-125

Cultural Resource Analysis Does Not Consider Off-Reservation Impacts – The analysis of cultural resources is limited to the impacts associated with onsite construction activities. However, as described in the traffic comments above, substantial roadway improvements are necessary to reduce the project’s significant traffic impacts. Therefore, a detailed assessment of the potential cultural resource impacts associated with all of the anticipated roadway and intersection improvements needs to be included in the Final EIS.

L2-126

References throughout the section should be reviewed for accuracy and stylistic consistency. For example, references include either (Author Date: Page), (Author Date), or (Author, Date). As another example, the reference to food taboos on page 3.6-5, cited as Levy 1978:402, is actually found on page 403.

L2-127

The sentence on page 3.6-7 which ends “...granting Sutter a 48,000-acre tract of land known as the New Helvetia Land Grant, the present-day site of Sutter’s Fort” should instead read “...New Helvetia Land Grant, which includes the present-day City of Sacramento and the site of Sutter’s Fort.”

L2-128

The discussion of Cumulative Effects for Alternative C on page 4.11-48 refers to impacts expected from Alternative B.

L2-129

The discussion of Cumulative Effects for Alternative D on page 4.11-61 refers to impacts expected from Alternative B.

Socioeconomic Characteristics of the Ione Bank of Miwok Indians

More Information is Needed on the Ione Band of Miwok Indians and its Members – The Draft EIS identifies the Tribe by number of members, age distribution, employment status and income level. More information should be included on current and recent (past five years) employment status, the skill sets and educational status of employable members, and the work history of all adult members. For adult members receiving social assistance, the type of assistance, agency providing the assistance, and the location where

L2-130

that assistance is provided should be included. Such information is needed to determine if the proposed casino project or the alternatives can effectively provide the Tribe with a reliable long-term source of employment as well as revenue.

L2-130
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The statement on pg. 3.7-1, "Tribal members of age are employed by local businesses" needs further detail (i.e., how many members, employed in what capacity for how many years, what type of businesses, and the location of these businesses).

L2-131

Most importantly, no information is provided in the Draft EIS on the tribal population's current residence. Information on tribal member place of residence is necessary to better substantiate both inter-relationship of tribal members with the local community and also evaluate the proportion of tribal members that might be employed by the proposed project.

L2-132

In addition, the actual number of unemployed members should be provided instead of the percentage data to clarify the size of these key population groups. This information is necessary since *at most* only 266 of the total tribal enrollment are old enough to be potentially in the local labor force (not including the elder and retired tribal members). Similarly, tribal population data for the number and percentage of tribal members below the poverty level standards used in the Draft EIS would be more informative for comparative purposes in the subsequent environmental justice section and to establish the project's likely future performance in meeting the project's identified central purpose and need objectives.

L2-133

Throughout the document, the analysis should more clearly determine and state the actual "current year" that monetary values are being expressed in.

L2-134

Effects of Project on Tribal Members Are Not Adequately Identified – The Draft EIS should provide more quantified information on the nature and magnitude of the socioeconomic benefits that the proposed project is expected to generate. The amount and nature of the purported benefits are important for determining and comparing the extent to which the different project alternatives may succeed in meeting the project's purpose and need. In addition, there should be an analysis evaluating the specific future employment, income and other community development effects (including the cultural benefits) on Tribal members. As discussed earlier, the current place of residence by Tribal members may be a determinant of the likelihood of their being employed by the casino enterprise, as well as the extent to which income benefits would be positive to Amador County in general. Without such detailed analysis, it is not possible for reviewers to determine the extent that a reduced casino development or other development configurations might adequately satisfy the Tribe's economic development needs.

L2-135

Socio-Economic Profile of Surrounding Community Residents Should Be Included – The Draft EIS includes information on the number of Tribal members by age, by adult employment, by income distribution and by low-income characteristics. This information is not included for the surrounding communities of Amador County and west Sacramento

L2-136

County (if those are in fact the communities of residence of Tribal members, which is not made clear). The Final EIS should include those in order to allow for a comparability analysis, which should also be included in the Final EIS.

L2-136
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Socio-Economic Profiles Should Use the Same Breakdown – The Draft EIS estimates that about 95.5% of tribal members are categorized as “low-income” (Section 3.7.1); however, according to Table 3.7-1, 53% of adult tribal members have annual incomes under \$25,000 while 35% have incomes between \$25,000 and \$50,000. This means that the Draft EIS is using \$50,000 annual income as the benchmark for “low-income” for tribal members. In contrast, the low-income definition used in the Environmental Justice section is \$18,849 for a two parent household with two children. The EIS should use the same standard for low-income for tribal members as used for residents in the surrounding community, in order to compare the Tribe’s economic status with that of the surrounding community.

L2-137

Socioeconomic Characteristics of the Amador County Region – In general, this section does not clearly establish the affected environment or populations potentially subject to the effects of the proposed action. Consequently, it is difficult to determine the appropriate scale of analysis at which to evaluate the nature and significance of the socio-economic impacts. This is important due to the distributive nature of many economic impacts, *i.e.*, as the economic benefits or effects may be transferred from one community or county to another. For example, spending shifts that at a small community level might have more appreciable socio-economic effects (increased demand on local labor force) may be very different when evaluated at a regional level when the transfers of the jobs simply occur within the economy and may not be discernible.

L2-138

Additional information (either descriptive or with reference maps) should be provided to give more context for readers to understand the geographical relationship of the identified communities to the proposed project site. Without this information, it is not possible for readers to readily evaluate the reasonableness of socioeconomic analysis assertions that most of the purported project-related economic benefits (*e.g.* local employment and spending) will not result in leakage out of Amador County to non-county residents and businesses.

While the socioeconomic analysis provides (albeit brief) evaluation of the tribal social character, there is no corresponding discussion or recognition of the local community’s social identity. Phase 1 of Alternative A is projected to add an average of 9,300 visitors and hundreds of additional employees, which would outnumber the Plymouth residential population by more than 20 to 1. The likely effect of this visitor population growth to the small rural community may be expected to have potential social effects to the local community’s character and culture. This potential impact of urbanizing the rural character of the region’s social environment should at least be qualitatively considered and addressed by the analysis.

L2-139

Cumulative Socioeconomic Impact Is Not Adequately Evaluated – The Draft EIS socioeconomic impact analysis acknowledges the potential role that substitution effects

L2-140

may have in reducing the project's socioeconomic benefits. The issue is discussed in the Economic Impact Analysis ("EIA") by GVA Marquette Advisors, which focuses on the project's net socioeconomic impacts. The analysis has also incorporated a 10% adjustment to most of the estimated sales and jobs benefits expected to be acquired by the project from existing County businesses (presumably targeting the existing Jackson Rancheria Casino).

L2-140
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This adjustment may in fact be too low. If the regional casino market is relatively saturated, then the new casino would either fail to achieve its expected economic benefits or might simply "cannibalize" sales from the Jackson Rancheria Casino. In either case, the net effect to Amador County would be the same – the proposed project's economic benefits to the County's economy would be greatly reduced. Furthermore, the expected additional Shingle Springs Casino and Buena Vista Casino developments in the local area would result in additional negative substitution effects.

Consequently, for reviewers to adequately determine the likelihood that the project would actually realize its project socioeconomic benefits, additional detailed analysis and information should be performed on adequacy of the regional casino market demand, evaluation of the current Jackson Rancheria Casino performance, and ability of the Amador County economy to provide the employment, services and goods necessary to support these businesses.

L2-141

Employment

Construction Earnings Are Not Documented – The origin of the stated project's construction cost estimates and related employment and material estimates are unidentified either in the Draft EIS or accompanying EIA. Consequently, it is difficult to assess the reasonableness of the direct construction spending impact to the Amador County economy projected in the Draft EIS. The EIA asserts a \$30,000 per year annual construction job earning for the unburdened construction wage. The analysis states that this is a conservative assumption since it does not include wage-benefits; however, it might conversely be asserted that underestimating the actual construction labor cost (if the total labor cost estimated is correct) would overstate the associated employment benefits.

L2-142

Operations Employment Figures Lack Substantiation – A similar "top-down" approach appears to have been used to determine the operations employment figures. There is a conspicuous absence of information and discussion of the project's expected future total revenues and the associated assumptions of the project's financial implications to the Tribe and its members, despite the fact that tribal economic development is the primary project objective. While some of this information is available from the EIA, its absence in the Draft EIS weakens the ability to discern the appropriateness of the economic projections and extent that the project would meet its stated economic development objectives for the Tribe.

L2-143

While the average casino worker wage of \$23,837 is stated by the Draft EIS (though the specific year of the dollar terms is unstated), there is no information in the EIA to evaluate the extent that this wage would be suitably attractive to local residents and out of County workers. The Phase I analysis for Alternative A estimates that 60% of the employment (763 jobs) would be filled by Amador County residents, which if compared with unemployment estimates in Table 3.7.4, would mean 0 percent unemployment levels for the County. While there is some ability for new job opportunities to attract retired workers, typical healthy economies will have some limited unemployment from workers in transition. However, economies with insufficient labor forces may be expected to add growth pressure. Even if local workers “trade up” to better jobs at the casino as the report suggests, the vacated jobs may still be needed (it is questionable that these jobs would naturally disappear, as the analysis suggests), in which case the growth pressure would remain.

L2-144

The EIA asserts that 60% of the casino work force will be Amador County residents. Additional justification for the reasonableness of this assumption should be provided (e.g. comparable data for Jackson Rancheria Casino employees), especially given that many of the proposed alternatives appear to absorb all of Amador County’s unemployed labor force. While increased employment opportunities are usually beneficial project effects, the magnitude of the benefits will depend on both the quality of the employment (i.e. wages rates) and the ability of the County to satisfy the increased job demand with its own residents. Otherwise, if most workers commute into the County they will take most of their earnings out of the local economy to be spent elsewhere. Consequently, the extent to which project jobs are retained by County residents will be key in determining what local direct and secondary¹⁰ economic benefits Amador County will gain from the project.

L2-145

Employment Information is Outdated – The California Economic Development Department (EDD) provides relatively recent updates of employment estimates – as of the date of this review, data are available through the month of May 2008. More recent unemployment data should also be provided. More recent employment data would better show the likelihood that the future local labor force would be able to satisfy the project’s employment needs.

The section should also provide additional data on Amador County income and employment by economic sector (e.g. such as the IMPLAN data presumably used to determine the indirect and induced spending effects to the county) and for the major employers identified in Table 3.7-5. This data would better enable readers to evaluate both: (1) potential magnitude of the purported economic benefits to the County’s economy; and (2) the ability of the County’s economy to provide the necessary casino support industries to absorb project potential local spending. For example, among the top ten employers in the County, only the two retail businesses (Wal-Mart and K Mart) might reasonably be expected to offer any likelihood of capturing casino-related spending benefits – and even then it is likely to be primarily from the indirect and induced effects of their employees’ local spending.

L2-146

¹⁰ i.e. Indirect and induced economic income effects.

The EIA analysis of goods and services spending benefits focuses on Statewide economic benefits. The analysis focus should be on the economic effects to Amador County – supply and service contracts to non-Amador County businesses would have minimal economic benefits to Amador County and its communities and businesses, which are the primary affected populations. Additional information should be provided to substantiate the analysis’s assertion that locational and market advantages will ensure that purchases would be primarily from existing vendors in Amador County and surrounding counties. Information would include evidence from Jackson Rancheria Casino operations in the nature of identification of service and supply distributors that would be able to meet the casino needs.

L2-147

Housing

Housing Data and Inferences Drawn Therefrom are Inadequate – Discussion of the existing housing stock is based upon information from 2004. This information is so outdated as to be useless for the purpose of impact analysis and development of mitigation. The information must be updated and the analysis performed on legally sufficient data.

L2-148

Substantial Increased Demand for Affordable Housing – The full buildout of the proposed project will significantly increase the demand for affordable housing. Based on the substantial increases in transportation costs over the last year, employees are more likely to locate closer to the facility than they may have in the past, resulting in a high concentration of employees locating within the County. Based on the low wage scale that would be paid to the majority of the casino workers and the high number of employees that will locate within the County, the increased employment associated with the proposed project would clearly have an adverse impact on the County’s affordable housing supply. The Bureau of Indian Affairs needs to identify feasible measures to ensure that local residents are not adversely affected by a substantial constriction in housing availability. These measures may include the construction of infill projects for multi-family employee housing within local communities and increased public transportation opportunities.

L2-149

Inadequacy of Housing Analysis and Mitigation Measure – On the basis of out of date information on housing demand and availability (at least 4 years old), the Draft EIS concludes in Section 4.7 that “Due to the existing labor base in surrounding communities, the number of available vacant units, the limited amount of new construction expected, and that new housing is expected to be located over a wide geographic area, the potential effects to housing are expected to be less than significant.” This conclusion is flawed and unsupported. In assessing housing impacts, the EIS needs to account for the 1) physical adequacy of the vacant units (old, lacking in required facilities, or in disrepair), especially since many of the housing units in Amador County are quite old; and 2) rental cost or sales price of the available units and their affordability to casino employees.

L2-150

On page 5-13 of the Draft EIS, it says “The Tribe will develop and implemen[t]... a housing program to address the availability of affordable housing within Amador County.” What does this do? There is no measure of success for whatever is intended. The measure is so vague that it is impossible to judge its efficacy. The Draft EIS must set forth with specificity ways in which it intends to address affordable housing needs caused by implementation of the project.

L2-151

Schools

General Comments – The base information used in sections 3.7, 4.7 and 5.2.7 is four years old. The financial situation of Amador County Unified School District (“ACUSD”) and the five year projections quoted from 2004 have changed dramatically in the past four years. Therefore, the impacts on Amador County schools must be determined based on current information, not on the condition of the schools four years ago.

L2-152

Most of the information cited in the Draft EIS was based on quotes from then Superintendent of Schools Michael Carey. Doctor Carey is no longer the Superintendent of schools. The EIS should reflect the current status of the schools and the observations of the current Superintendent of Schools, Richard Glock.

Projected school enrollment and five year facilities plan – The Draft EIS on page 3.7-5 states that ACUSD’s 2004 five year facilities master plan projected that enrollment would steadily grow to the year 2009. This has not been the case. In fact, enrollment has declined steadily since 2004. As a result ACUSD has altered the five year facilities plan, and construction of new facilities has been reduced or canceled at many school sites. The enrollment projections and facilities plans must be updated.

L2-153

The Draft EIS on page 3.7-6 indicates that a new elementary school, junior high school, and high school would all be built in the Sutter Creek area. Due to stagnation in student enrollment, none of these facilities have been built or will be built in the near future.

Due to the change in enrollment patterns, Table 3.7-6 is now very outdated and inaccurate. This table needs to be updated to current information.

Financing of school facilities – The first paragraph of page 3.7-7 indicates that the schools have a surplus of \$8.1 million for facilities expansion. This is not correct. Even if the schools had the indicated facilities expansion funds, those funds would be inadequate to build sufficient facilities for the 410 new students that the Draft EIS projects (page 4.7-7).

L2-154

Developer/school impact fees – The Draft EIS states that school impact fees are \$0.34 per square foot of building for commercial-industrial developments. This is incorrect. The current developer/school impact fee is \$0.47 per square foot. As a result, all of the calculations used in the EIS for the proposed impact mitigations are based on an incorrect charge per square foot.

L2-155

The proposed impact mitigations are based on the assumption that developer/school impact fees combined with the State match are sufficient to mitigate a project's impacts on school facilities. The assumption in Senate Bill 50, passed in 1999, was the expectation that these fees, when matched equally with State contributions, would cover the costs for new school construction. Instead of that 50-50 formula, the reality is more a 40-40-20 share of the costs, with the schools having to cover the 20% (through local bond measures, etc.).

L2-156

The project proposes to provide a maximum of \$107,610 (section 5.2.7, page 5-14) in impact fees. Assuming a State match, this amount provides a one-time payment of \$215,220.00 to ACUSD. This amount is totally inadequate to provide additional classroom space for the anticipated 410 additional students. That many new students will need at least 17 new classrooms. The funds provided do not even begin to cover the funds needed.

Loss of current tax revenue – The Draft EIS indicates that tax revenue to the schools on the property where the casino is planned is \$18,818.00 per year (section 3.7, page 3.7-7). Again, the figures are out of date. The current figure is \$35,642.56. There is no mitigation proposed for the loss of that ongoing revenue.

L2-157

School facilities already at or over capacity – The closest elementary school to the casino project is Plymouth Elementary. Table 3.7-6 indicates that this school potentially has an excess of two classrooms for current enrollment needs. The next two closest elementary schools are Ione and Sutter Creek, both of which are at or over capacity. As a result the three closest elementary schools potentially have two classrooms to handle an estimated 220 new elementary level students.

L2-158

It is clear that the impact of 410 new students will require substantial facilities construction that cannot begin to be accomplished with a maximum potential of \$212,220.00 in mitigation support.

L2-159

Libraries and Parks

Inadequate Assessment of Impacts to Libraries and Parks – Other than a vague reference in Section 4.7 of the Draft EIS to the fact that “Effects to area libraries and parks could occur if the employees or patrons of Alternative [A] significantly increase the demand of these resources,” there is no discussion or analysis of the impacts to libraries and parks. As discussed elsewhere, the likelihood of lower-paid employees seeking to relocate to live in close proximity to their place of employment due to increased commute costs will increase the potential demand for these services beyond what is vaguely referenced in the Draft EIS.

L2-160

The primary impact to the library would be the effect on the Plymouth branch. An increase in population would also increase the number of persons utilizing library services. This would mean adding hours to the branch to accommodate more people, which in turn would require additional staff. A new facility would also need to be

L2-161

considered to better serve the influx of people and the need for services and programming. Currently the Plymouth branch has the highest circulation and patron visits of all Amador County branch libraries, with 4,437 items checked out and 3,317 visits during Fiscal Year 2007-08.

L2-161
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The Draft EIS should assess the impact of the project on adjacent open space and parks, including increased utilization due to proximity to the project, need for increased maintenance (litter, traffic, etc.), and impacts on any wildlife residing in the open space areas.

L2-162

In Section 4.7, the Draft EIS states the “With the incorporation of mitigation [the effect to libraries and parks] is considered a less-than-significant mitigation.” However, no mitigation is proposed in the Draft EIS. The Draft EIS should develop mitigation measures for parks and libraries after a thorough analysis of need, or explain why no mitigation is necessary.

L2-163

Problem and Pathological Gambling

Problem and Pathological Gaming Impacts Dismissed – The Draft EIS includes a brief discussion of problem gambling issues associated with casino operations commencing on page 4.7-8, concluding on page 4.7-9 that proposed Alternative A, the largest scale casino, “is not expected to substantially increase the prevalence of problem gamblers.” This conclusion is based upon a National Gambling Impact Study Commission study dated 1999. No attempt was made to quantify the impacts of problem or pathological gambling on Amador County’s population or its social service network.

Contrary to the Draft EIS’s offhand dismissal of impacts from problem gambling, numerous studies have been conducted that show a correlation between casinos in a community and an increase in the number of persons suffering from problem and pathological gambling. Some of these include “Gambling Participation in the U.S. - Results from a National Survey” by John Welte, Ph. D. in the Journal of Gambling Studies (Winter 2002); “The Relationship of Ecological and Geographic Factors to Gambling Behavior and Pathology” by Welte, et al. in the Journal of Gambling Studies (Winter 2004); and “A Review of Research on Aspects of Problem Gambling”, a study published in October 2004 for the Responsibility in Gambling Trust (RIGT). Dr. Welte’s 2002 study showed that the prevalence of problem gambling declined significantly as socioeconomic status increased. His study also revealed that minorities were more likely to be problem gamblers. Dr. Welte’s 2004 study examined the effect of community disadvantages and gambling availability on gambling participation and pathology. The significant finding of this study is that the presence of a casino within ten miles of a respondent’s home was positively related to problem and pathological gambling. Specifically, respondents to the survey who lived within ten miles of a casino had double the rate of problem and pathological gambling compared to those who did not (7.2 percent and 3.1 percent, respectively).

L2-164

While these studies do not conclusively arrive at a definitive link between problem and pathological gambling and casinos, they do imply evidence of a strong connection between the two. The following conclusions are directly from the NGISC report:

- As the opportunities for gambling become more commonplace, it appears likely that the number of people who will develop gambling problems also will increase.
- Casino gambling is more habitual than other forms of gambling.
- As with other addictive disorders, those who suffer from problem or pathological gambling engage in behavior that is destructive to themselves, their families, their work, and even their communities. This includes depression, abuse, divorce, homelessness, and suicide.
- The Commission is unanimous in its belief that the incidence of problem and pathological gambling is of sufficient severity to warrant immediate and enhanced attention on the part of public officials and others in the private and non-private sectors. The Commission strongly urges those in positions of responsibility to more aggressively to reduce the occurrence of this malady in the general population and to alleviate the suffering of those afflicted.

L2-164
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The 2004 study conducted by the RIGT found "... it can be anticipated that legislation and policies that significantly enhance access to electronic gaming machines, casino table games and other continuous gambling forms will generate increases in problem gambling and related follow-on costs to families and communities. Risk profiles are also likely to change, with disproportionate increases among women and some other population sectors including ethnic and new migrant minorities. Problem gambling may also move 'up market', becoming somewhat more evenly distributed throughout socioeconomic strata and age groups."

While the NORC found that pathological gambling occurs less frequently among persons over age 65, a January 19, 2005 article in USA Today reported that nearly 11 percent of a study's participating senior citizens fit the researchers' criteria of "at-risk" gamblers (*i.e.*, persons who placed more than \$100 on a bet, gambled more than they could afford to lose, or both).

Problem and pathological gambling can result in direct social costs that increase the demands on County health and social services. The California Office of Problem Gambling has specifically identified the increased demands on social services associated with problem gambling in the 2006 California Problem Gambling Prevalence Survey. These social costs include increased domestic violence, child abuse and neglect, alcohol and drug abuse, and other criminal activity. A detailed analysis of the significant social and public health costs associated with this problem needs to be provided in the Final EIS.

L2-165

Proposed Mitigation Strategies on Social Costs of Gambling Not Sufficient – The mitigations proposed in the Draft EIS are extremely limited in scope and insufficient to deal with increases in problem gambling. The proposed contribution of \$10,000 annually would provide approximately 200 therapist hours, compared with the Tribe’s estimates of 3,400,000 patron visits per year. Mitigations should be identified that meaningfully address problem gambling issues and also include prevention programs to stop people from becoming problem and pathological gamblers.

L2-166

The Draft EIS analysis dismisses the potential for any increase in social effects from the project based solely on the existing presence of other gambling opportunities (scratch lottery cards, lotto and the existing Jackson Rancheria Casino). The basis for this judgment is completely unsubstantiated. It is by no means obvious that more than a doubling of the local gambling facilities would not result in any marginal increase in social effects. Information on the current social impacts of the existing local casino (or other comparable facilities) would be a likely possible source of information to more adequately address the issue.

Raising public awareness of the risks of excessive gambling, expanding services for problem gamblers and strengthening regulatory, industry and public health harm reduction measures can counteract some adverse effects from increased availability, according to the authors of *A Review of Research on Aspects of Problem Gambling, Final Report*, Auckland University of Technology, Gambling Research Centre, prepared for Responsibility in Gambling Trust, October 2004.

L2-167

From a public health perspective, individuals who experience gambling-related difficulties, but would not meet a psychiatric diagnosis for pathological gambling are of as much concern as pathological gamblers because they represent a much larger proportion of the population. There is a possibility that their gambling-related difficulties may become more severe over time and there is also the likelihood that their gambling can be more easily influenced by changes in social attitudes and public awareness.

A problem and pathological gambling prevention program should include a public-health education community outreach program with staff and outreach programs. One model to follow in creating the program is the anti-smoking prevention program.

Crime

Description of Security Services is Insufficient to Indicate a Reduction in Crime – The Draft EIS states that prior to Phase 1 (Alternative A) security personnel will provide surveillance, but does not identify the method or manner in which surveillance will be done. The Draft EIS fails to state if any surveillance notes, reports or video will be retained. The Draft EIS states that casino security would patrol the facility to reduce criminal and civil incidents, but does not identify how many will be patrolling, what patrol shifts will be utilized, what patrolling methods will be utilized, or how this patrol will reduce crime.

L2-168

The Draft EIS states that prior to Phase 2 (Alternative A) the Tribe will expand the number of security personnel and will ensure adequate security for large events. The Tribe does not identify the actual increased numbers, what their assignment will be, how they will be deployed or how that correlates to increased safety or reduced crime. The Draft EIS states adequate security will be provided, but does not identify what is adequate.

L2-168
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Crime Would Substantially Increase with the Proposed Gaming Activities – The Draft EIS asserts on page 4.7-10 that the introduction of a large-scale casino development would increase crime commensurate with any other similarly sized development. However, no factual documentation is provided to support this assertion and it is inconsistent with the experiences of the Amador County Sheriff’s Department, the Amador County District Attorney’s Office (“ACDA”), and other law enforcement agencies throughout the State that have casinos in their communities.

The ACDA recently undertook the task of identifying the actual number of filed criminal cases directly associated with the existing Jackson Rancheria Casino, which involved a manual review of every 2007 criminal case submitted to ACDA. ACDA also obtained data from the Amador County Superior Court pertaining to the total number of criminal cases filed with the court in 2007. The 2007 case review revealed that 455 felony cases and 1,299 misdemeanor cases were filed for a total of 1,754 criminal cases. Of the total 1,754 cases filed in 2007, at least 268 cases are directly associated with the Jackson Rancheria Casino, representing 15.3% of the total 2007 ACDA caseload. The 2007 data also showed a 100% increase over the Jackson Rancheria Casino-related crime data used in the Draft EIS.

L2-169

An extensive case review by ACDA disclosed the number of onsite criminal cases generated by the Jackson Rancheria Casino during 2007. However, an accurate determination of offsite casino cases is more difficult to identify because of a lack of reliable data sources. As a result, any 2007 case that did not explicitly mention “casino” in the police report was not included in the total, even though other facts indicated a probable connection to the casino. Thus, it is reasonable to expect that the total number of 2007 casino related cases is greater than the 268 identified because not every law enforcement agency properly identifies and/or reports the casino association.

In addition, using crime statistics associated with Jackson Rancheria Casino activity underestimates the potential for crime engendered by the proposed Plymouth casino because of the proposed serving of alcohol throughout the Plymouth casino. When the Cache Creek Casino began to serve alcohol, arrests increased in Yolo County by 30% over the year prior to instituting alcohol service. This level of criminal activity is a tremendous burden for a county the size of Amador County.

Many crimes associated with the existing Jackson Rancheria Casino occur while traveling to and from the casino. These offsite casino crimes include: vehicular manslaughter, driving under the influence, armed robbery, and transportation of heroin, methamphetamine, marijuana and illegal firearms. Casino operations, especially those

that serve alcohol, typically introduce a wide variety of criminal activities into a community including check fraud, burglary, robbery, drunk driving, physical assaults, vandalism, larceny, drug abuse, and vehicle theft. Although some of this criminal activity does occur with other large developments, the criminal activity generated by casino operations is substantial in comparison.

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The Draft EIS further states on page 4.7-10 that increased tax revenues from the project would fund the expansion of law enforcement services required to accommodate the proposed casino. However, this statement does not take into consideration the fiscal implications of Indian gaming on County revenues. Unlike a private development, when the property for the casino is taken into Trust, the approximately \$35,000 in annual property taxes that are currently paid to the County would be eliminated. In addition, the transient occupancy taxes that are currently paid by the existing hotel on the site would no longer be paid following its removal. Because the proposed new hotel would be located on Trust property, no transient occupancy taxes would be paid to the County and the new hotel would create competition for other hotels in the region, reducing the transient occupancy taxes paid to the County from these hotels. In addition, no sales taxes would be collected from retail sales at the casino and no development impact fees would be collected. Also, there is no guarantee that the casino would use local sources, and pay applicable sales taxes, for its necessary goods and services.

L2-170

Because the casino operations would not pay the taxes or development impact fees typically associated with such a large development, which would normally be used to offset increased County service requirements, the net effect to the County is a deficit in operating revenues. By creating a deficit in the County's operating revenues, the required County services for local residents, including specifically law enforcement services, would be diminished at the same time that crime would be increasing. The analysis of these issues is woefully inadequate in the Draft EIS and substantial additional discussion of the project's effects on crime within Amador County needs to be incorporated into the Final EIS.

Mitigation Measures Proposed to Reduce Crime are Completely Inadequate to Achieve their Purpose – On page 5-22 of the Draft EIS, the Tribe states it will adopt a responsible alcoholic beverage policy that will include, but not be limited to, requesting identification and refusing service to those that have had enough to drink. This is not a mitigation measure. This is a basic requirement and practice for any business that serves alcohol. The Tribe should seriously consider additional measures to deal with the significant problem of alcohol consumption at the casino project and its effect on narrow, winding country roads.

L2-171

The Draft EIS should state if surveillance cameras will be utilized in the parking areas in addition to roving security guards and parking staff and if video surveillance records will be preserved for evidence. (See page 5-22.) The mere presence of unarmed security and parking staff will serve as a very minimal deterrent, if any, to theft or other crimes of opportunity, particularly violent crime.

L2-172

The Draft EIS states on page 5-22 that placement of “No Loitering” signs along with lighting and unarmed security guards will serve as a deterrent to this type of activity. This practice will not serve to deter those who intend to commit criminal acts and is not a viable mitigation measure.

The Draft EIS does not state how the presence of traffic control signs and staff at the casino would have any impact on crimes committed against patrons and their vehicles parked off the casino grounds. (See page 5-22.) The Draft EIS should clarify this statement and estimate the number of crimes by type that would occur at off casino parking locations and the mitigation needed to offset this impact.

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Smoking

No Analysis of Impact of Allowing Smoking in the Casino – The Draft EIS on page 2-5 states that smoking will be permitted within the casino, with non-smoking sections provided. However, it includes no analysis of the risks posed to employees and guests due to exposure to second-hand smoke. This analysis should be included in the discussion of the casino’s impact on public health and health-care costs. Second-hand smoke contains a mixture of more than 4,000 chemicals, including more than 50 carcinogens. It is associated with an increased risk for lung cancer and coronary heart disease in non-smoking adults, and it is responsible for 38,000 deaths from these diseases each year (Centers for Disease Control, Second-hand Smoke Fact Sheet, 2004). The EIS should analyze the risk posed by employees’ and guests’ exposure to second-hand smoke and mitigate for the effects on the County’s public health services.

At 16.2 percent, California’s adult smoking rate is the second lowest in the nation (California Adult Tobacco Survey, 2003). Contra Costa’s adult smoking rate is 13.7 percent, down from 19.4 percent in 1990 (California Tobacco Survey, 1990, 2002). This decrease of almost 30 percent in the adult smoking rate demonstrates how community norms regarding tobacco use have changed over the past two decades.

L2-173

Local Amador County residents have a smoking rate higher than the State average, but also have a “quit ratio” in the last 5 years that is higher than the State average (California Tobacco Survey, 2002). These residents and other casino employees and patrons will be exposed to pro-tobacco and pro-smoking behaviors. This, in turn, is likely to lead to an increase in smoking rates among casino patrons and, in turn, the County adult smoking rate. An increase in the smoking rate translates into increased health care costs to the County. It is known that the economic burden of smoking in California was \$15.8 billion dollars in 1999. That translated into \$13.9 million in direct medical costs for Amador County, \$459 per County resident in 1999 dollars (Max W., Rice D.P., Zhang X., Sung H.-Y., Miller L., *The Cost of Smoking in California*, 1999, California State Department of Health Services, 2002). This cost is likely to increase if smoking rates in the County increase.

Exposure to second-hand smoke should also be examined in the EIS. Second-hand smoke contains a mixture of more than 4,000 chemicals, including more than 50

carcinogens. It is associated with an increased risk for lung cancer and coronary heart disease in non-smoking adults, and it is responsible for 38,000 deaths from these diseases each year (Centers for Disease Control, Second-hand Smoke Fact Sheet, 2004).

The following are some published facts about second-hand smoke in casinos:

- Smoky casinos contain up to 50 times more cancer-causing airborne particles than highways and city streets clogged with diesel trucks at rush hour. Cancer-causing particulates are virtually eliminated when indoor smoking bans are instituted (J. Repace, *Journal of Occupational and Environmental Medicine*, September, 2004).
- Regular exposure at work to second-hand smoke can cause a 91 percent increase in coronary heart disease (J. Repace, *Smoke-Free Casino Advocacy Guide*, American Indian Tobacco Education Partnership, April 2004).
- Ventilation does not fully address the problems associated with exposure to second-hand smoke. There are no ventilation standards or technologies that can remove the carcinogens from second-hand smoke. At best, ventilation systems can address odor and haze. A number of scientific studies show that:
- Casino workers in a “well ventilated” casino had nicotine levels (metabolized nicotine) 300-600 percent higher than in other working workplaces during a work shift (D. Trout, J. Decker, et al., *Journal of Occupational and Environmental Medicine*, March 1998).
- “Designated ‘no smoking areas’ in Australian gaming clubs were found typically to provide a 50 percent reduction in exposure to second-hand smoke. The protection afforded is not comparable with that provided by prohibiting smoking on the premises.” (T. Cains, S. Cannata, R. Poulos, et al., *Tobacco Control Journal*, 2004).

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There is support for smoke-free tribal casinos in California. The California Department of Health Services reports that 91 percent of Californians surveyed said they would be more likely to visit American Indian casinos or would not change patronage if smoking were prohibited in casinos. Similarly, the American Indian Tobacco Education Partnership surveyed over 300 casino guests and workers around the state and found that over 80 percent prefer to work or play in a smoke-free environment.

Asthma – Asthma is a chronic illness that can have serious health consequences for patients and their families. People with asthma have more frequent symptoms and asthma “attacks” if they are exposed to certain environmental “triggers.” The establishment of the proposed casino will increase the amount of two primary environmental asthma triggers for both casino patrons and local residents: environmental tobacco smoke (ETS) and particulate matter (PM).

L2-174

One of the primary environmental triggers for asthma is tobacco smoke. Tobacco smoke is known to cause asthma in otherwise healthy individuals. Conversely, reducing exposure to environmental tobacco smoke can also reduce asthma attacks. New asthma cases and asthma attacks requiring emergency medical care can be anticipated if indoor smoking is allowed at the proposed casino project. This increased medical care will, in turn, result in an increase in County costs to treat asthma patients.

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Increased traffic due to the casino will also increase incidences of asthma and other lung diseases. According to the American Lung Association, air pollution is known to have serious health impacts including reductions in lung function, lung tissue damage, and aggravation of lung diseases such as emphysema, bronchitis and asthma. Emissions from motor vehicles, including particulate matter, contribute to poor air quality. High levels of particulate matter are known to increase asthma attacks and symptoms in both children and adults, and may be a contributing factor causing asthma in otherwise healthy individuals. Elevated levels of particulate matter also have been linked to lung cancer. In addition, they recently have been found to contribute to 6,500 premature deaths, and 350,000 asthma attacks, annually in California.

L2-175

Other Social Impacts

Need for Analysis of Social Costs – Full review and analysis of the social costs associated with the proposed casino project should be incorporated in the EIS and include the issues and information listed below:

- **Mental Health** – The EIS should assess the increased demand on County mental health services by type of mental illness, severity and estimated recovery time, as a result of project patronage by an individual or by a family member, or due to proximity to the project.
- **Depression and Suicide** – The EIS should assess the increase in depression and suicides and their aftermath, including the impact on families.
- **Alcohol and Other Drugs** – The EIS should evaluate the extent to which illegal drug dealing and drug use will increase due to the presence of the casino project, as well as increases in alcohol consumption.
- **Domestic Violence** – The EIS should estimate the increase in domestic violence incidents involving project patrons and employees as well as resulting service demands (Sheriff's response, battered women's shelter services, child welfare services, court intervention, probation, etc.).
- **Child Abuse and Neglect** – The EIS should estimate the increases in child abuse and neglect due to a parent/guardian's absence due to patronage at the project and/or subsequent behavior toward children because of gambling losses or increased drinking.

L2-176

- Elder Abuse – The EIS should estimate the increases in elder abuse, particularly fiduciary abuse, due to problem and/or pathological gambling.
- CalWORKs and General Assistance – The EIS should assess the number of individuals and families who would require CalWORKs or General Assistance as a result of loss of income due to gambling.
- Truancy – The EIS should estimate the number of children and youth who would skip school as a result of the project and assess the resulting juvenile delinquency and other negative behaviors.
- Employment – The EIS should estimate the number of persons who would become unemployed due to gambling.
- Divorce – The EIS should assess the number of divorces that could be expected as a result of problem/pathological gambling and the consequent social costs of divorce, within the income ranges of expected patrons.
- Criminal Activity – The EIS should assess the nature, frequency and magnitude of criminal problems experienced in and around gambling, alcohol and entertainment facilities, such as the proposed project, including but not limited to fights, drunk in public, prostitution, cheating, robberies and fraud related issues.
- Health Care and Health Care Access – The EIS should estimate the increased demand for health care services by type of service due to traffic accidents, air quality deterioration, excessive alcohol and/or drug use, violence, etc. The EIS should also estimate the number of individuals who would require County health care as compared to those who would require services under private coverage. A large influx of minimum wage workers without health insurance could severely impact access to health care for all residents. The EIS should describe plans for providing health coverage to those who will be working at the casino.

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Environmental Justice

Census Block Data Should Be Used Instead of Census Tract Level Data – The environmental justice analysis uses Census Tract level demographic analysis of the local potential communities of concern. Census Block level data is available that would better identify the location and nature of the low income and minority “populations of concern.” The analysis provides no population totals for the census tracts. According to 2000 Census data, nearly 4,500 individuals live within Census Tract 2.00 and Census 3.01 has more than 5,600 individual within its boundaries. Furthermore Figure 3.7-1 does not show the external boundaries of the Census Tracts. More detailed identification of the local and nature of the environmental justice population should be performed to better enable readers to determine whether the project’s effects are disproportionately distributed.

L2-177

Misinterpretation of Census Data – Table 3.7-8 on page 3.7-11 of the Draft EIS is very misleading. Census Tract 3.01 contains two correctional institutions, Mule Creek State Prison and Preston Youth Correctional Facility. Each is located in Census Tract 3.01, and houses populations whose ethnicity does not reflect the County or the region. Any assumptions and statements related to this designation as a minority population must be re-analyzed to ensure accuracy. Also, Mule Creek State Prison on page 3.7-5 should be designated as a “correctional institution,” not “public administration.”

L2-178

Child Care

Provision of Child Care Facilities at the Casino – Based on its role in meeting the needs of County residents, the County is concerned about the project’s effects on children, especially the children of casino employees who may be left unattended at home or who may be placed in inappropriate child care situations. Therefore, the County strongly encourages the Tribe to consider the inclusion of a child care facility that meets State standards at the resort for facility employees. Providing professionally-managed child care services for casino employees would substantially benefit working parents who have few other viable child care options.

L2-179

Transportation/Traffic

Draft EIS Must Be Revised to Replace Outdated Information – The traffic count data used in the Traffic Impact Analysis prepared by T. Y. Lin International/CCS dated July 2005 (the “TIA”) as well as the Draft EIS appears to be more than four years old. Typical industry standards recommend traffic counts be no more than one to two years old when the document goes through the public review process. Traffic count data is used as the basis for existing and near-term scenarios. Utilization of baseline count data greater than one year old may not correctly identify base conditions and therefore not accurately identify significant traffic impacts and required mitigation measures.

L2-180

In the TIA, phase 1 is analyzed as year 2006. Due to the age of the TIA, the opening year analysis may misstate project impacts due to recent ambient growth, construction of approved projects, and approval of pending projects that have occurred in the past three to four years. (See also discussion in the Draft EIS.) Similarly, the year 2009 may be an infeasible target for opening of phase 2. Revise opening year for phase 1 and phase 2 to accurately forecast project-related traffic impacts, and revise analysis with up to date traffic count data.

TIA Figure 2-2, due to the age of the TIA intersection geometry as shown in the figure does not accurately represent existing conditions at several locations. For example, intersections 5, 11 and 12 have been signalized, and intersection 24 has been signalized and widened. Revise traffic analysis to incorporate recent geometric changes into baseline conditions.

Inconsistencies and Inaccuracies in Traffic Counts – On TIA page 19, the TIA states traffic counts were collected in April to May 2004. Yet, on page 24, the TIA states traffic

L2-181

counts were collected in June 2004. Raw traffic count data is not available in the appendices to the TIA to verify the correct month(s) that traffic counts occurred. Revise traffic analysis to include the intersection peak hour traffic counts in the appendix, and clarify the date of traffic count collection.

On TIA page 24, the TIA states that weekday traffic counts were collected during the peak hours identified as the weekday evening period. However, the appendix analysis sheets for weekday p.m. conditions are titled Existing Friday. Typical traffic analysis analyzes the typical weekday p.m. period, with typical weekdays defined as Tuesday, Wednesday or Thursday. Friday evening counts would not be considered typical. Revise traffic analysis to include the intersection peak hour traffic counts in the appendix, and clarify the date of traffic count collection.

L2-181
cont'd

Raw 24-hour (daily) roadway count data for study segments is not included in the appendix to the TIA. Revise traffic analysis to include the 24-hour roadway traffic counts in the appendix.

Incomplete Description of Road Network – The description of the road network pages 3.8-1 and 3.8-2 is incomplete. There is no mention of Latrobe Road in Amador County, although reference is made to Latrobe Road in Sacramento County, which is further away. In addition, there is no mention of Old Sacramento Road leading to the City of Plymouth. The description of SR 124 is wrong. It connects to SR 16, not SR 49.

L2-182

List of Affected Intersections is Incomplete – On TIA page 14, the TIA does not explain how the final study intersection list was determined. (See also Draft EIS page 3.8-7.) Based on our familiarity with the project study area, the following additional study intersections should have been included in the analysis:

- SR-16/Watt Avenue;
- SR-104 (Preston Avenue)/SR-104 (Main Street);
- Jackson Valley Road/SR-88;
- SR-88/Liberty Road; and
- SR-88/Elliot-Tully Road.

L2-183

Additionally, CalTrans District 3 may request analysis of select freeway interchanges on US-50, such as US-50/Latrobe Road (Grass Valley).

Problems with LOS Analysis – On TIA page 21, it is unclear how the target intersection LOS for CalTrans District 3 and CalTrans District 10 were determined as they differ from the target LOS contained in *Caltrans Guide for the Preparation of Traffic Impact Studies* (State of California Department of Transportation, December 2002). Revise analysis report accordingly.

L2-184

On TIA page 21, it is unclear how the TIA determined that LOS D and LOS E is acceptable level of service for SR-88 for existing conditions. (See also Draft EIS page 3.8-6 and Table 3.8-3). The County of Amador target for SR-88 for existing conditions is LOS C. Based on our understanding LOS D or LOS E at the SR-88 roadway segment would typically be identified as operating deficiently. This comment applies to future analysis scenarios and tables as well. Revise traffic analysis and impact statements accordingly.

L2-185

On TIA page 26, Table 2-5, it is unclear how the TIA determined that LOS E is acceptable level of service at the SR-16/Stone House Road and SR-16/Grant Line Road intersections. (See also Draft EIS Page 3.8-10 and Table 3.8-5.) Based on our understanding LOS E at the SR-16/Stone House Road and SR-16/Grant Line Road intersections would typically be identified as operating deficiently. This comment applies to future analysis scenarios and tables as well. Revise traffic analysis and impact statements accordingly.

L2-186

On TIA page 41, Table 3-6, it is unclear how the TIA determined that LOS E is acceptable level of service at the SR-16/Latrobe Road (Sacramento) intersection. Based on our understanding LOS E at the SR-16/Latrobe Road (Sacramento) intersection would typically be identified as operating deficiently. This comment applies to future analysis scenarios and tables as well. Revise traffic analysis and impact statements accordingly.

L2-187

On TIA page 21, it is unclear how the TIA determined that LOS E is acceptable level of service for SR-49 for existing and cumulative conditions. (See also Draft EIS page 3.8-6 and Table 3.8-3.) The County of Amador target for SR-49 for existing and cumulative conditions is LOS D. Based on our understanding LOS E at the SR-49 roadway segment would typically be identified as operating deficiently. This comment applies to future analysis scenarios and tables as well. Revise traffic analysis and impact statements accordingly.

L2-188

On TIA page 188, Table 6-2, based on the correct LOS target of LOS D for SR-88 in cumulative conditions, it appears that trips from the proposed Alternative A casino and the Buena Vista Casino would have a cumulative impact on SR-88. Revise analysis to identify a significant impact and recommend mitigation measures to reduce the project-related impact.

L2-189

Need to Analyze Additional Roadway Segments – It is unclear on TIA page 22 how the five study roadway segments were selected for analysis. (See also Draft EIS page 3.8-7.) Consistent with typical industry practices, the study should analyze mid-block roadway segments associated with the study intersections. The TIA does not study the segment of SR-49 directly adjacent to the project site. At a minimum, the following additional roadway segments should be analyzed in the TIA:

L2-190

- SR-49 between Main Street and Randolph Drive;
- SR-49 between Village Drive (south) and SR-16;

- SR-16 between SR-49 and SR-124;
- SR-16 between SR-124 and Latrobe Road (Amador County);
- SR-16 between Ione Road and Murieta South parkway;
- SR-16 between Murieta South Parkway and Stone House Road;
- SR-16 between Scott Road and Latrobe Road (Sacramento Co.);
- SR-16 between Dillard Road and Grant Line Road;
- SR-16 between Grant Line Road and Sunrise Boulevard;
- SR-16 between Sunrise Boulevard and Excelsior Road;
- SR-16 between Excelsior Road and Bradshaw Road;
- SR-16 between Bradshaw Road and Watt Avenue;
- Watt Avenue north of SR-16;
- Bradshaw Road north of SR-16;
- Latrobe Road (Amador County) north of SR-16;
- SR-104 between Preston Avenue and Main Street;
- SR-104 between Main Street and Church Street;
- SR-124 between Church Street and SR-88;
- SR-88 between Liberty Road and SR-12 (East);
- SR-88 between SR-12 (East) and Elliot-Tully Road;
- SR-88 between Elliot-Tully Road and SR-12 (West);
- SR-88 between SR-12 (West) and Kettleman Road; and
- SR-88 south of Kettleman Road.

L2-190
cont'd

Use of Incorrect Guidelines for Peak Hour Factor – On TIA page 24, since the study intersections in the County of Sacramento are all under Caltrans jurisdiction, utilizing a 1.0 Peak Hour Factor (PHF) per the Sacramento County Traffic Impact Analysis guidelines may not be appropriate. (See also Draft EIS page 3.8-9.) The TIA should defer to Caltrans guidance regarding the appropriate peak hour factor to use. Typically Caltrans recommends utilization of a PHF of 0.92 (urban), 0.88 (rural) or specific PHF information based on existing count data. Revise traffic analysis accordingly.

L2-191

The TIA states that the 1.0 PHF was used for intersections 11-25 based on the Sacramento TIA guidelines, however intersection 14 is in El Dorado County and intersections 11-13 are in San Joaquin County. (See also Draft EIS page 3.8-9.) Revise traffic analysis accordingly.

Existing Plus Approved Projects Analysis is Incomplete and Based on Incorrect Assumptions – On page 29, it is unclear from the text whether the approved projects information obtained from local agencies was utilized in determining 2006 existing plus approved projects (EPAP) volumes. Consistent with the County of Amador Traffic Study Guidelines, the TIA should include both an annual growth rate and approved projects data to determine 2006 EPAP volumes.

The TIA should also obtain approved projects information from the City of Ione and City of Plymouth. Additionally, a comprehensive list of approved projects should be obtained from the Counties of Amador, Sacramento, El Dorado and San Joaquin. Traffic related to the Buena Vista Casino should also be considered in the near-term scenarios in addition to the cumulative year scenario. The Buena Vista Casino is a foreseeable project that would contribute traffic to study roadways and intersections in the vicinity of the proposed project. Revise analysis accordingly.

L2-192

The Buena Vista Casino and the Shingle Springs Casino should be included as approved projects in the future year analysis scenarios. Both are foreseeable projects that would contribute traffic to study roadways and intersections in the vicinity of the proposed project. Revise analysis accordingly.

On TIA page 32, the TIA states “To be conservative the calculated average growth of 2.47 was reduced to 2.2% and applied to existing turning movement counts to generate the 2006 EPAP turning movement volumes.” It is unclear how reducing the calculated growth rate of 2.47% to 2.20% can be considered conservative. Typically, conservative analysis would suggest utilization of the higher growth rate per year rather than a lower value. Revise analysis accordingly.

L2-193

Use of Data from RTP is both Outdated and Misleading – On TIA page 22, Table 2-4, it is unclear why RTP data is used for the roadway segment analysis instead of the collected roadway segment data shown in Figure 2-3. (See also Draft EIS page 3.8-9 and Table 3.8-4.) The data from the RTP contained in Table 2-4 is Year 1999 Caltrans data and therefore is very old data for use in the analysis. To identify 1999 traffic counts as existing (2004) data misrepresents baseline conditions and, as evidenced by the higher volumes shown in Figure 2-3, severely understates base traffic volumes. Revise traffic analysis to eliminate the discrepancy in traffic count data utilized for traffic impact review for all analysis scenarios.

L2-194

On TIA page 30, Table 3-1, the data used to calculate roadway segment level for service continues to be based on the 1999 data from the County of Amador RTP as opposed to the roadway segment data shown in Figure 3-1, which are based on measured count from 2004. Revise traffic analysis to eliminate the discrepancy in traffic count data utilized for traffic impact review for all analysis scenarios.

On TIA page 37, Table 3-5, the data used to calculate roadway segment level for service continues to be based on the 1999 data from the County of Amador RTP as opposed to the roadway segment data shown in Figure 3-3, which are based on measured count from

2004. Revise traffic analysis to eliminate the discrepancy in traffic count data utilized for traffic impact review for all analysis scenarios.

On TIA page 52, Table 4-8, the data used to calculate roadway segment level for service continues to be based on the 1999 data from the County of Amador RTP as opposed to the roadway segment data shown in Figure 3-1, which are based on measured count from 2004. Figure 4-2 continues to show ADT based on actual measured data, while the table (Table 4-8) used to do the LOS analysis uses the older, invalid RTP data as its base, understating potential impacts to the study roadway segments. Revise traffic analysis to eliminate the discrepancy in traffic count data utilized for traffic impact review for all analysis scenarios.

L2-194
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On TIA page 120, Table 5-1, it is unclear why growth-rate adjusted RTP data is used for the cumulative conditions roadway segment analysis instead of the growth-adjusted collected roadway segment data shown in Figure 5-1. The large difference in ADT volumes when comparing Table 5-1 to Figure 5-1 highlight the fact that the RTP data used as the base for the volumes in Table 5-1 are much older than the existing data collected and presented in Figure 5-1. Revise traffic analysis to eliminate the discrepancy in traffic count data utilized for traffic impact review for all analysis scenarios.

On TIA page 130, Table 5-5, it is unclear why growth-rate adjusted RTP data is used for the cumulative conditions roadway segment analysis instead of the growth-adjusted collected roadway segment data shown in Figure 5-3. The large difference in ADT volumes when comparing Table 5-5 to Figure 5-3 highlight the fact that the RTP data used as the base for the volumes in Table 5-5 are much older than the existing data collected and presented in Figure 5-3. Revise traffic analysis to eliminate the discrepancy in traffic count data utilized for traffic impact review for all analysis scenarios.

L2-195

Trip Generation Study is Undocumented and Incomplete – TIA page 46 states “therefore, the generation rates used within were developed by AES through the survey of eight existing casinos in the region.” However, further information regarding the facilities sampled, nature and timing of the sampling and calculation of trip generation rates is not provided in the TIA or appendix. Therefore, it is not possible to verify the accuracy of the trip generation survey conducted by AES. Since little empirical data is available for the land use analyzed in the traffic analysis, the sample survey site data utilized for trip generation forecasts should be included in the appendix to the study for thorough review. The lack of inclusion of sample data used to derive forecast trip generation prevents a comprehensive conclusion about the impacts and required mitigation for the proposed project. Revise analysis accordingly.

L2-196

On TIA page 47, Table 4-1, it is unclear why facility size was used as the independent variable for trip generation. Other more commonly used variables included size of gaming area and number of gaming positions. While the EIS mentions gaming positions for the proposed casino and alternatives, neither the EIS nor the TIA specify the proposed square footage of the gaming area. Therefore, review of the trip generation forecasts for the proposed project is not possible. Revise analysis accordingly.

L2-197

On TIA page 47, it is unclear why Saturday daily trip rates were not derived/included, and why the TIA does not provide a Saturday roadway segment analysis. Revise traffic analysis to include Saturday daily traffic analysis to ensure adequacy of study roadways to accommodate traffic associated with the proposed project.

L2-198

On TIA page 47, Table 4-2, page 48, Table 4-4, and page 50, Table 4-7, it is unclear what source is used for determining the hotel trip generation as no source is listed. Review of ITE rates shows that the rates for hotel in the TIA are not ITE rates. Revise analysis to provide basis for hotel trip generation rates.

L2-199

Trip Distribution Analysis is Inadequately Documented and Inconsistent – TIA page 50 states “Trip distribution patterns to and from the project site were obtained from a zip code based origin and destination study for similar casinos in northern California.” However, neither the TIA nor the appendices to the TIA provide any further information or details regarding the similar facilities studied.

L2-200

In TIA Figure 4-1, trip distribution graphic is difficult to follow and lacks detailed information regarding distribution at study intersections. Revise analysis to clarify the trip distribution at study roadways and intersections.

L2-201

Contrary to industry standards, trip assignment figures are not provided in the TIA. Revise traffic analysis to include trip assignment figures consistent with trip distribution and trip generation.

Based on comparing TIA Figure 4-3 (2006 EPAP Plus Alternative A Phase 1 Volumes) to Figure 3-2 (2006 EPAP Volumes), the trip assignment intuited from the exhibits and appendices does not match the trip distribution shown in Figure 4-1. For example on Figure 4-1, 56% of project trips are forecast to travel on SR-16 between SR-124 and Latrobe Road (Amador County). However, comparing the difference between Figures 4-3 and 3-2, only 35-37% of the forecast project trip generation passes through this area. The understatement of project trip assignment continues along the SR-16 corridor. Conversely, Figure 4-1 shows 22% of project trips traveling South on SR-124, continuing through the City of Ione and onto SR-88, however comparing the difference between Figures 4-3 and 3-2, approximately 32% of project trips have been assigned to this route. This overstated number of project trips continues through the City of Ione, but disperses at unstudied locations after reaching SR-88. Figure 4-1 shows 20% of project trips continuing south on SR-88 past Kettleman Road, however comparing the difference between Figures 4-3 and 3-2, approximately 15-16% of project trips have been assigned to continue south through on SR-88 past Kettleman Road. Between study intersection 10 (SR-124/SR-88) and study intersection 13 (SR-88/Kettleman Road) approximately 16% of project trips disperse while Figure 4-1 shows only 1% dispersing (at study intersection 12 – SR-88/SR-12 West). Figure 4-1 shows 7% of traffic utilizing Latrobe Road (Amador County) to reach US-50, however comparison of Figures 4-3 and 3-2 as well as review of the appendices shows zero project trips utilizing Latrobe Road in the manner described in Figure 4-1. The assignment of trips appears flawed and does not follow the

L2-202

trip distribution graphic. Revise traffic analysis to include figures showing detailed trip distribution and trip assignment at study intersections and roadways to clarify the basis for the traffic analysis.

L2-202
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On TIA page 52, Table 4-8, the project-related ADT increase should correspond with the trip distribution shown in Figure 4-1. For example, based on Figure 4-1, it is expected that 49% of project trips travel on SR-16 west of Old Sacramento Road. However, only 35% of project ADT has been assigned to this roadway segment per Table 4-8. Revise traffic analysis to resolve the apparent discrepancy between the project trip distribution and project trip assignment. Revision to the study may modify the traffic impact statements and required mitigation measures.

L2-203

Cumulative Effects are Based upon Incorrect Assumptions and Outdated Data – Cumulative conditions analysis analyzes year 2025 conditions. The current accepted cumulative year for Caltrans analysis is 2035. Since the majority of the study facilities are Caltrans facilities, the cumulative conditions analysis should be revised to present 2035 conditions.

L2-204

As stated above, on TIA page 120, Table 5-1, it is unclear why growth-rate adjusted RTP data is used for the cumulative conditions roadway segment analysis instead of the growth-adjusted collected roadway segment data shown in Figure 5-1. The large difference in ADT volumes when comparing Table 5-1 to Figure 5-1 highlight the fact that the RTP data used as the base for the volumes in Table 5-1 are much older than the existing data collected and presented in Figure 5-1. Revise traffic analysis to eliminate the discrepancy in traffic count data utilized for traffic impact review for all analysis scenarios.

L2-205

As stated above, on TIA page 130, Table 5-5, it is unclear why growth-rate adjusted RTP data is used for the cumulative conditions roadway segment analysis instead of the growth-adjusted collected roadway segment data shown in Figure 5-3. The large difference in ADT volumes when comparing Table 5-5 to Figure 5-3 highlight the fact that the RTP data used as the base for the volumes in Table 5-5 are much older than the existing data collected and presented in Figure 5-3. Revise traffic analysis to eliminate the discrepancy in traffic count data utilized for traffic impact review for all analysis scenarios.

Standards Used Do Not Comply with Amador County Guidelines – On TIA page 21, the standards of significance identified in the TIA do not match those identified in the *Amador County Traffic Impact Study Guidelines* (July 5, 2006).

The traffic analysis should be revised to ensure compliance with the *Amador County Traffic Impact Study Guidelines*. Revise analysis report accordingly.

L2-206

On page 4.8-1 of the Draft EIS, the thresholds of significance for determining significant impacts at study intersections and study roadway segments are not clearly described. We suggest revision to clarify understanding by non-technical readers.

Saturday Analysis Is Incomplete – On TIA page 22, since Saturday intersection peak hour analysis is included in the traffic analysis, it is unclear why Saturday ADT analysis is not included similar to the peak hour and ADT analysis prepared for the typical weekday. (See also discussion in Draft EIS.) Revise Draft EIS to include Saturday roadway segment analysis based on ADT.

L2-207

Assumptions of Truck Percentage Are Unclear – On TIA page 24, it is unclear from the text and appendices whether an appropriate truck percentage was assumed for the study roadway network. CalTrans typically requires a truck percentage be used for HCM and roadway segment analysis based on existing count data or as directed by CalTrans staff. Revise traffic analysis accordingly.

L2-208

Alignment of Project Driveway May Need Revision – In TIA Figure 4-3, Intersection A (Project Driveway) does not show volumes at Randolph Drive, which is planned to align with the project driveway. Revise analysis to account for alignment of proposed intersection with Randolph Drive. When accounting for additional traffic at the Intersection A, the impact and mitigation measure needed for the intersection may require revision.

L2-209

Signalization of SR-49/Service Access Should Be Measured by CalTrans Warrant Analysis – On Page 63, the proposed mitigation to signalize the SR-49/Service Access Driveway is stated as meeting signal warrants based on the planning tool provided by the analysis software (Traffix), however a CalTrans Peak Hour Warrant Analysis to determine if a traffic signal is warranted. Revise analysis accordingly.

L2-210

Determination of Responsibility for Improvements – It is recommended that the traffic analysis identify whether the proposed project will fully implement recommended mitigation measures, or if a proportionate share is identified. Revise traffic analysis to identify the project's proportionate share to implement each mitigation measure.

While the Draft EIS discusses the methodology for calculating project proportionate share at significantly impacted facilities (page 5-15), no proportionate share calculations are provided in Section 5.2-8. Revise Draft EIS to identify full or proportionate share for each mitigation measure.

L2-211

The Draft EIS references payment by the Tribe of a proportionate share of the costs for certain of the mitigation measures. Using standard practice, the proportionate share is determined on the basis of the proposed casino project's percent contribution to the increase in traffic volumes (i.e., the percent of the difference between existing and cumulative volumes), not its percent contribution to the total cumulative traffic volumes. The Draft EIS, however, states on page 5-15 that "The proportionate share is derived from the percentage that the added project trips contribute to the new total trips at each specific study intersection and roadway segment." (Emphasis added.) Also, it is unclear exactly what would be the basis used to allocate the proportionate share of costs between the Tribe and other entities. This should be clarified.

The Draft EIS on page 5-16 states that the Tribe would be fully responsible for improvements at project access locations and responsible for a proportionate share of remaining mitigation measures. However, based on the standards of significance contained in both the Draft EIS and the TIA, the tribe would be responsible for the full mitigation costs at facilities forecast to change from acceptable operation in pre-project conditions to deficient operation in with project conditions. Based on the standards of significance in the Draft EIS, since the proposed project causes deficiencies at the following locations, the project is fully responsible for mitigation costs:

- SR-16/Grant Line Road (phase 1);
- SR-49/Main Street (phase 1);
- SR-49/Empire Street (phase 1);
- SR-16/Latrobe Road-Amador (phase 1);
- SR-104 (Main Street)/SR-124 (phase 1);
- SR-16/Stone House Road (phase 1);
- SR-16/Latrobe Road-Sacramento (phase 1 and phase 2);
- SR-16/Excelsior Road (phase 1);
- SR-49/Project Driveway (phase 1 and phase 2);
- SR-49/Service Access (phase 1 and phase 2);

L2-212

The Draft EIS should be revised to calculate the project’s proportionate share at all impacted facilities for each scenario and identify which mitigation measures are the full responsibility of the proposed project.

Inclusion of Planned Improvements – The TIA should only include planned improvements that are funded and part of a program for implementation.

L2-213

Infeasibility of Certain Mitigation Measures – The Draft EIS at page 5-17 identifies mitigation measures at the SR-104 (Preston)/SR-124 and SR-104(Main)/SR-124(Church) intersections in the City of Ione. These mitigation measures may be infeasible due to right-of-way and other engineering constraints. Through coordination with local agency staff, the proposed project should consider payment towards the construction of the Ione Bypass as mitigation for these impacts.

L2-214

Location of ARTS is Incorrect – On page 3.8-3 of the Draft EIS, it states that ARTS is based in the City of Jackson. It is not. It is based in the unincorporated area of Martell.

L2-215

Land Use Patterns

Inadequate Analysis of Land Use Compatibility Issues – The Draft EIS correctly states that as sovereign lands, the parcels placed into trust would not be subject to local general

L2-216

plans or zoning ordinances. However, NEPA requires an analysis of the effects of the proposed project on adopted land use plans. There are two major flaws with the land use analysis presented in Section 4.8. The first is that the analysis is limited to the project area (the parcels proposed to be placed into trust) and therefore ignores important compatibility issues with neighboring existing and proposed land uses that are at the heart of any land use analysis. The second is that the Draft EIS acknowledges that the development of certain parcels is not consistent with the local plan designations, but dismisses these inconsistencies as less than significant without providing any supporting analysis.

While the Draft EIS does describe in general terms the existing land uses surrounding the project area, it completely fails to identify or discuss the general plan land use designations of neighboring parcels. The impact discussion is limited to the actual parcels proposed to be placed into trust. Thus, the compatibility issue of locating a casino and hotel next to areas designated by the Amador County general plan for low intensity rural uses is not discussed. The accompanying figures in Section 3.8 do not even identify the County or City general plan and zoning designations of the surrounding parcels, thus depriving the reader of the opportunity to consider impacts of the project on planned land uses.

L2-216
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The Draft EIS correctly identifies the intensification of land uses on parcels within Amador County designated as Residential Suburban as a potential conflict under all project alternatives. This impact, however, is dismissed as less than significant (in the Executive Summary) without explanation. The analysis should provide a reasoned discussion of why this impact is not significant, given the incompatibility of the proposed project with the County's land use designation. The fact that trust lands are not subject to County land use designations does not excuse the preparers of the Draft EIS from discussing the severity of the impact, whether the proposed project will impair the effectiveness of the land use plan, and what measures are available to resolve the conflict (CEQ Regulations, 40 CFR 1502.16[c]).

The casino complex is proposed to be located on parcels within the City of Plymouth designated (in the General Plan) and zoned for commercial use. The commercial designation would appear to be the most appropriate for the proposed use. However, the Draft EIS analysis should note that under the City Zoning Ordinance (Municipal Code Section 19.08.062) the proposed use would be most similar to the following: "Night clubs, bars, dance halls, bowling alleys, theaters, skating rinks or similar establishments involving congregations of people for entertainment purposes." Such uses are conditional under the Zoning Ordinance, which acknowledges that these uses are of a nature that requires special consideration. The land use impact discussion should reference those impacts discussed elsewhere in the document that would require special consideration in a commercial zone (such as traffic, noise, air quality, hazards, etc.).

Incorrect Density and Allowed Use Assumptions – On page 3.8-13 of the Draft EIS, the description of the County's R-S, Residential-Suburban general plan classification density is incorrect. In addition, the "X" (Special Use District) zoning classification allowed uses

L2-217

are misstated, as well as the intent (pg. 3.8-24) and minimum parcel sizes of the “R1A,” Single Family Residential and Agriculture District. (See also page 4.8-23.) This mischaracterization occurs here and elsewhere in the document. The document should be corrected.

L2-217
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Project Inconsistency with General Plan and Zoning Designations – The casino project is inconsistent with the County’s General Plan and zoning designations for the County parcels. It also appears to conflict with the City’s proposed (and possibly existing) land use designations for this area, which include “Agriculture” as well as Scenic Corridor District. By developing this area contrary to the County’s and City’s plans, it creates the potential for discontinuous patterns of growth. The project site could create a “hole” in the contiguity of the type of development that was anticipated and planned to occur on that property and in the area, or it could change the type of development that was supposed to go in the area (putting a commercial development in an area planned for residential and agricultural uses). By taking this land out of its contemplated land use it could cause the need for that development pattern to occur in a less desirable location (i.e. shift residential development needed to house Plymouth’s/County’s growth to less desirable areas). The Draft EIS should analyze and mitigate for these effects.

L2-218

Incorrect Effective Dates – The dating of General Plan and zoning codes on page 3.8-16 of the Draft EIS is incorrect and should be changed.

L2-219

Incorrect Assertion of No Mining Activity – Page 3.8-26 of the Draft EIS states that “[T]here are no active mining operations on any of the proposed fee-to-trust parcels.” This statement is misleading. The Planning Department has an application “on hold” for a mining project on Parcel #1, which is an indication that there is a valuable mineral resource located on the property and in the project’s proximity. Additionally, this site is located on or adjacent to the historical Mother Lode. The presence of mineral resources and the effect on those resources of the casino project should be analyzed in the Draft EIS.

L2-220

Agriculture

The Draft EIS appears to correctly identify the lack of Important Farmland on the project site, and minimal agricultural activity on site (some cattle grazing on Parcels 1, 2 and 3). However, in Section 3.8, the parcels to the east and south of the project site are identified as being subject to Williamson Act contracts. This is not considered, or even mentioned, in the impact analysis in Section 4.8. The potential incompatibility of the proposed project with adjacent Williamson Act lands is a potential impact that should be discussed in Section 4.8.

L2-221

Other Resource Use Patterns

Please see above comments (page 13) regarding the misleading assertion that “there are no active mining operations on any of the proposed fee-to-trust parcels.”

L2-222

Public Services – Water

Draft EIS Does Not Show Availability of Water from City of Plymouth – Page ii of the executive summary indicates that water would either be provided by on and off site wells or via connection to a municipal water system. Appendix B indicates water will be provided by on and off site wells supplemented by hauled water.

Section 3.9 correctly identifies that the City of Plymouth is affected by moratoria limiting additional water system service connections. The 1990 moratorium states that conditions since the issuance of the original 1987 compliance order had changed; the City had obtained access to two wells with demonstrated source capacities of 400 and 240 GPM respectively. Though this represented 200% of the maximum daily water demand, the Department of Health Services had concerns about long-term productivity of wells such as these constructed in consolidated formations.

Page 3.9-1 of the Draft EIS states that Amador Water Agency (AWA) is entitled to up to 15,000 acre-feet of water per year. This is misleading, because the section fails to describe how much of this AWA water would be available to the City of Plymouth. The Draft EIS should be revised to indicate the amount of water that the City of Plymouth could receive from AWA.

L2-223

AWA and the City of Plymouth have proposed construction of a pipeline to provide treated water to the Plymouth area. Conversations with AWA staff indicate that the proposed pipeline would provide sufficient supply for current demand in Plymouth as well as for some additional development. AWA staff indicated that the proposed casino project was not part of the planning process for the pipeline, and noted that the City of Plymouth is currently considering several land divisions that would likely demand more supply than could be provided by the pipeline project. Moreover, it is unclear when completion of construction of such a pipeline, if ever, would occur. There is no basis for a conclusion that construction of the pipeline will provide adequate water for the proposed casino project. The Draft EIS must provide additional evidence that connection to a municipal water system would be feasible to meet the Tribe's needs.

Public Services – Wastewater

No Examination of Regional Alternatives – The Executive Summary proposes on site wastewater treatment and disposal for all project alternatives. There is no discussion of participation in a regional wastewater treatment facility. Improvement of and connection to the City of Plymouth WWTP could benefit the City by helping correct capacity limitations. It could help alleviate concerns over unknown potential impacts from this project by placing the treatment and discharge under the oversight of the state Regional Water Quality Control Board. Increasing the numbers of smaller WWTPs with limited expertise and resources should be avoided in favor of consolidation of wastewater system under the operation of larger organizations with greater expertise and resources.

L2-224

Section 3.9 discusses Plymouth’s wastewater treatment plant but fails to discuss the possibility of expanding and improving that plant to enable service to this project. Section 4.3 discusses on site land application as well as direct discharge under NPDES permit. Both would be under the oversight of the USEPA. It is our experience that wastewater discharges under federal oversight are subject to much less vigorous oversight and enforcement programs. Section 4.9 again discusses on site wastewater solutions only.

L2-225

Public Services – Solid Waste Services

Will serve letter needed - A “Will Serve” letter is not attached to the Draft EIS from Amador Disposal Service to provide solid waste services. A “will serve” letter should be included.

L2-226

Amador Disposal Service’s Recycling, Permit, and WARF (Western Amador Recycling Facility) Information Needs Updating – Although the Amador Disposal Service facility was originally designed as a material recovery facility (MRF) it now operates as transfer station with a minimal amount of floor sorting and recovery taking place. The facility’s sort line for recycling was removed in 2004 and was not replaced. The comments regarding the facility’s recycling capabilities should be revised. The statements regarding the classification of the Amador Disposal Service facility are not accurate in light of a recent permit revision which occurred in 2008. The appropriate information should be included. The Buena Vista Landfill closed on April 30, 2004; however, the WARF continues to function as a transfer station. The following statement should be corrected: “The WARF (Western Amador Recycling Facility) received solid waste from the entire county prior to closing on April 1, 2004.”

L2-227

Kiefer Landfill as Disposal Site Is Incorrect – Comments regarding where solid waste is now disposed of are not accurate. The disposal site information included cannot be considered factual as waste is disposed at a different facility in a different county from what is cited.

L2-228

Construction Waste Recycling Needs to be Expanded – The Draft EIS discusses the handling of construction and demolition materials; however, it does not specify the extent of recycling that will occur. It is documented that commercial enterprises contribute to over 14% of California’s waste stream. Widely accepted construction and demolition recovery rates are in the range of 90%. The Final EIS should certify what percentage of construction and demolition materials will be recycled.

L2-229

Food Waste Diversion and “Other” Organics During Operation Are Not Discussed – Studies have documented that organic materials contribute to over 30% of California’s waste stream. Organics that enter the landfill, including food waste, are directly related to the production of methane and other gases. Methane is over 22 times more potent a green house gas than carbon dioxide. This document should address the diversion of food waste and organics.

L2-230

Handling of Universal Waste During the Operational Period Is Not Discussed – The Draft EIS needs to discuss the collection and recycling of universal waste products that will be generated.

L2-231

Public Services – Electricity, Natural Gas and Telecommunications

Alternative E Impacts Can Be Reduced to Less than Significant Levels – The discussion on page 4.9-23 of the Draft EIS finds that there will be potentially significant impacts to electricity and telecommunications, but that those impacts will be mitigated to a less than significant level for any of the other Alternatives. Mitigation for these two services whether the project is tribal or non-tribal are the same – i.e., the facilities will need to be upgraded to meet the demand. Therefore, the impacts for Alternative E can be reduced to less than significant, just as they can for Alternatives A through D. The Draft EIS should be corrected to reflect this concept.

L2-232

Public Services – Fire and Emergency Services

The Fire Plan is Outdated and Incomplete – Like many other portions of the Draft EIS, the Fire Plan appended as Appendix F is out of date, having been completed in 2004. In addition, there are numerous blanks throughout the document where information is simply omitted, leading to the conclusion that this is a document that someone pulled “off the shelf” with little consideration of the particular needs of this project or the local community. The Fire Plan should be completed and tailored to the needs of this project.

L2-233

Increased Demands on Fire Protection Personnel and Equipment – The proposed project would be expected to substantially increase the fire protection requirements in the local area. The proposed casino complex would present significant challenges to fire fighting agencies in the event of major incidents due to the multi-storied hotel, the high-occupancy casino, and the mixed use components of the facility. A major fire or other significant occurrence would immediately overwhelm available resources. Similarly, as State Route 49 is the only access to the resort, evacuation in case of a major emergency is also a concern. Existing County fire districts do not possess the necessary apparatus, equipment, training, experience, or staffing to respond effectively to a major event at the proposed casino. The analysis of fire projection impacts included in the Draft EIS is inadequate because it ignores the significant burden the project would create on County fire services. The Final EIS needs to fully evaluate the project’s effects on local fire protection requirements including evaluating the need for interagency coordination, mutual aid planning, integrated training, and expanded equipment requirements.

L2-234

Delays in Emergency Vehicle Response for Residents and Businesses – The County is particularly concerned about the project’s effects on emergency service response times within Amador County associated with increased congestion along State Route 49 and other County roads. The increased congestion on State Route 49 and other County roads will significantly diminish the response times for emergency vehicles in the County. Due to the County’s rural character and the remote location of some residents, additional delays in emergency response could have devastating health consequences for County

L2-235

residents. Although the proposed project includes a fire station at the project site, the Draft EIS does not address the increased emergency response delays that would be experienced by County residents. Detailed mitigation measures need to be included in the Final EIS to address this issue.

L2-235
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The Draft EIS is Totally Silent on Offsite Impacts to Fire and Emergency Service Providers – The jurisdictional or contractual responsibility of Amador Fire Protection District (“AFPD”) includes territory surrounding the proposed project for many miles in all directions. This includes all roadways that will bring customers and employees to and from the proposed casino complex. The increase in traffic as a result of this project will definitely increase fire district-related incidents throughout AFPD. Mutual aid from an onsite casino fire department does not mitigate AFPD’s inability to handle the increased offsite call load.

L2-236

The project will be in AFPD’s Battalion 20 response area, which stretches from Sacramento County on the west to El Dorado County on the north and east. AFPD does not have full-time paid staff. AFPD volunteers are having difficulty meeting current demand for services and will not be able to handle the increased call load created by the proposed project. The Final EIS must recognize and mitigate these impacts.

The Draft EIS does not quantify the staffing level of the onsite fire station.

L2-237

Due to Size and Scope of Proposed Facility, Mitigation Measures Must Be Enhanced – The emergency call volume associated with the Plymouth Casino will be such that it will overburden the current volunteer system. One of the costs of doing business for a facility of this size, which is dependent upon enticing out of the area patrons to visit the facility, should be the provision of a full time paid fire department adequate in size to protect the values at risk both in terms of on and off site emergencies.

L2-238

Depending on the number of levels/stories in the hotel a single 4 person staffed quint fire apparatus will not be adequate for an above-ground level fire or rescue.

L2-239

It is unwise to depend on ‘an administrative staff engine as the second due’ to respond” 8-5 Monday through Friday, as the EIS suggests because: (i) emergencies will not necessarily occur during those time frames; and (ii) to be effective the training level of the “administrative staff” must be substantially equivalent to the training level of the paid fire department staff.

L2-240

Dependence on the closest resource concept with mutual aid agreements with AFPD or Plymouth City Fire Department will not be adequate unless those entities or another contract agency also have paid staff readily available.

L2-241

Because of the hotel the minimum staffing provided must be even greater than that provided for the Buena Vista Project. Six-person staffing is a suggested minimum level. This would allow for staffing of a second fire apparatus for those infrequent, but probable, complex and/or simultaneous emergency calls.

L2-242

The Draft EIS Does Not Recognize the Impact on Fire Dispatching Services – Section 5.2.9 N states that “The Tribe shall negotiate in good faith to make a reasonable contribution to Amador County to address impacts to emergency dispatching...”. This vague mitigation measure seems to be addressed to the impact on Amador County’s PSAP center (911) at the Amador County Sheriff’s Office. As AFPD contracts for fire dispatching services with the State, it needs to be recognized that there will be a direct relationship to the cost of AFPD’s contract with the State based on the calls generated, both on and offsite, as a result of the proposed project.

L2-243

Need for Coordination with Other Emergency Responders – The following Memoranda of Understanding will be needed to coordinate the Tribe’s fire and emergency responders with other responders:

A. **Waiver of sovereign immunity:** An Indemnification and a limited waiver of sovereign immunity that authorizes first responders to enter the casino property and mitigate any emergency in coordination with Tribal authorities.

B. **Hazardous Materials Response Team:** First Responders responding to hazardous materials incidents at the casino will be neither trained nor equipped to mitigate a serious Hazardous Materials incident. First Responders will assume a ‘defensive’ posture which allows response, rescue and decontamination of victims, denying entry to potential victims, initiation of all appropriate notifications, and in most cases product identification.

Prior to casino Operations commencing the Tribe would need to contract with a Hazardous Materials Team to fully mitigate serious incidents. Sacramento City Fire Department, Sacramento Metropolitan Fire District, San Joaquin County and Calaveras County are the nearest public agency providers of this Hazardous Material Team service. This requirement should be specified in the Final EIS.

L2-244

The wastewater treatment process chosen and the types and quantities of chemicals utilized and stored on site will have an impact on the probability of a hazardous materials event occurring.

C. **Confined Space Rescue Team:** First Responders responding to Confined Space Rescue incidents at the casino will be neither trained nor equipped to mitigate a serious Confined Space Rescue incident. First Responders will be able to conduct rescue operations and incident monitoring from a position removed from the confined space, but will not enter the space.

Prior to casino operations commencing the Tribe must contract with a Confined Space Rescue Team to fully mitigate serious confined space incidents. Sacramento City Fire Department, Sacramento Metropolitan Fire District, and Roseville Fire Department are the nearest public agency providers of this type of service. This requirement should be specified in the Final EIS.

D. Automatic and Mutual Aid Agreements with other Amador County Fire Departments/Districts: It is cost prohibitive for a single facility to provide onsite fire protection and suppression services, as well as sufficient first responders to mitigate multi-casualty emergency medical incidents. Fire departments and districts within Amador County have entered into a variety of contractual arrangements where each entity assists the others. The casino should avail itself of the opportunity to participate in such contractual arrangements with other departments and districts.

L2-244
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E. Fire Department Dispatch Services: These services should be contracted for on a proportional basis to cover the cost of offsite and onsite emergency responses attributable to the casino. The Draft EIS spells out the process for on-site dispatching but makes no clear provision for participating in a centralized off-site dispatch arrangement for mutual aid responses on routine, large, or complex emergencies. Participation in a centralized dispatch system is critical.

Handling of Medical Aid Calls – The Tribe should make provisions to address medical aid calls for the large numbers of patrons, predominantly from out of county, that will visit the casino. Because of the large number of visitors (estimated in the Tribe’s economic analysis to be 3,400,000 visitors annually for Alternative A), failure to adequately address emergency medical response will overwhelm Amador County resources.

A. Onsite – The Tribe must show that it has provided for sufficient resources to address basic life support emergency medical calls without impacting the offsite Amador County volunteer fire departments/districts. Complex or multiple-patient calls will occur infrequently and these would be subject to a mutual aid response from offsite resources.

L2-245

B. Offsite – Offsite calls should be subject to a response from the casino funded fire department services based on the closest resource dispatching system utilized in Amador County.

C. Patient transport off trust lands should be subject to an exclusive franchise agreement with American Legion Ambulance for such services. (Note: the Draft EIS continues to refer to American Medical Response (AMR) as the transport provider, in derogation of American Legion Ambulances’ exclusive transport franchise agreement.)

Onsite and Offsite Structure Fires – The Tribe must provide resources to address onsite structure fires as well as the increase in offsite fires occasioned by the large numbers of visitors to the casino.

A. Onsite - The closest resource concept should be utilized to dispatch resources of adequate numbers and types to mitigate the emergency without regard to which agency is providing the resource.

L2-246

B. Offsite - The closest resource concept should be utilized to dispatch resources, including the casino funded fire department services, of adequate numbers and types to mitigate the emergency without regard to which agency is providing the resource.

L2-246
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Resources to Address Increased Vehicle Accident Calls Must Be Provided – The incidence of calls of this nature will increase dramatically within Amador County due to the sale of alcoholic beverages throughout the casino (including on the gambling floor), the unfamiliarity of casino patrons with Amador County roadways, and the increase of daily vehicle trips on the Amador County roadways due to the casino.

A. Onsite - The closest resource concept should be utilized to dispatch resources of adequate numbers and types to mitigate the emergency without regard to which agency is providing the resource.

L2-247

B. Offsite - The closest resource concept should be utilized to dispatch resources, including the casino funded fire department services, of adequate numbers and types to mitigate the emergency without regard to which agency is providing the resource.

Incidence of vehicle accident calls will increase dramatically within Amador County due to the sale of alcoholic beverages at the proposed casino, unfamiliarity of casino patrons with Amador County roadways, and an increase of daily vehicle trips due to Casino patronage, compounded by inclement weather, especially winter fog, which can be severe in the Amador County area.

Increase in Vegetation Fires – During the dry season, the danger of vegetation fires in the hot foothills climate are considerable. The increased traffic from 3,400,000 annual visitors will dramatically increase the risk of wildland fires.

A. Onsite - The closest resource concept should be utilized to dispatch resources of adequate numbers and types to mitigate the emergency without regard to which agency is providing the resource.

L2-248

B. Off site - The closest resource concept should be utilized to dispatch resources, including the casino funded fire department services, of adequate numbers and types to mitigate the emergency without regard to which agency is providing the resource.

CAL FIRE will be the agency with jurisdiction over any vegetation fire outside Plymouth's city limits, via statewide contract with BIA.

Casino Communications Design Should Accommodate Emergency Needs – Depending on the design and construction features of the casino communications within the gaming

L2-249

area may be a significant challenge. Towers, vaults, and repeaters may be required to meet minimum communication requirements on dispatch, command, and tactical nets.

L2-249
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Compliance with Fire and Life Safety Standards – In order to provide for a fire and life safe facility the casino must comply with California and National model codes, in all phases of development, which include but is not limited to: (1) a looped system of pipes and fire hydrants delivering the required fire flow based on appendices of the latest edition of the International Fire Code; (2) automatic fire suppression and alarm systems that comply with the International Fire Code; (3) exiting in compliance with the California Building Code; (4) fire department access, and (5) local fire jurisdiction review for code compliance and compatibility with local code amendments and standards.

L2-250

Miscellaneous Comments – The Draft EIS proposes providing mitigation measures when the project “opens.” The time table needs to be adjusted to cover mitigation during the construction period, since call volume attributable to the project will increase at that juncture.

L2-251

The types and sizes of Fire Department facilities, staffing, and equipment needs to be identified with greater specificity.

L2-252

In addition to fire apparatus, the need for fire department command and utility vehicles need to be addressed.

In all cases except for an incipient phase fire, the “Trained Security Staff” cannot take the “lead in supervising evacuation” without full Personal Protective Equipment (PPE) including self contained breathing apparatus (SCBA) and training on how to suppress fires and use the PPE.

L2-253

Call back of off-duty employees for “second alarm” or “ general alarm” fires is neither timely nor effective in the event of a major emergency incident

L2-254

The use of ‘dry hydrant systems’ should be minimized throughout the facility.

L2-255

The Draft EIS only addresses a single fire department connection on the loading dock for a project that envisions three major building components (*i.e.* hotel, casino and parking garage), as well as numerous minor structures.

L2-256

Any statement such as “Therefore, fire will be compartmented to the floor of origin, and structural collapse will not occur” is an overly optimistic view of structural fire resistance standards and should not be included in a document prepared by a fire planning consultant.

L2-257

The Draft EIS must clearly distinguish between whether an agreement is to be an “automatic” or “mutual” aid agreement, as they are not the same.

L2-258

The requirement that “Each party agrees that it will not seek compensation for services rendered under this agreement from any other party” is contrary to local operating plans.

L2-259

The requirement for a fire command center to be 96 square feet, with 8 feet as a minimum dimension, is relatively small for a dispatch center and fire control room.

L2-260

The statement in the Draft EIS that “Because the AFPD station (Plymouth) is located within one mile of the gaming facility, the second apparatus will be available within eight minutes” totally ignores a critical factor: the AFPD station is a volunteer station and no one may be available to respond, or the station may already be committed on a simultaneous call.

L2-261

Public Services – Law Enforcement

Impact of Lack of Uniformed, Armed Tribal Police Force – The Draft EIS states that the Tribe will employ security personnel to provide surveillance of the casino, parking areas, and surrounding grounds. In addition, the Tribe will only employ security guards carrying two-way radios to patrol the facilities instead of Tribal Police Officers. The Draft EIS is silent on the number of security guards the Tribe intends to employ. Uniformed Tribal Police Officers, in marked police vehicles, serve as a visible deterrent to those individuals inclined to commit criminal offenses on the casino property. The absence of armed Tribal Police will impact the number of calls for service the Amador County Sheriff’s Office (“ACSO”) will be required to respond to per Public Law 280, and therefore increase the number of deputies required to safely and effectively respond to calls for service on the casino property, increase the impact on ACSO Dispatch services, investigative support etc. Additional calls for service will also have a significant impact on the mitigation necessary for the District Attorney’s Office, Probation, Public Defender and the Court.

L2-262

Increased Demands on Law Enforcement Personnel and Equipment – The project will increase the demands on ACSO and the California Highway Patrol (CHP), particularly because alcohol will be served within the facility. When traffic accidents occur within the Highway 49 corridor, all available officers (Sheriff and CHP) respond. The substantial increase in traffic within the project vicinity and the increased crime generally associated with gaming operations would degrade the Department’s and CHP’s ability to provide law enforcement services to the local area. For any incident involving a tactical response (i.e. SWAT, bomb squad) clearing operations would be extremely time consuming and difficult. The mitigation measures included in the Draft EIS do not address the significant law enforcement impacts anticipated with project implementation. Detailed mitigation measures need to be included in the Final EIS to address this issue.

L2-263

Increased Demand for Service from Amador County Sheriff’s Office – The Draft EIS states in the Executive Summary that the casino project site is located partially within the City of Plymouth and partially in the unincorporated Amador County area. Appendix R states the gaming floor will be within the City of Plymouth and that the parking will be in the county jurisdiction. The Final EIS should state specifically if the proposed casino

L2-264

will be in the City or County jurisdiction, or both. This information is required to determine impacts to law enforcement in the unincorporated County area as well as to law enforcement from the perspective of the contract law enforcement provider for the City of Plymouth.

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Within the Draft EIS Alternative A Environmental Consequences Section it states there will be effects on public services resulting in increased demand for law enforcement services. (See Draft EIS page 4.11-29.) As previously stated, these impacts are not identified. A statement that there will be significant impacts but not identifying those impacts is insufficient. The document states that the implementation of mitigation measures will reduce the impacts to less than significant. Since the impacts are not identified, clearly the proposed mitigations cannot reduce the impacts to less than significant. Previously identified mitigation measures are insufficient to mitigate impacts. Stating that mitigation measures reduce the impacts to less than significant on the basis of such flimsy information is not supportable.

L2-265

The Draft EIS states that the Environmental Consequences for Alternative B and Alternative C would be similar to Alternative A but to a slightly lesser extent. There is no data or studies relative to crime at casinos that would support that statement. Additionally, there is a baseline level of law enforcement response that must be provided to mitigate impacts and safely respond to calls for service. Simply minimizing the size of a casino, or certain gaming or ancillary buildings, does not necessarily correlate to a minimization of the required level of law enforcement.

L2-266

The ACSO does not have a Joint Powers Agreement with the City of Plymouth for police services. Rather, there is a Law Enforcement Services Agreement dated April 28, 2005 between these entities that states the Sheriff will provide police protection and dispatching services. The Sheriff is paid via COPS grant funding through the State of California to the City of Plymouth. The \$100,000 grant currently provides only partial funding of one Deputy Sheriff position, not 1.5 as stated in the Draft EIS. The current Agreement terminates 45 days after a compact for gaming is signed and approved by the Secretary of the Interior or 45 days after land is taken into federal trust status, whichever occurs first. In the event this occurs, the City and the Sheriff may re-negotiate with the City over costs for new impacts created by the casino. Unless terminated by the terms of the Agreement, the above provisions remain in effect until June 30, 2010. The Final EIS should accurately state the details of the current agreement between the City and the ACSO.

L2-267

The Draft EIS fails to identify the significant amount of administrative support services provided to the City of Plymouth by the ACSO that are in addition to the Law Enforcement Services Agreement, including, clerical and report management, investigative services, supervisory and management, Office of Emergency Services, and evidence and property.

L2-268

The Draft EIS uses outdated information relative to the county jail and is silent on the impacts to jail population numbers, staffing requirements, booking fees, etc. Research

L2-269

conducted by the ACSO reveals a significant impact on jail bed space by the current Jackson Rancheria Casino. The Final EIS should estimate the number of individuals that would be booked into the County jail by crime type, duration of sentence, as well as profile characteristics of inmates (with an assessment of necessary ancillary services, such as mental health counseling, substance abuse, domestic violence treatment etc.).

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The Draft EIS references an ACSO station in the City of Plymouth. This is an inaccurate description of this facility. This is a very small, one room, minimally equipped office shared with the volunteer fire department in their facility. It is not secure and has no area for confidential meetings with citizens or crime victims, suspects or witnesses. The facility has no capability for computer records access or evidence processing space. The facility is rarely if ever used due to its location and limitations. It is unclear from the Draft EIS as to what relevance this issue is to the anticipated casino impacts. The Final EIS should state the relevance of the described facility to the proposed casino impacts.

L2-270

The Final EIS should estimate the number of coroner cases that the ACSO would respond to as the result of natural, criminal, and traffic related deaths associated with the casino.

L2-271

The Draft EIS references outdated response times for the ACSO to calls for service in the City of Plymouth. The Final EIS should provide updated and accurate information on this issue.

L2-272

The Draft EIS reiterates that a Tribal security force would provide security patrol and monitoring needs for the casino. The Draft EIS does not address incidents or violent criminal acts that require immediate law enforcement intervention in order to prevent bodily injury to patrons or casino staff. Security guards armed only with radios are not able to safely prevent these situations. The Final EIS should address the security staff's response to violent acts occurring on the casino grounds that require immediate intervention. The Final EIS should address whether or not the Tribe expects the ACSO to have a full time presence (sub-station) onsite or respond from offsite to the proposed casino.

L2-273

The Tribe does not propose to employ a tribal police force, relying instead upon an unknown number of security guards. The Jackson Rancheria Casino has a 20 person tribal police department, 6 dispatchers and support staff and a \$3.7 million annual budget, in addition to 100 unarmed security guards. The lack of a tribal police department at the casino will require the ACSO to respond to all service calls, which will dramatically increase law enforcement impacts over those experienced at the Jackson Rancheria Casino. These impacts include an increase in arrests and crime reports, which will ultimately be submitted to ACDA for prosecution and increase impacts on the court, public defender and probation as well. These impacts should be evaluated and addressed in the Final EIS.

L2-274

The Draft EIS states that the need for ACSO assistance would likely be required only in situations where there were a serious threat to life and property and where arrests would be made. The Draft EIS overlooks those situations where a law enforcement presence

L2-275

prevents the escalation of an incident into a serious one. Law enforcement should respond to any and all criminal activities as well as any incidents that may escalate into, or have the potential to become criminal in nature, if for no other reason than to keep the peace. A response to criminal and/or potential criminal activity requires properly trained and equipped law enforcement personnel in order to prevent harm to the public. Untrained security staff should not determine the seriousness of a threat to public safety nor when or if law enforcement should be notified to respond.

L2-275
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The Draft EIS uses outdated and inaccurate statistics regarding ACSO response times to the Jackson Rancheria Casino from 2003 and 2004. The Final EIS should update the statistical data.

L2-276

The Draft EIS states that since the proposed casino and the Jackson Rancheria Casino are similar in size and distance from urban centers, the demand on ACSO services would be similar. The Draft EIS neglects the fact that the Jackson Rancheria Casino employs a Tribal Police force that mitigates responses from the Sheriff's Office and has a staff that rivals the size of the ACSO patrol staff. The Draft EIS also fails to state that the Jackson Rancheria Casino does not serve alcohol in the gaming facility, and is approximately 3 miles from an incorporated city where this proposed casino is stated to be within an incorporated city.

L2-277

The Final EIS should address the Jackson Rancheria Casino Tribal Police staffing levels for police officers, dispatchers, and support staff, and the type and number of their responses to incidents at that casino.

L2-278

The Draft EIS cites outdated and inaccurate information from 2004 concerning the number of ACSO Deputies that would be required to mitigate the impact of the casino on law enforcement services in the City of Plymouth to a less-than-significant level. The Draft EIS fails to include an analysis of the offsite impacts the casino would have on the unincorporated areas of the county. The Final EIS should specifically address the offsite impacts to all county law enforcement services and the mitigation required as a result.

L2-279

The Draft EIS fails to include and address the full impacts of the proposed casino on all segments of the ACSO, including investigations, jail, coroner, dispatch, evidence, and support staff. The Final EIS should address these issues.

L2-280

Impacts to Amador County District Attorney's Office – The Draft EIS references the duties and responsibilities of the Amador County District Attorney's Office ("ACDA") programs and personnel, including prosecutors, investigative services, clerical support and Victim/Witness programs. It also cites outdated case and workload statistics provided by the District Attorney in his 2004 letter to the Bureau of Indian Affairs. The statistics and staffing levels cited in the Draft EIS are outdated. The Draft EIS does not estimate any impacts on staffing or workload from the proposed casino on any of the above mentioned ACDA's areas of responsibility. The Final EIS should include estimates of those impacts.

L2-281

The Draft EIS states that, since the size and geographical location of the proposed casino is similar to the Jackson Rancheria Casino, demands for services and workload on the ACDA would give an appropriate estimate of those required by the proposed casino. The Draft EIS fails to mention that the Jackson Rancheria Casino employs a substantial Tribal Police force rather than only unarmed security as the Tribe proposes. The presence of Tribal Police impacts the number of cases referred to the ACSO and therefore impacts the number of cases forwarded to the ACDA's Office for prosecution. The Draft EIS also fails to mention that the Jackson Rancheria Casino does not serve alcohol in the gaming facility, which would reduce the number of cases referred for investigation and prosecution from that casino compared to the proposed project.

L2-282

The Draft EIS uses outdated and inaccurate statistics from 2003 for the number of criminal filings related to the Jackson Rancheria. The ACDA recently undertook the task of identifying the actual number of filed criminal cases directly associated with the existing Jackson Rancheria Casino, which involved a manual review of every 2007 criminal case submitted to ACDA. ACDA also obtained data from the Amador County Superior Court pertaining to the total number of criminal cases filed with the court in 2007. The 2007 case review revealed that 455 felony cases and 1,299 misdemeanor cases were filed for a total of 1,754 criminal cases. Of the total 1,754 cases filed in 2007, at least 268 cases are directly associated with the Jackson Rancheria Casino, representing 15.3% of the total 2007 ACDA caseload. The 2007 data also showed a 100% increase over the Jackson Rancheria Casino-related crime data used in the Draft EIS.

An extensive case review by ACDA disclosed the number of onsite criminal cases generated by the Jackson Rancheria Casino during 2007. However, an accurate determination of offsite casino cases is more difficult to identify because of a lack of reliable data sources. As a result, any 2007 case that did not explicitly mention "casino" in the police report was not included in the total, even though other facts indicated a probable connection to the casino. Thus, it is reasonable to expect that the total number of 2007 casino related cases is greater than the 268 identified because not every law enforcement agency properly identifies and/or reports the casino association.

L2-283

Based upon the 2007 case review, the County strongly believes that a significant number of casino-related criminal cases occur on the following highways that are not properly identified by law enforcement agencies: Highway 88 between the Amador County line and Ridge Road; Highway 88 from Ridge Road to Dalton Road; Highway 16 from the Amador County line to Highway 49; Highway 49 from Highway 16 to Highway 88 to Jackson; Ridge Road and Highway 49 to New York Ranch Road; New York Ranch Road from Court Street to the Jackson Rancheria Casino. The residential streets in the immediate vicinity of the casino (Trent, York) are also well-known areas for casino patrons to abuse drugs and drink alcohol.

The Plymouth casino will operate up to 2,000 slot machines and 40 gaming tables. In comparison, the existing Jackson Rancheria Casino operates only 1,500 slot machines and slightly more gaming tables (44). The Draft EIS estimates a total of 3,400,000 annual patron visits for the Alternative A/Phase I project. Because of the increased size

over the Jackson Rancheria Casino, it is expected that impacts to ACDA will be greater than the 2007 experience. In addition, alcohol is not served at the Jackson Rancheria Casino, whereas the Plymouth casino proposes to serve alcohol throughout the casino, including on the gaming floor. Experience from other casinos shows that the anticipated increase in ACSO service calls due to service of alcohol throughout the casino can be monumental. For example, in Yolo County casino-related service calls to the Yolo County Sheriff's Office increase 30% the year following the introduction of alcohol service at Cache Creek Casino.

L2-283
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The relative close proximity of the Plymouth casino to the Jackson Rancheria Casino and the Shingle Springs Casino (and, if constructed, the Buena Vista Flying Cloud Casino) will likely bring an increase in traffic related cases and DUI drivers as patrons travel among the casinos. The Final EIS should estimate the number of vehicle-related impacts and incidents related to the casino as well as the impact of casino patrons traveling between nearby casinos on county and state roadways, including without limitation the number and type of criminal filings, referrals to Victim/Witness services, and clerical services impacting the ACDA's Office based on current data.

L2-284

The Draft EIS claims that the impact upon the ACDA caused by Alternative A will be similar to that of the existing Jackson Rancheria Casino. This assumption is unwarranted. Alternative A contemplates a larger gaming facility than the Jackson Rancheria Casino, which will serve alcohol and not employ a tribal police force. For all of these reasons, law enforcement impacts from the Plymouth casino will be greater than those currently caused by the Jackson Rancheria Casino. The Final EIS must justify why the Tribe believes that Alternative A will result in the same law enforcement impacts as the Jackson Rancheria Casino.

L2-285

Alternatives B and C contemplate a gaming facility for the Plymouth casino that is either similar in size or smaller than the Jackson Rancheria Casino, but which will serve alcohol and not employ a tribal police force. For these reasons, there will still be a greater impact for the Plymouth casino Alternatives B and C than that currently caused by the Jackson Rancheria Casino. The Tribe's economic analysis, while it does not estimate patron visits for Alternatives B and C, estimates that impacts to ACDA would be \$0.15 per visitor. This is in direct contradiction to claims in the Draft EIS that Alternatives B and C would result in a less-than-significant effect upon ACDA and other law enforcement agencies. The Final EIS needs to address those impacts and provide adequate mitigation.

L2-286

Impacts to California Highway Patrol – The Draft EIS references the California Highway Patrol ("CHP") only with regard to staffing levels and shift deployment. The Draft EIS is silent on the casino's impacts on the CHP regarding traffic, workload, DUI, non-fatal and fatal collisions.

L2-287

The Draft EIS states that the CHP will provide traffic enforcement for the proposed casino area. The Final EIS should reflect that the ACSO provides traffic enforcement to the incorporated City of Plymouth.

L2-288

The Draft EIS relies upon outdated and inaccurate staffing estimates for the CHP from 2004. The Final EIS should estimate staffing requirements based upon current data.

L2-289

The Final EIS should estimate the total number of traffic-related incidents that would require CHP response, including DUI, non-fatal and fatal accidents.

L2-290

Impacts to Public Defender Services – The Draft EIS does not address impacts the casino will have on public defender (“PD”) services. In a manner similar to the effects on ACDA, the PD’s Office will be affected as their caseload will increase with the development of the proposed Plymouth casino.

ACDA reported a total of 1,754 misdemeanor and felony cases filed with the Amador Superior Court in 2007. According to a year end report provided to Amador County by Ciummo and Associates (the entity providing primary PD services) dated March 3, 2008, the PD was appointed to a total of 1,182 cases for the year 2007. Therefore, approximately 67% of the total cases filed were handled by the PD.

Amador County contracts with Ciummo and Associates to provide PD services. In addition, a panel of conflict attorneys provides PD services when Ciummo and Associates declares a conflict. Occasionally, attorneys will be appointed outside of the conflict panel, which requires Amador County to pay for legal services above and beyond the fees paid to Ciummo and Associates. No information regarding casino related cases is reported to the County by counsel appointed outside of the conflict panel. In fiscal year 2007/2008 (from July 1 through June 15), approximately 60 orders were received by Amador County to pay counsel outside of the conflict panel. Adding 60 cases to the Ciummo and Associates total (1,182) case appointments for calendar year 2007, it brings to 70% the percentage of all cases filed in the Amador Superior Court that have a PD appointed.

L2-291

With Alternative A, the proposed Plymouth casino will have 500 more slot machines and 4 more tables than the Jackson Rancheria Casino. Additionally, unlike the Jackson Rancheria Casino, the proposed Plymouth casino will serve alcohol. Although there may be further differences between the Jackson Rancheria Casino and the proposed Plymouth casino, these two distinctions are important as they will likely contribute to a significantly larger caseload than we have seen with the Jackson Rancheria Casino.

ACDA found approximately 268 cases were related to the Jackson Rancheria Casino, which is 15.3% of the total cases (1,754) filed in 2007. Using the statistics reported by ACDA and considering the PD was appointed to 67% of the total cases filed in 2007, the PD would have been appointed to approximately 180 casino related cases in 2007.

Amador County is accountable for paying for indigent attorney services for not only adult criminal matters but other case types as well (e.g., juvenile and public conservator cases). Thus, adding another casino could impact all types of caseloads and create a need for more staffing to the PD to be able to adequately handle the increased caseload that is

expected from the addition of the proposed Plymouth casino. This impact should be addressed and mitigated in the EIS.

L2-291
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With the expected increase in contracted PD services, staff levels at County's General Services Administration ("GSA") may need to be increased. GSA is responsible for reviewing court orders and processing payments for legal services; therefore, an impact will likely be felt by GSA staff responsible for handling PD services. It is important to note that Amador County is responsible also for paying for investigators, expert witnesses, psychological testing, and other legal services expenses. Not only would mitigation be essential to off-set the GSA staffing impacts but an overall increase in funding for the PD budget would be crucial to mitigate increased costs for legal services for cases where attorneys under contract with Ciummo and Associates are not appointed to a case.

L2-292

Clearly, the Draft EIS recognizes there will be an impact from the proposed Plymouth casino on law enforcement but fails to recognize the impacts to PD services. The Tribe needs to include PD services in their mitigation efforts. The Final EIS should estimate the number of crimes for which the Amador County Public Defender would be required to provide defense, by type of crime. Defense counsel is appointed to approximately 70% of all cases filed with the Amador Superior Court (the percent may be as high as 90%). With the addition of the proposed Plymouth casino, especially since it will provide more gaming machines and tables and will serve alcohol, it is likely to create a significant impact on PD services. Mitigation is needed to ensure adequate staffing levels for PD services and GSA. Additionally, funds are needed to offset the financial increase to the PD budget to pay for legal services arising from cases where Ciummo and Associates is not appointed to represent the defendant. If mitigation is not sufficient it could jeopardize the level of public defender services. For those reasons, it is vitally important that the Tribe mitigate these effects to the fullest extent possible.

L2-293

Impacts to Other Law Enforcement-Related Programs – The Draft EIS fails to address the impacts the proposed casino would have on the police departments for the cities of Ione, Jackson and Sutter Creek. It is reasonable that patrons of one casino will also travel to other casinos that are in relatively close proximity to each other. This travel will result in increased traffic through the cities and therefore increase traffic-related incidents and crimes of opportunity, thereby impacting the operations of those police departments. The Final EIS should estimate the impact the Tribe's casino patrons will have on police departments in Amador County.

L2-294

The Draft EIS is silent on the impacts the casino would have on the Amador County Probation Department. The Final EIS should estimate the number of individuals by type of crime (juvenile and adult) who would be put under probationary supervision through the court process, including the length of the probationary period.

L2-295

The Final EIS should estimate the number of crimes that would be adjudicated in the Amador County Superior Court by type of crime.

L2-296

The Final EIS should describe in detail the functions and responsibilities of the ACSO, the CHP, local police departments, the Probation Department, the Public Defenders Office, and the Superior Court, as it has done for the ACDA's Office in the Draft EIS.

L2-297

Mitigation Measures for Impacts to Public Services Are Vague, Non-Specific, and Inadequate – Mitigation Measures 5.2.9 (J, K, L, M, and N) under Public Health and Safety all use negotiations with County and City agencies to determine the mitigations and “contributions” from the Tribe for various additional services that will be needed for the proposed action (Alternatives A-D). These mitigations measures lack any specific payment information and hold no guarantee that an agreement will be met in order to ensure that the project's adverse effects are properly mitigated; therefore, the public cannot be assured that necessary services will be made available upon project completion.

L2-298

The Draft EIS states that the Tribe shall consult with the City of Plymouth and the County of Amador to assess and reasonably address potential impacts to law enforcement and the ACDA's Office. This is wholly insufficient. The Tribe has not identified a reasonable assessment of the impacts of any of the project alternatives. Consultation regarding the impacts does not indicate negotiated agreement. Further, the statement that the Tribe will reasonably address potential impacts is unacceptable. The tribe should mitigate all off-reservation impacts to law enforcement created by their project. The Draft EIS mitigation statement does not address any off-reservation impacts to the ACSO, Probation Department, Courts or Public Defender.

L2-299

The Draft EIS proposal is for a total of 6.5 ACSO deputies to provide one deputy 24/7 based in the City of Plymouth for mitigation. The Draft EIS relies on outdated information found in a 2004 memorandum from the ACSO. The Draft EIS fails to mention that in this letter it was stated that the City alone would require 7 deputies and 1 supervisor to meet the 2004 estimate for 24/7/365 coverage. This estimate does not include law enforcement administrative services, management services, supervisory services, clerical services, investigative services, custody services, or crime scene/evidence services. The Final EIS should update the data and revise the mitigation estimate for the City of Plymouth law enforcement services.

L2-300

The Draft EIS fails to mention, much less estimate, the number of deputies in addition to those required for the City of Plymouth that would be required to mitigate off casino impacts to the unincorporated areas of the county. The Final EIS should estimate the resources needed by the ACSO to mitigate off-casino impacts.

L2-301

The Draft EIS states the amount of mitigation compensation for services provided by the ACSO shall be negotiated with the ACSO. The Final EIS should reflect that negotiations will be with the County of Amador, and estimate the actual costs for the services and staffing as well as include provisions for escalation of costs as required by bargaining unit contracts, equipment costs, etc.

L2-302

The Draft EIS states the amount of compensation for the ACSO would be subject to annual review. The Final EIS should delete this provision as the permanent staffing of personnel is required to mitigate the impacts created by the proposed casino. It is totally unreasonable that staff could be hired one year and terminated the next.

L2-303

The Draft EIS states the Tribe shall negotiate the exact amount of compensation for impact mitigation with Amador County for the services of the ACDA. No projected impacts were ever identified in the Draft EIS; consequently there is no level of mitigation identified. The Final EIS must identify impacts and then propose adequate mitigation. The Final EIS should estimate the actual costs for ACDA services and staffing as well as include provisions for escalation of costs as bargaining unit contracts, and equipment costs change.

L2-304

The Draft EIS states the amount of compensation to the ACDA would be subject to annual review. The Final EIS should delete this provision as permanent staffing levels are required to mitigate the impacts.

L2-305

The Draft EIS states the Tribe will consult with the CHP to mitigate potential impacts to their organization. The EIS should estimate the number and type of traffic-related incidents requiring CHP response, as well as the staffing and equipment levels necessary to mitigate that impact.

L2-306

The Draft EIS states that the Tribe will negotiate with Amador County to mitigate impacts to ACSO emergency dispatching services via a reasonable contribution. The Tribe should mitigate all emergency dispatch services impacts at the full cost for calls directly attributable to the proposed casino. The Final EIS should estimate the number of calls and type of calls that the proposed casino will generate, and the necessary staffing, space and equipment requirements of the ACSO to mitigate that impact. The Draft EIS states the amount of compensation shall be subject to annual review. The Final EIS should delete this provision as the permanent staffing of personnel is required to mitigate ongoing impacts created by the proposed casino.

L2-307

The Draft EIS is silent on the potential impacts to the rest of the Amador County law enforcement/criminal justice community, including the three city police departments, Probation, Public Defender and the Superior Court. After arrest and filing of criminal charges by ACDA, cases are processed by the court. A public defender will be appointed to represent roughly 90% of the defendants. The probation department has impacts before, during and after sentencing of a criminal defendant. A breakdown in the ability of the courts, public defender and probation to handle their burgeoning caseload will cause a logjam in the entire criminal justice system. The Draft EIS does not address the impacts caused to the public defender, the court and probation. The Draft EIS should address the impacts caused to each of these agencies and provide mitigation measures to deal with these impacts. The Final EIS should identify potential workload to estimate the impacts on these agencies and the mitigation required to address those impacts.

L2-308

Public Services – Miscellaneous

Increased Demands on Health Care – Increases in populations, especially low income populations, will result in increased demand for all public health services. As the health care provider of last resort, the County is ultimately responsible for the medical or mental health expenses of employees who are disabled or otherwise unable to work due to injury or illness without adequate insurance coverage. In addition, Amador County provides a range of mental health services to community members as well as alcohol and drug prevention and treatment services. Based on a review of the County’s existing workload, it is not uncommon for people using their services to have problems that are linked to gambling. The proposed project would be expected to exacerbate this situation. Because the project would substantially increase the number of employees within the County, a corresponding increase in the County’s indigent medical expenses would be anticipated. The Final EIS needs to more fully evaluate the project’s effects on the County’s health care system.

L2-309

No Analysis of Hazardous Materials Emergency Response Teams – There is no discussion in section 3.9 of potential impacts to hazardous materials emergency response teams. Routine operation of a facility this size may result in upset conditions releasing fuels, disinfectants, or other hazardous materials to the environment requiring emergency response to protect public health and safety. Additionally, a high profile business such as this may be the target of terrorist attack resulting in such releases. There is no hazardous materials emergency response team located within Amador County. The project must enter into a contract with another entity to provide this service.

L2-310

Food Safety Issues Need to be Addressed – The Amador County Environmental Health Department is responsible for inspecting and regulating retail food facilities to ensure a safe and sanitary food supply. If the Tribe intends to contract with the Environmental Health Department for these services, then the Draft EIS should say so. If not, then the Draft EIS should address how the Tribe will ensure food safety within its facility, including how it will respond to consumer complaints. (Note: the only reference to this public health issue is found on page 2-2: “The Tribe will adopt and comply with standards no less stringent than state public health standards for food and beverage handling.”)

L2-311

Noise

Low Trip Generation Rates Underestimate Noise Impact – The Draft EIS states that the traffic noise impacts were calculated based on the estimated traffic conditions identified in the project’s traffic study. However, as discussed in detail under the traffic section of this letter, the trip generation rates included in the Draft EIS substantially underestimate the anticipated vehicle trips generated by the proposed project. Therefore, not only are the trips underestimated but the noise impacts associated with these vehicle trips are underestimated. The traffic noise impacts need to be recalculated based on corrected vehicle trip estimates. This recalculation could potentially change the significance determinations reported in the Draft EIS associated with traffic noise.

L2-312

Roadway Noise Calculations Ignore Residences and Businesses Directly Adjacent to Roadways – The Draft EIS identifies the noise levels at 100 feet from roadway centerlines and concludes that noise impacts for businesses and residences would be less than significant because the increase noise levels would not exceed 5 decibels. However, this calculation of noise impacts ignores the fact that significant numbers of businesses and residences are located less than 50 feet from the roadway centerlines. Transportation noise sources decrease by approximately 3 decibels with every doubling of distance. Therefore, a transportation noise source of 50 decibels at 25 feet would reduce to 47 decibels at 50 feet and 44 decibels at 100 feet. Reversing this equation results in an increase in 3 decibels when the distance to the noise source is decreased by one half. Therefore, traffic noise levels at 50 feet from the noise source would be 3 decibels louder than at 100 feet. As an example, the 3 decibel increase in traffic noise expected at 100 feet from the length of State Route 124 south of State Route 16 (see Table 4.10-6 on page 4.10-7 of the Draft EIS) would be 6 decibels at 50 feet and 12 decibels at 25 feet. The Final EIS needs to specifically identified the residences and businesses that would experience noise level increases of 5 decibels or greater and provide detailed mitigation measures to ensure the health and safety of these residences and the viability of these businesses is not adversely affected by continual exposure to high noise levels.

L2-313

Noise Computations Not Provided and Source Unknown – The Draft EIS identifies Miller Environmental Consultants on page 7-2 as contributing to the preparation of the Draft EIS. Miller Environmental Consultants is a noise consulting firm. However, the Draft EIS does not include any noise data from Miller Environmental Consultants in the Draft EIS appendices and includes no mention of Miller Environmental Consultants in the noise section. The noise level calculations included in the noise section tables identify AES 2004 as the source of the data. However, no such source is included in the project’s references. If Miller Environmental Consultants prepared a noise analysis for the proposed project, it should either be included in the Draft EIS or an explanation should be provided as to why it wasn’t included. If AES prepared the noise analysis without the assistance of Miller Environmental Consultants, then the reference to this firm should be removed from the Draft EIS and the noise study prepared by AES should be included as an appendix. Also, the noise study should include the appropriate modeling output files in order to allow the public to confirm that appropriate noise modeling assumptions were used in calculating the proposed project’s noise impacts. Without this information, the Bureau of Indian Affairs is asking the public to take it on faith that the project’s noise impacts will not significantly impact local residences and businesses.

L2-314

County Adopted Noise Thresholds Ignored – The Draft EIS ignores the County’s Noise Element in evaluating the severity of the project’s noise impacts. The Noise Element specifically identifies normally acceptable noise levels for residential land uses as 60 decibels Ldn. No analysis is included in the Draft EIS regarding the project’s compatibility with this noise threshold. The Final EIS needs to clearly evaluate the project’s compatibility with the County’s noise element and identify appropriate mitigation, when necessary.

L2-315

Details of Analysis Are Incorrect – In the second paragraph under the “Operation – Mechanical Equipment” sub-heading on page 4.10-3, the attenuation value of “3 dBA” should be 6 dBA for a point-source. Since Table 4.10-3 already shows 6 dBA attenuation, this text correction would not change the analysis.

L2-316

Under the sub-heading “Noise Effects” on page 4.11-58 and 4.11-72, stated predicted increase in noise of “3 Leq” and the resulting noise level of “61 Leq” do not match what is shown in Tables 4.11-23 or 4.11-28. These tables show an increase of 2 dBA and a resulting noise level of 62 dBA. This discrepancy should be resolved.

L2-317

Construction Noise Mitigation is Ineffective – The Draft EIS states on page 4.10-6 that although short-term construction noise would increase ambient noise levels by more than 5 decibels, this impact would be considered less than significant because mitigation would limit construction activities to normal daytime hours. However, the mitigation included on page 5-23 states that construction activities shall be limited to normal daytime hours *to the extent feasible*. No definition is provided regarding normal daytime hours and the words “to the extent feasible” completely undermine any ability to limit construction noise impacts for local residents. Construction activities could presumably occur 24 hours per day, seven days per week if it was determined by the Tribe that limiting construction activities was not feasible. This mitigation is clearly inappropriate and needs to be revised and more precisely defined in order to conclude that construction noise impacts would not be significant for local residents.

L2-318

Mitigation Detail and Feasibility – Mitigation Measure 5.2.10A should detail what the “normal daytime hours” are that construction activities will be limited to.

L2-319

In addition, Mitigation Measures 5.2.10B and 5.2.10C call for the construction of noise walls or earthen berms to reduce the noise from on-site traffic and loading docks respectively. Noise walls and berms result in approximately 1 dBA reduction for every foot of wall/berm. To reduce the impact identified to a less-than-significant level, Mitigation Measure 5.2.10B would have to decrease noise by up to 14 dBA (for Alternative D) and thus would require an approximately 14 foot noise wall or berm. Similarly, Mitigation Measure 5.2.10C would have to decrease noise by 13 dBA and thus would require an approximately 13 foot noise wall or berm. Neither the potential aesthetic impacts of the structures nor the general feasibility of constructing them has been addressed.

L2-320

Hazards and Hazardous Materials

Need for Additional Analysis of Mine Waste – Section 3.2.5 of the Draft EIS mentions the Pioneer Mine on the eastern margin of the project site and associated prospect pits, ditches and tailings. Two prospect pits and a waste rock pile are noted at the base of the ridge due east of the Pioneer Mine. This appears to be in close proximity to the proposed reclaimed water storage reservoir. The document states that the site includes an abandoned hoist house and piles of non-hazardous waste rock (tailings). It also states that the sole remaining mineshaft was filled with debris and capped to prevent physical

L2-321

hazards. Table 3.6-1 also identifies locations RWCA-01-PM-Site-04 and RWCA-01-PM-Site-05 as containing tailings. There is no information documenting the non-hazardous determination of the waste rock, nor is there information indicating investigation for arsenic, heavy metals, acid mine drainage, or other hazards commonly associated with hard rock gold mines may be present at the site. This analysis must be completed to determine if hazardous waste is present.

L2-321
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Section 3.10.2 of the Draft EIS also identifies an abandoned mine (Pioneer Mine?) within the project site, but again fails to discuss whether hazards commonly associated with hard rock gold mines may be present at the site. Mine wastes were often deposited some distance from the mine head and can pose threats to public health and environmental quality. Conditions which may have stabilized over time could be destabilized by construction activities such as construction of the reclaimed water storage reservoir, pipelines, roadways, etc. There is no conclusion based on the findings of the Phase I report as to whether further soil sampling is recommended based on the areas of recognized environmental conditions on several of the parcels. There should be further discussion related to whether the recognized environmental conditions noted in the Phase I and reiterated in this section require further testing. In discussions with representatives of the California Department of Toxic Substances Control ("DTSC"), they agreed that there is very little information describing mine wastes (mine waste rock and mine tailings) associated with the Pioneer Mine (e.g., there is no information on the chemicals of concern or concentrations and little information on the extent of mine wastes). A detailed figure showing the location of all mining features, including mine waste piles, should be included in the EIS. DTSC staff also agreed that a Preliminary Endangerment Assessment (PEA) must be conducted for this project and included in the EIS.

L2-322

Finally, the proposed waste water reservoir described in the EIS should be evaluated with respect to the presence of mine wastes and potential underground working in the area, including acid rock drainage.

L2-323

Phase I Environmental Site Assessment Should Be Made Available – Section 3.10.2 of the Draft EIS references a Phase I Environmental Site Assessment (ESA) as Appendix O. Appendix O has not been provided to the public for review. It should be provided on the website for analysis by commenters on the Draft EIS, and be treated as a recirculated EIS for commenting purposes.

L2-324

Inadequate Documentation of Absence of Naturally Occurring Asbestos – Sections 3.4 and 3.10.2 of the Draft EIS fail to adequately address the presence of naturally occurring asbestos (NOA). Section 3.4 assumes that NOA is not present based on the *General Location Guide for Ultramafic Rocks in California*, but this assumption is not borne out by experience. NOA was discovered and remediated at the School District property located roughly one mile north-northeast of the project site. Though not suggested by the General Location Guide, it is possible that similar NOA-bearing earth materials exist within the project site that could become airborne due to trenching, grading, or other activities. Additionally, imported fill could be a source of NOA. Further analysis must be done to determine the presence or absence of NOA.

L2-325

Hazards Due to Propane Storage and Distribution Must Be Evaluated. – Section 4.10 does not reference propane storage or distribution. There is no natural gas pipeline in the Plymouth area, therefore it is anticipated that the project will include substantial propane storage and distribution facilities that could pose risks to public health and safety and the environment. These risks must be analyzed and mitigated in the Draft EIS. In addition, the Existing Sources only discusses the fact that no reported contamination sites from the project area were included in the Phase I report. There is no mention of the presence of any stored hazardous materials such as underground or above ground fuel storage tanks or any of the recognized environmental conditions mentioned in Section 3.10.2. This discussion should be expanded to make mention of existing storage, handling or disposal of hazardous materials, if any.

L2-326

Inspection for Asbestos during Demolition – Mitigation measure 5.10.L calls for inspection for lead-based paint during demolition. Inspection for asbestos should also be included.

On page 4.10-9, asbestos hazards are mentioned as being covered in Section 4.8, which is the Resource Use Patterns section that does not appear to discuss asbestos. Perhaps the referral should go to Section 4.4 which discusses Air Quality instead. Similarly, the mitigation measures that cover handling asbestos are found in Section 5.2.4 and not 5.2.10, which is the Other Values section that has a hazardous materials component but does not mention asbestos.

L2-327

Aesthetics

Project would Dramatically Alter the County's Unique Visual Resources – The County places a high value on the region's unique scenic qualities, as evidenced by the County's continued efforts through land use policy to retain the rural atmosphere that makes the County so special. The project site is located along the scenic State Route 49 corridor. The project's potential to adversely affect this unique scenic corridor through the construction of the proposed project is of critical concern to the County. The urbanization of the project site associated with the casino development would dramatically alter the unique visual resources within the State Route 49 corridor. The proposed project would introduce a multi-story hotel, event center, surface parking lots, substantial casino infrastructure, and substantial changes in the site's topography. The project would clearly result in a significant change in the area's visual character and the visual mitigation measures do little to reduce this adverse impact. Reducing the height of the proposed hotel and the overall size of the proposed project should be considered in order to minimize the project's adverse visual impacts.

L2-328

Incredibly, no visual resource mitigation measures have been identified in the Draft EIS. There is no attempt to identify design criteria to define exactly how the project will be designed or what kind of landscape schemes, lighting plans, or signage concepts will be implemented. With so little information regarding the proposed project's design, it is difficult to determine exactly how the area's visual resources will be affected or how the

L2-329

Draft EIS can conclude that the project’s visual impacts will be less than significant. A much more detailed discussion of the project’s visual resource impacts needs to be included in the Final EIS with the identification of specific mitigation measures to minimize these effects.

L2-329
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Architectural Renderings Inadequate in Presenting the Project’s Visual Impacts – The Draft EIS includes architectural renderings of the casino entrance as it would be viewed by casino patrons from the facility’s parking lot. However, no renderings are provided from State Route 49 or from sensitive surrounding land uses. Without such renderings, it is difficult to visualize the magnitude of the project’s aesthetic changes along State Route 49 and for city and county residents in the local area. The Final EIS should include detailed visual simulations that accurately convey the mass and scale of the proposed project from viewpoints along State Route 49 and from adjacent sensitive land uses.

L2-330

Lighting and Signage Impacts are Not Adequately Discussed and Mitigated – The Draft EIS provides very little detail regarding the project’s proposed plans for lighting and signage. Due to the sheer size of the casino and hotel/event center in relation to the surrounding commercial and rural residential land uses, and the extensive expanse of proposed parking areas, substantial facility lighting and signage will be required. The facility’s lighting, especially for the multi-story hotel and the parking lots, will introduce significant new nighttime light sources within the City of Plymouth, which will alter the nighttime character of this small town. The mitigation measures included in the Draft EIS do not address this increased light pollution and its effects on local residences. Also, no discussion is provided regarding the project’s proposed signage, particularly along State Route 49 and its effects on other uses in the local area. More detailed lighting and signage mitigation measures need to be included in the Final EIS to address the project’s significant lighting impacts.

L2-331

Increased Litter Generation Along Local Roads – The Draft EIS ignores the adverse visual impacts associated with increased litter along local roads that would be anticipated with casino operations. The Final EIS needs to identify an appropriate litter cleanup program along local roads that will be implemented by the Tribe in order to mitigate this adverse visual impact.

L2-332

Eligibility for Scenic Highway Designation – State Route 49 in Amador County is designated as an Eligible State Scenic Highway by the California Department of Transportation, and is noted as such in the Amador County General Plan. The Amador County General Plan includes regulations and guidelines for commercial development along the corridor within its Scenic Highways Element. This Scenic Highway designation should be discussed and any impacts analyzed within the Visual Resources section of the Draft EIS.

L2-333

Impacts on Sensitive Viewers Within Project Vicinity Are Not Discussed – The impacts on the sensitive viewers at the residences within the project vicinity are not discussed. As mentioned on page 2-21 through 2-22, the two residences located on parcels #2 and #12 will remain intact and in use throughout construction and operation of the project. The

L2-334

construction of noise attenuation walls (up to 13 feet tall as described in Section 3.10.01) to shield these residences from noise impacts would result in a visual impact to these viewers, as would the construction and operation of the proposed project. These potentially significant impacts should be discussed. The visual impacts section also does not include any discussion on visual impacts to the residences at the mobile home park located west of SR 49.

L2-334
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A Public Agency



12800 RIDGE ROAD, SUTTER CREEK, CA 95685-9630

D
✓ Pat O'Malley

Comment Letter L3

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July 2, 2008

HAND-DELIVERY

Mr. Dale Risling
Deputy Regional Director, Pacific Regional Office
Bureau of Indian Affairs
2800 Cottage Way
Sacramento, CA 95825

RE: DEIS Comments
Ione Band of Miwok Indians' Casino Project

Dear Mr. Risling:

In response to the public notice for the Draft Environmental Impact Statement (DEIS) for the proposed 228.04 acre trust acquisition and construction of a casino project to be located in the City of Plymouth in Amador County (Proposed Casino Project), Amador Water Agency (AWA) provides the following comments on the DEIS. The comments focus on water supply availability and water service.

1. The Plymouth Pipeline Project (Plymouth Pipeline) is in final design phase, and the project is anticipated to be out to bid this calendar year. As a result of this project, the AWA would provide wholesale treated water service through an approximately 11 mile water transmission pipeline and related facilities from the AWA's Tanner Water Treatment Plant in Sutter Creek to the City. The Plymouth Pipeline was designed to meet the City's existing water demand and the anticipated future water demand within the City through 2025. It is estimated that the City's 2025 population maximum day demand will be 1,331,250 gallons per day (Design Capacity). The Design Capacity is reserved for the City in the "Agreement Between City of Plymouth and Amador Water Agency for Construction of a Water Transmission Pipeline and Wholesale Treated Water Service to City of Plymouth" dated July 13, 2006. The Design Capacity did not take into account the water requirements of the Proposed Casino Project, nor does AWA's Urban Water Management Plan consider the demands of said project. The Draft EIS proposes two options for water service to the Proposed Casino Project. Option 1 consists of connection to the City's water system, assuming the Plymouth Pipeline is constructed. However, as mentioned above, the Design Capacity of that pipeline did not include the water demands of the Proposed Casino Project.

L3-1

The Draft EIS needs to further evaluate Option 1 and what facilities would be needed to effect water service from the City in light of the above information and the environmental effects of such facilities, including but not limited to potential construction effects on listed species, such as valley elderberry, longhorn beetle, and the California red-legged frog, and critical habitat. Such additional facility evaluation should include a water model analysis to assess the network of improvements to AWA's and the City's water systems, including expanded water treatment plant capacity, which would be needed in order for the City to provide water service to the Proposed Casino Project. As a consequence, the statement in the DEIS at page 2-8, that "... the City's water supply will become a viable option when ..." the Plymouth Pipeline is complete, is without foundation and will depend on the results of the above analysis and the analysis addressed in paragraph 3 below.

L3-1
cont.

2. The scope of the Plymouth Pipeline has been revised and the 1.5 million gallon water storage tank is no longer a part of the project. If Option 1 were pursued, the Draft EIS needs to evaluate what additional storage may be needed to provide service to the Proposed Casino Project, where such storage would be located and what the potential environmental effects would be associated with construction of such storage.

L3-2

3. The Draft EIS should include a water supply and demand assessment consistent with the requirements of California Water Code sections 10910, et seq. (SB 610). It is arguable whether or not SB 610 applies to the Proposed Casino Project; however, the public interest would be best served if the assessment required by SB 610 were included in the DEIS. As noted by the California Legislature in SB 610, "... it is critical that California's water agencies carefully assess the reliability of their water supply and delivery systems." The Legislature further stated: "It is the intent of the Legislature to strengthen the process pursuant to which local agencies determine the adequacy of existing and planned future water supplies to meet existing and planned future demands on those water supplies." With respect to Option 1, the DEIS is without any analysis of the adequacy of AWA's water supply to meet the projected water demands of the Proposed Project or of the potential impacts such demands may have on the supply. Such analysis, consistent with the requirements of SB 610, needs to be included in the DEIS. It would not be prudent to do otherwise; and the DEIS cannot conclude that there would be no significant effects to such supply if Option 1 were implemented without such analysis. This issue takes on added significance since the Proposed Casino Project's water requirements were not considered in AWA's demand analysis in its Urban Water Management Plan.

L3-3

4. The Draft EIS needs to provide (1) a more detailed water balance calculation for tertiary-treated effluent storage and (2) a more detailed water usage calculation, in order for there to be an adequate assessment of potential impacts to the AWA and City water systems, and AWA's water supply.

L3-4

Mr. Dale Risling
July 2, 2008
Page 3 of 3

Comment Letter L3

5. AWA and the State of California have adopted laws and regulations fostering the use of recycled water to lessen the impacts to potable water supplies. Amador Water Agency Water Code Section 1.34 provides:

The State Legislature has determined that the use of potable domestic water for certain non-potable uses may constitute a waste or unreasonable use of water if recycled water is available which meets specified conditions. (Water Code Section 13550 et. seq.)

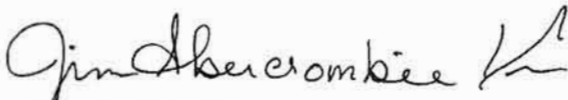
It is the policy of the Amador Water Agency to require that water users within the Agency retail and wholesale service areas use recycled water, wherever feasible, for future nonpotable uses when it is of adequate quality and quantity, available at reasonable cost, not detrimental to public health and not injurious to plant life, fish and wildlife. The Agency shall coordinate and work with Amador County and the cities within its retail and wholesale service areas to ensure that this recycled water policy is implemented.

L3-5

The DEIS is vague as to the extent to which recycled water would be utilized if Option 1 were pursued. In view of the AWA policy noted above, the DEIS needs to provide a definitive discussion on this issue. Further, the DEIS' statement at page 4.9-2 that, "With or without the use of recycled water, implementation of Phase I would result in a less-than-significant impact to the City of Plymouth municipal water system," cannot be made without an analysis of the impacts that Phase I would have on AWA's water supply as noted previously in this letter.

In conclusion, AWA appreciates the opportunity to submit comments on the DEIS. Please feel free to contact me at 257-5241 with any questions or comments regarding this letter or if you require any additional information.

Sincerely,



Jim Abercrombie
General Manager

cc: Gene Mancebo, P.E., Manager of Engineering & Planning, Amador Water Agency
Steve Kronick, Agency Counsel, Amador Water Agency
Dixon Flynn, City Administrator, City of Plymouth
Martha Shaver, Amador County Counsel
Terri Daly, Amador County Administrative Officer
Shasta Greene, City of Plymouth Attorney



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DEIS COMMENTS

lone Band of Miwok Indians'

Casino Project

*228.04-Acre Fee-to-Trust
Transfer Project and Casino Project
Amador County, CA*

Prepared For:

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GENERAL COMMENTS

Upon review of the Draft Environmental Impact Statement (DEIS), the City of Plymouth has concluded that, while the document contains useful and relevant information, the content of the DEIS is not sufficient to adequately identify and analyze the potential environmental effects of the Proposed Action. Additional background information, analysis, and mitigation measures are needed to allow the BIA and cooperating agencies to make an informed decision about the significance of the project's impacts. The following enumerates the general areas that require further attention.

L4-1

1) Did the Bureau of Indian Affairs ("BIA") seek comments from the City regarding land use conflicts? (See "NEPA's Forty Most Asked Questions, #23(a).) If so, these were not addressed in the DEIS. If not, then the BIA needs to seek comments.

L4-2

2) The groundwater impacts were not fully explored. Specifically, the DEIS needs to more fully explore how the groundwater the Tribe proposes to take will impact the regional groundwater supplies. The DEIS fails to examine the interaction of the City and County groundwater usage and the Tribe's proposed use, along with additional impacts from the Buena Vista casino project and planned City and County growth. Also, the Tribe's mitigation measures on the groundwater supply need to be mandatory, rather than permissive, and the Tribe needs to monitor not just the properties with existing water needs, but the impacts on the regional water tables.

L4-3

3) With respect to solid waste, the DEIS concludes the impacts are less than significant, but it does not explain the basis for this conclusion.

L4-4

4) Based on the Census data provided in the DEIS, the environmental justice analysis is completely inadequate. The project area is defined as having minority communities, but no outreach to the minority communities identified in the Census data was conducted. The BIA needs to obtain input from these communities on alternatives and mitigation measures. The project will negatively impact the housing market in the area and will create an increase in low-paying jobs. Also, the DEIS statistics regarding median income contradict the City's 2004 study discussed in Plymouth's comments on the ADEIS (p. 23). The City's survey found that 51% of the residents in Plymouth were low or very low income households under the HUD guidelines. This contradiction suggests that the Census income data in the DEIS is inaccurate because the data was taken on a regional basis. This is likely also true with respect to all of the DEIS's Census data, including the ethnicity data. The federal Environmental Justice Guidelines require more localized data gathering where regional data may create just this type of inaccuracy when evidence suggests that the project area has a minority or low income population. Consequently, the BIA needs to review its data, conduct the required outreach and revise the DEIS environmental justice analysis based on the results of its data review and outreach.

L4-5

5) The housing impact analysis fails to address how the Tribe will build the housing necessary for the employees, whose median income is \$25,000. Given these low wages, the majority of the new workers will need low income housing. The full extent of the proposed mitigation is to simply implement a housing program. This mitigation ignores the lack of water for such housing. The water impacts will fall completely on the City and County since the housing will be off-site. But the additional housing is not part of the regional planning efforts of either the County nor the City. Nor does the DEIS address the additional impacts on the regional water of the housing required by the Buena Vista casino project.

L4-6

6) Due to the volume of material presented and the similarity of text presented with each alternative, the header or footer of each page should indicate which specific alternative, if any, is being discussed.

L4-7

Comment Letter L4

- 7) The DEIS does not provide a reasonable range of alternatives to the proposed project. Alternative B is not sufficiently distinguishable from the Proposed Action to provide a useful comparison. The DEIS should, for example, identify and analyze a "No Onsite Services" alternative since the project proposes extensive onsite water and wastewater facilities, which are the sources of potentially significant adverse impacts. L4-8
 - 8) The alternatives examine either a smaller casino or a smaller hotel/conference center. There should be an alternative that analyzes a smaller casino and a smaller hotel/conference center to better address the significant impacts on water, housing, traffic, air quality and environmental justice. L4-9
 - 9) The DEIS relies on conclusory statements and provides neither explanation nor supporting data for many of its conclusions. Also, the DEIS must provide a comprehensive, integrated project description, as well as additional studies, data and analysis to achieve a thorough assessment of the project's environmental impacts. L4-10
 - 10) Much of the analysis in Environmental Consequences provides insufficient data to support findings of less-than-significant impacts. Standards or thresholds for determining the significance of potential impacts are often vague or indiscernible, making it difficult to understand the rationale for finding impacts significant or less than significant. The lack of standards also makes it difficult to determine if the proposed mitigations can effectively avoid or reduce related impacts. L4-11
 - 11) The DEIS identifies only one significant unavoidable impact (regional air quality); however, it is evident from the analyses that significant impacts could also result with groundwater overdrafting, topographic modification related to damming an onsite canyon, traffic impacts, and offsite drainage, among others. In addition, the effects of climate change have not been adequately identified or addressed. L4-12
 - 12) The DEIS fails to analyze the cumulative impacts on air quality of increased traffic from employees, service providers and patrons. The traffic impacts are identified as significant, but these impacts are not correlated with the air quality impacts. The cumulative impacts relating to the increase in employees and patrons on housing, water, air/greenhouse gas and traffic need to be discussed. L4-13
 - 13) The DEIS contains virtually no description or analysis of scenic distant vistas that could be affected by the project and its extensive onsite improvements, or light and glare from the intense lighting related to the 24-hour casino operation. L4-14
 - 14) There are numerous mitigation measures mentioned throughout the DEIS—most of which are in Chapter 4.0 Environmental Consequences -that the project says it will- implement, but the measures are not included in Chapter 5.0 Mitigations, or in Chapter 2.0 Alternatives (Project Description). L4-15
 - 15) Many of the mitigations provide minimal avoidance or reduction of identified impacts. Others, especially with respect to traffic and circulation, ineffectively provide for contributions to future roadway improvements rather than requiring the project to build or fully fund the improvements when no other funds are presently available to construct them. L4-16
- Lastly, all of the fee-to-trust alternatives include taking 228.04 acres into trust even though only 70.2 acres are proposed for development. The trust lands should be limited to the proposed development area. If the entire 228-acre site is to be taken into trust, then any development or other uses for this remaining acreage should be described in the Project Alternatives and analyzed in the DEIS. (Note: the City recognizes that some of the remaining acreage may be L4-17

used for disposal fields if a wastewater treatment plant is constructed; however the entire remainder of 158 acres will not be required for this facility. The granting of this remainder acreage into trust should be contingent upon the use of the land for disposal fields only and no other use of these parcels should be permitted.)

L4-17
cont.

EXECUTIVE SUMMARY

The Executive Summary consists of brief introductory text and an impacts/mitigation summary table. The summary should be revised to incorporate areas of controversy and issues to be resolved. Areas of controversy include serving urban-intensity uses with privately operated facilities and services such as water supply, wastewater treatment facilities, fire protection, and other issues.

L4-18

Specific Comments

Pages ii-iv; Alternatives

The Tribe sets forth five alternatives in the DEIS: (1) a casino and hotel (the "Proposed Alternative"); (2) a reduced casino with a hotel; (3) a reduced casino and no hotel; (4) a regional shopping development; and (5) no action. However, the Tribe fails to consider a reduced casino and reduced hotel as an alternative, which would allow for a critical study of the development's impact on surface parking, a wastewater treatment plant and disposal facility, the need for water storage tanks, wastewater storage issues, a surface water detention facility, site landscaping and the need for a fire station. Project alternatives are to be formulated to reduce the level of potentially significant impacts identified in the analysis of the Proposed Alternative, and the omission of an alternative planned around a reduced casino and reduced hotel leaves a large gap in the required "reasonable range of alternatives."

L4-19

Further, the Tribe must consider alternative sites, even if they are later eliminated. The Tribe considered a 40-acre site located outside the City of Lone, but abandoned it because it would "result in the loss of a substantial amount of trees and other vegetation, displace existing residents, would not have the ability to accommodate any ancillary components, such as a reservoir or wastewater treatment facility, and is partially located within the 100-year floodplain." However, the Tribe fails to explain how this site compares with the impact that the Proposed Alternative will have on the City of Plymouth. How many trees and how much vegetation will be lost? How many residents will be displaced as compared with the residents that would have been displaced at the alternative site? Most importantly, were any other sites considered? If so, which ones and why were they eliminated? If not, why not?

L4-20

Pages xii-xiii; Groundwater Use

The impacts on groundwater use of the project are identified as significant. The proposed mitigation is for the Tribe to implement a groundwater monitoring program. The DEIS does not define "reasonably determined to have been reduced," which is criteria for implementing mitigation measures. Moreover, if the Tribe's consumption reduces groundwater, all of the proposed mitigation measures are permissive, rather than mandatory. Therefore, the Tribe could deplete the groundwater and would be under no obligation to mitigate. The mitigation measures should be mandatory and enforceable.

L4-21

Pages xiv-xvi; Air Quality

The DEIS assumes less than significant impacts without mitigation. This is a large project, so it is unlikely there will not be significant impacts on air quality, especially considering that the traffic impacts have been identified as significant. The DEIS needs to analyze the impacts on the air quality of the additional car trips generated by employees and patrons as well as during construction.

L4-22

Page xxii; Socioeconomic Conditions

The DEIS assumes the impact of taking land out of the tax base is less than significant on the City and County without mitigation. What is the basis for this conclusion? Transient occupancy taxes derived by the City from the Shenandoah Inn is a significant source of income to the City. There must be an enforceable mitigation measure that allows the City to obtain compensation for lost revenues. Mitigation measures as written are unclear.

L4-23

Pages xxiv-xxv; Resource Use

Transportation: The DEIS acknowledges increased vehicle trips during construction and after completion and concludes impacts are significant. Despite significant impacts from increased traffic, there is no discussion of air quality of impacts of increased vehicle trips.

L4-24

Page xxxiii; Public Services

Water Supply: The DEIS states the impacts of the project on the water supply will be less than significant with no other comment; no mitigation is recommended. The DEIS indicates the Tribe will connect with the Plymouth Pipeline or develop an on-site water system with no impact on the City/municipal water. This section is inconsistent with the conclusion that impacts on groundwater will be significant. (See full discussion in cumulative impacts section below.)

L4-25

Wastewater: The DEIS states that, because the Tribe plans on developing an on-site wastewater treatment plant, the impacts on public services will be less than significant. Need to analyze in more detail how that conclusion was reached.

L4-26

Solid Waste: The DEIS concludes that the impact is less than significant, but don't explain how this conclusion was reached.

L4-27

2.0 ALTERNATIVES

DESCRIPTION OF ALTERNATIVES

The alternatives section should include a substantially more complete project description for Alternative A, the preferred alternative, at the beginning of the section. The description should be comprehensive, describing all of the structures, improvements, and operations proposed with the project, and how the structures will be built or implemented from beginning to end.

L4-28

Numerous components of the project description are omitted from Chapter 2.0, but are scattered throughout other sections of the document. For example, it is well into the EIS before the document discloses that the casino will operate 24 hours per day. Below is just a sampling of some other project components that are incomplete or missing from this chapter:

- Page 240 notes that parking lots will use typical downcast lighting but the number or general distribution of light standards and the square footage of the parking field is not provided, nor a standard for what the minimum or maximum illumination would be.
- The dimensions, height and diameter of the proposed water storage tanks are not provided either here or elsewhere in the DEIS. At 1.2 million gallons each, no analysis of the project's visual effects can be complete without this information for these (and the various other proposed) tanks.
- There is no mention in the project description as to the disposition of the residences located on three of the project parcels. The age of the structures and possible hazards should be fully disclosed and mitigated.

L4-29

- The DEIS text briefly mentions the project proposes landscaping, but provides no detail about the location or amount proposed.

L4-29
cont.

In the absence of a complete project description, where components are revealed piecemeal and inconsistently, if at all, throughout the document, an assessment of the project alternatives and their environmental effects becomes unwieldy. For example, it is difficult to establish early on what role the landscaping will play in the project (e.g., visual screening, reducing the heat generation and reflectivity in large parking fields, a source of shade in summer, etc.), and whether it will be adequate for the project.

L4-30

ALTERNATIVES TO THE PROPOSED PROJECT

Project alternatives are to be formulated to reduce the level of potentially significant impacts identified in the analysis of the preferred alternative. An accurate and comprehensive description of meaningful alternatives allows the public to understand and evaluate to what extent these alternatives can reduce environmental impacts as compared with the preferred alternative. The DEIS should rigorously analyze and objectively evaluate a reasonable range of alternatives, and should identify the factors involved in determining the formulation and feasibility of alternatives. The DEIS does not include such factors nor does it disclose what alternatives were considered but eliminated from further analysis.

L4-31

No alternative is proposed that avoids groundwater pumping and the subsurface disposal of wastewater. The failure to include these less environmentally damaging alternatives should be explained. As groundwater pumping and the subsurface disposal will cause significant impacts on the environment and are greatly of concern to the local community; without such alternatives the DEIS will be inadequate.

L4-32

Specific Comments

- pp. 2-2 With regards to the listing of standards proposed by the Tribe to be implemented, the documents consistently state that the Tribe will "adopt and comply with standards no less stringent than Federal" standards. This should be amended to read "Federal or State Standards whichever is more restrictive."
- pp. 2-22 et seq. Alternative B reduces the casino area by approximately 16%; it is unclear how this is a reasonable alternative. It involves a small reduction in one element of the project, does not obviously respond to any potentially significant impacts, and retains all of the project's extensive onsite service facilities.
- pp. 2-34 et seq. Alternative C reduces the casino area by 34% and eliminates the hotel; however, this alternative continues to propose extensive private onsite water and wastewater facilities. The DEIS should include analysis as to whether it is feasible for this sized alternative to support the private facilities.

L4-33

L4-34

L4-35

§2.2.1 Alternative A — Preferred Casino and Hotel Alternative

The casino project is proposed for development on 70.2 acres (Parcels 3-11) of the 228 acres included in this fee-to-trust application, as shown in Table 2-1. Other project components shown in Figure 2-1 include a fire station at western boundary of Parcel 1 and use of Parcel 1 for the wastewater treatment system and spray disposal; no other developed uses are proposed with this site. In the absence of any other physical development and NEPA environmental impact analysis for this 157.8-acre remainder (69% of the project site), the City requests that project approval be subject to no other future development on this vacant land, irrespective of the existing zoning. This is of particular concern in the event the project switches to wastewater

L4-36

Comment Letter L4

collection and disposal through the City's sewer system, leaving Parcels 1,2 and 12 uncommitted to any other use(s).

L4-36
cont.

The project description does not indicate the removal or disturbance of the existing mining roads, a "dilapidated" lift station, or remnants of old mining infrastructure and mining operations on Parcel #1. However, in Section 3.10.2, Existing Conditions (page 3.10-9), describes how "the structure will be demolished and all the associated debris will be transported and disposed offsite." In addition, Section 3.10.2, Existing Conditions (page 3.10-10) indicates a private well located on Parcel #7. The project description does not, however, indicate whether or not this well will be abandoned. These activities should be included among the Project Description's Ancillary Components.

L4-37

Areas called out in Figures 3.8-4 and 3.8-5 should be "hatched" or otherwise marked so as not to rely on color for distinguishing the areas. They are generally unusable when viewed in black and white.

L4-38

The following are comments related to the specifics of this section:

Page	Location	Comments
2-2	Development Standards: Paragraph 2	A certificate of occupancy is tied to compliance with a set of conditions. Does the first "bullet" imply that the Tribe will issue a certificate of occupancy to itself? What is the mechanism that ensures compliance with conditions are met prior to occupancy?
2-7	Site Access and Parking	The project proposes to include "typical lighting standards" for the parking lot. The City of Plymouth is presently in the process of replacing its typical light standards on Main Street with new replica "vintage lights" in keeping with Plymouth's historic character. The City requests that the casino incorporate tight standards that are similar in character to reinforce the historic architectural features that are envisioned by the City in its design guidelines specified in the 1997 <i>Downtown Revitalization Strategy</i> and Chapter 19.50 of the <i>Plymouth Municipal Code</i> .
2-5	Alternative A – Proposed Hotel and Casino	The DEIS states that the 47-unit Shenandoah Inn will be demolished in Phase I of the Proposed Alternative. The analysis does not state how the loss of the Transient Occupancy Tax will impact the City of Plymouth or how this loss would be mitigated. There is a mention in the "Summary of Potential Environmental Effects, Mitigation Measures and Significance" (page xxii of the Executive Summary) that taking the project site into trust would remove a tax base from the City of Plymouth and the County of Amador. The Tribe suggests mitigation in the form of a one-time or annual payment to the City and County as compensation for the impact, but it is unclear if this includes the loss of the Transient Occupancy Tax. The Mitigation Measure also states: "The amount of payment shall be subject to annual review," which means it could be cut off at any time. This should be clarified.

L4-39

L4-40

L4-41

2-8	Option 1 – Water Supply	Although this is more fully discussed in the cumulative impacts section, under Option 1, the DEIS indicates that the total water demand for Phase I, with or without the use of recycled water, would be met by the City of Plymouth's municipal water supply. The DEIS states: "The use of the City's water supply will become a viable option when the City and Amador Water Agency (AWA) complete the planned Plymouth Pipeline Project." There is no guarantee that the City will allow the Tribe to connect to the pipeline, if built, and there have been no discussions indicating that the Tribe should consider this a viable option. The DEIS contains no analysis of the impact of connecting the Project to the City's pipeline on the City's water supply. This is critical in order to ensure that the Proposed Alternative is truly rigorously analyzed and objectively evaluated, particularly as the Tribe's connection to the City's pipeline could have a serious impact on the pipeline's ability to serve current and future Plymouth residents.
2-8	Option 2 – Water Supply	Under this Option, water will be supplied by groundwater wells and trucking services – wells M1, H1 and M3. The Tribe's estimate of the total yield for the three wells, pumped in rotation, is 119,520 gpd. 70% of Phase I only would come from the wells, with the additional 30% trucked. 100% would come from wells if the project uses recycled water for landscaping. Without use of recycled water, 60% will come from groundwater and 40% from trucking for total build out of project. In addition to regional groundwater impacts discussed below, the DEIS needs to evaluate the traffic, air quality and any other impacts from trucking 40% of the required water.
2-22	Future Development	The DEIS states: "No other developments, such as Tribal housing or commercial facilities, would occur on the project site. Does this mean the entire 228.04 acres? Or just the portion on which the casino and hotel, and any ancillary structures, would be built? And what mechanisms will the Tribe have to comply with if it decides to build on the remaining land? This section should provide additional clarifying detail and further analysis.

L4-42

L4-43

L4-44

§2.2.2 Alternative B – Reduced Casino With Hotel Alternative

Page	Location	Comments
2-5	Reduced Casino with Hotel Alternative	The "reduced" casino is less than 20,000 square feet smaller than the casino in the Proposed Alternative, and the hotel is the same size. NEPA requires a "reasonable range of alternatives" and there is a question as to whether this can be considered an adequate alternative when such a slight reduction will likely have little effect on the environmental impacts caused by the Proposed Alternative. The mitigation measures should be the same as the water usage, traffic, air quality issues, cumulative

L4-45

Comment Letter L4

		impact, etc. are likely to be almost identical. Thus, this alternative does not appear to avoid or minimize any significant environmental impacts.	L4-45 cont.
2-26	Option 1 – Water Supply	This alternative uses the same Option 1 water supply as the Proposed Alternative, so the same comments as indicated above from page 2-8 are applicable.	L4-46
2-34	Future Development	The DEIS states: "No other developments, such as Tribal housing or commercial facilities, <u>are expected to occur</u> on the project site." (Emphasis added). Note the difference in wording from the Proposed Alternative. Does this mean that other developments are a possibility, i.e., more so than in the Proposed Alternative? This section needs further analysis/explanation.	L4-47

§2.2.3 Alternative C – Reduced Casino

Page	Location	Comments	
2-34	Alternative C – Reduced Casino	The "reduced" casino is smaller than the Proposed Alternative or Alternative B (approximately 80,000 total square feet). However, in the description of Alternative C, it states: "No other developments, such as Tribal housing or other commercial facilities are <u>expected</u> to occur on the project site." (Emphasis added). Although this comment is made in the "Future Developments" section of Alternative B, it is the first time it is brought up in a project alternative description section. If additional housing or other commercial facilities are an option in Alternative C, that option should be disclosed and discussed fully in the DEIS so the public can comment on the potential impact.	L4-48
2-38	Option 1 – Water Supply	This alternative uses the same Option 1 water supply as the Proposed Alternative and Alternative B, so the same comments as indicated above from page 2-8 and 2-26 are applicable.	L4-49
2-42	Future Development	Using similar wording to that in Alternative B, the DEIS states: "No other developments, such as Tribal housing or commercial facilities, <u>are anticipated to occur</u> on the project site." (Emphasis added). The same comments as stated on page 2-34 apply. This section needs further analysis/explanation.	L4-50

§2.2.4 Alternative D – Retail Development

Page	Location	Comments	
2-34	Alternative D – Retail Development	In the description of Alternative D, it states: "No other developments, such as Tribal housing or other commercial facilities are <u>expected</u> to occur on the project site." (Emphasis added). As with Alternatives B and C, if this is an option, it should be disclosed and discussed fully in the DEIS so the public can comment on the potential impact.	L4-51
2-46	Water Supply	This alternative uses the same Option 1 water supply as	L4-52

		the Proposed Alternative and Alternatives B and C, so the same comments as indicated above from page 2-8, 2-26 and 2-38 are applicable.	L4-52 cont.
2-49	Future Development	The DEIS states: "No other developments, such as Tribal housing or commercial facilities, <u>are expected to occur</u> on the project site." (Emphasis added). As explained above, this section needs further analysis/explanation.	L4-53

§2.2.5 Alternative E – No Action Alternative

Page	Location	Comments	
2-49	Alternative E – No Action Alternative	Alternative E states: "For the purposes of the environmental analysis in this DEIS, it is assumed that the building moratorium would be lifted and the property would be ultimately developed." This is a rather large assumption for the Tribe to make when so much depends on a correct environmental analysis. Further, it is a potentially erroneous assumption. For the purpose of a truly rigorous and objective analysis, the "No Action Alternative" should be considered from both the perspective of a building moratorium being lifted and the perspective of the moratorium staying in place so the reviewers can get an accurate depiction of the effects of the "No Action" alternative, particularly when it may result in no development at all (contrary to what is stated in the DEIS) and, therefore, no environmental impact.	L4-54

§2.2.6 Alternatives Considered but Eliminated

Page	Location	Comments	
2-49 through 2-51	Alternatives Considered but Eliminated	<p>The Tribe admits that the 40-acre parcel outside of the City of Ione meets the minimum casino element requirement. However, because "development of the site would result in the loss of a substantial amount of trees and other vegetation, displace existing residents, and would not have the ability to accommodate any ancillary components, such as a reservoir or wastewater treatment facility," the site was eliminated from consideration. Additionally, the Tribe notes: "The southern portion of the project site...is located within the 100-year floodplain."</p> <p>There is no explanation as to why no other alternative sites were considered. Moreover, there is no comparison between the alternative site and the impact on the City of Plymouth, i.e., how many trees and how much vegetation will be lost in Plymouth due to the Proposed Alternative? How many Plymouth residents will be displaced versus how many would have been displaced at the alternative site? Would there have been a way to mitigate the building of the portion of the project in the</p>	L4-55

		100-year floodplain?
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L4-55
cont.

Other

Although a reasonable range of alternatives should be considered by the Tribe, there is no alternative that considers a reduced casino/reduced hotel option. Alternatives A, B and C have similar impacts on the environment and require similar mitigation measures. There is little significant difference among the three alternatives. Thus, an alternative examining the impacts of a reduced casino and a reduced hotel alternative may give reviewers an opportunity to examine whether such an option would reduce the impacts on the environment in a significant fashion, i.e., more so than the current alternatives offered by the Tribe.

L4-56

From the Tribe's analyses on the other alternatives, there is no reason to believe that this alternative would not meet the Tribe's "Purpose and Need," as stated in Section 1.2.

3.0 DESCRIPTION OF THE AFFECTED ENVIRONMENT

This section provides the physical setting against which the impacts of the proposed project are measured. It should provide the public with a comprehensive, easy-to-understand, accurate description of the project site and surrounding area.

The existing regulatory environment should be discussed as an indicator of what measures are considered to require governmental monitoring, what applicable standards are for the community, and some appropriate mitigations. City regulations that a normal project in the City would have to comply with include:

1. Zoning Ordinance Compliance -The City of Plymouth's Zoning Ordinance (the "Zoning Ordinance") applies to all property within the City. (Plymouth Municipal Code Section 19.02.040.) The lone Band of Miwok Indians' Casino Project (the "project") is partially within the City and partially outside of the City. The project is within the City's Commercial Zone and four of the eight parcels are also within the Scenic Corridor Combined Zone. (DEIS page 4.8-9.) Certain general provisions apply to all zones in the City:

- a. Large public events involving the assemblage of more than 100 persons or more than 25 vehicles are not allowed without a use permit unless the use was approved as part of development agreement in a planned development zone. (Plymouth Municipal Code Section 19.06.020.)
- b. Hazardous materials storage, such as might occur in a treatment plant setting, requires a use permit. (Plymouth Municipal Code Section 19.06.030.)
- c. Non-residential construction must meet the requirements of California Government Code Section 65850.2 and be certified by the Amador County Pollution Control Officer prior to the issuance of building permits. (Plymouth Municipal Code Section 19.06.030.)
- d. Noise in the Commercial zone may not exceed 77 decibels during working hours and 70 decibels at all other times, unless a use permit is obtained. (Plymouth Municipal Code Section 19.06.040.)
- e. Discovery of historic sites and artifacts during construction must be reported to the City and those sites must be protected, and construction must cease until the City Council authorizes construction to resume. (Plymouth Municipal Code Section 19.06.050.)

L4-57

- f. No building in the Commercial Zone may exceed 45 feet in height absent an approved site plan, use permit or development agreement. (Plymouth Municipal Code Section 19.06.090.)
- g. Off-street parking is required for the casino in the amount of 1 space per seat and 1 space per room for the hotel; restaurants require one space per each four seats. (Plymouth Municipal Code Section 19.06.120.)
- h. Alteration or removal of more than one tree is unlawful without an approved Tree Removal and Replacement Plan. (Plymouth Municipal Code Section 19.06.180.)
- i. Grading permits based on approved grading plans are required for all projects that disturb more than 2,000 square feet of surface area. (Plymouth Municipal Code Section 19.06.190.)
- j. Each new commercial building must have a recycling area. (Plymouth Municipal Code Section 19.06.201.)
- k. Projects that require a use permit, site plan or similar approval must have an approved Landscaping Plan which complies with City water conservation standards. (Plymouth Municipal Code Section 19.06.210.)
- l. The City's Commercial Zone regulations provide that a building project involving the construction of one or more buildings with an aggregate floor area of 3,500 square feet or more must have a use permit. (Plymouth Municipal Code Section 19.08.062.)
- m. A building project involving the construction of one or more buildings with an aggregate floor area of 7,500 square feet or more must have a site plan review. (Plymouth Municipal Code Section 19.08.063.)
- n. Building density for commercial uses is not to exceed 4,500 square feet per 6,000 square feet of lot area. (Plymouth Municipal Code Section 19.08.065.)
- o. The City's Scenic Corridor Combined Zone requires site plan approval with consideration of design review guidelines specified in Chapter 19.50. (Plymouth Municipal Code Sections 19.10.053,19.10.054.)

L4-57
cont.

2. Subdivision Ordinance Compliance - The DEIS indicates that the Casino structure would be built on at least four different existing parcels (APNs 10-200-007,10-200-008,10-200-010, and 10-200-011. (DEIS Figures 1-3, 2-1.) In order to comply with building setbacks, a building may not span more than one lot. Thus, a project that spans four lots would need to either comply with the City and State merger procedures or the State lot line adjustment procedures to remove or relocate the superfluous lots. Sections 16.04.050 and 16.04.100 of the Plymouth Municipal Code provide that such lots may be merged through the Subdivision Map Act's reversion to acreage procedure. The Plymouth Municipal Code does not regulate lot line adjustments. To the extent that the merger of lots or lot line adjustment requires a parcel map under the State Subdivision Map Act, additional local procedures and exactions would apply. (See, e.g. Plymouth Municipal Code Sections 16.32.010, 16.20.020, 16.18.020.)

L4-58

3. City Sewer Provisions - Sections 13.02.040 and 13.03.050 of the Plymouth Municipal Code provides that:

L4-59

- a. It is unlawful for any person to connect to, construct, install, provide, maintain or use any means of sewage disposal other than by connection to a public sewer so long as a public sewer is within 100 feet of the nearest building.
- b. No sewage facility, line or connection may be installed until a City permit has been obtained. (Plymouth Municipal Code Sections 13.02.070,13.05.010.)
- c. Construction of private sewage disposal systems requires a permit and inspection. (Plymouth Municipal Code Section 13.04.020.)
- d. A private system must comply with all of the requirements of the City, the State Department of Public Health, and the Amador County Health Department. (Plymouth Municipal Code Section 13.04.040.)
- e. To the extent that a new development connects to the public sewer, the disposal of certain wastes into the sewer are prohibited (Plymouth Municipal Code Section 13.07.030.)
- f. Grease interceptors may be required (Plymouth Municipal Code Section 13.07.040) and pre-treatment may be required if certain discharge amounts or oxygen content limits are exceeded. (Plymouth Municipal Code Section 13.07.060.)
- g. A connection charge will be assessed. (Plymouth Municipal Code Section 13.07.080.) Permit and connection fees are also applicable where a project connects to the public sewer. (Plymouth Municipal Code Section 13.09.010.)

L4-59
cont.

4. City Water Provisions - To the extent that a new development requires a use permit or building permit, a fee equalization charge of \$875 per equivalent dwelling unit ("EDU") is assessed. (Plymouth Municipal Code Section 14.08.035.) Additionally, in connection with the issuance of a use permit or a building permit and Arroyo Ditch participation fee of \$4,000 per EDU is charged. (Plymouth Municipal Code Section 14.08.130.) The City also charges a standby fee and a connection fee. (Plymouth Municipal Code Sections 14.08.090,14.08.100, 14.08.030.) A city permit is required before digging, deepening or modifying water well or other excavation that may intersect with ground water. (Plymouth Municipal Code Section 14.12.030.) Wells are required to comply with Department of Water Resources Bulletin 74-81 and subsequent supplements and revisions. (Plymouth Municipal Code Section 14.12.100.)

L4-60

5. City Building and Construction Provisions - The City has adopted the Uniform Building Code, the Uniform Mechanical code, the National Electric Code, the Uniform Plumbing Code, the Uniform Code for Abatement of Dangerous Buildings and the Uniform Code for Building Conservation. (Plymouth Municipal Code Section 15.05.020.) Construction must comply with these codes. (Plymouth Municipal Code Section 15.05.030.)

L4-61

6. Payment of Other Local Development Related Fees - New development in the city is required to pay Capital Improvement Fees. (Plymouth Municipal Code Section 3.34.030.)

L4-62

7. Licensing - Entities doing business in the City require a City business license. (Plymouth Municipal Code Section 5.02.010.) The amount of the associated license fee is dependent on the type of business conducted. For example, card rooms must pay a quarterly fee of \$50 per table for the first two tables and \$25 per additional table. (Plymouth Municipal Code Section 5.12.030.)

L4-63

8. Payment of Local Taxes and Fees - The City's taxes and assessments collected by the County. (Plymouth Municipal Code Section 3.12.020.) The City nonetheless receives a share

L4-64

of property taxes paid by property owners within the City. The property taxes paid by a property owner within the City will increase dramatically when new construction is completed. This is because completion of new construction allows for a reassessment, reappraisal of the value of the property and buildings. Future property taxes are then based on this new value, not the previous value. (Cal. Revenue & Taxation Code Section 50; see also, <http://www.co.amador.ca.us/depts/assessor/onlineserv/brochure.htm#8>.) The City imposes a 6% transient occupancy tax on hotels. (Plymouth Municipal Code Section 3.30.030.) The City also collects sales and use taxes at the rate of 1%. (Plymouth Municipal Code Sections 3.20.060,3.20.060.)

L4-64
cont.

§3.3 Water Resources

Page	Location	Comments
3.3-3	Site	<p>Residents indicate that existing runoff from the site contributes to the wet year flooding of Highway 49 and the trailer park across the highway in the vicinity of Little Indian Creek. This flooding is reported to occur about every five (5) years.</p> <p>California has been authorized to issue NPDES permits and, through the Porter-Cologne Water Quality Control Act ("Porter-Cologne Act"), and the Regional Board has authority to set water quality standards and to issue NPDES permits for the discharge of pollutants into navigable waters. Thus, the projects permit should be obtained through the regional water board and subject to its standards.</p>
3.3-6	Surface Water	<p>Although the Plymouth General Plan identifies the Arroyo Ditch as the primary domestic water supply for Plymouth, which is the desire of the City, most of the domestic water supply is provided by groundwater from City wells. These wells come close to drying up each year because the underground water source cannot keep up with the needs of the City.</p> <p>The use of additional groundwater to supply the casino or any other development puts the City's water supply at risk of becoming depleted. This section should be revised to include discussion of the unreliable nature of Plymouth's water supply and the dependency of the City on its wells.</p>
3.3-10	Groundwater	<p>A data source should be cited for the statement that the project site "creates unusually high groundwater yields." What is considered a high yield (gpm), and to what extent is the unique geology (groundwater chamber) able to recharge and maintain this high groundwater yield?</p> <p>To date, the City has received no evidence that there is a high groundwater yield in this area. The recent (2004) Ketron report concluded that the basin is being depleted of its water.</p>

L4-65

L4-66

L4-67

Comment Letter L4

		<p>If the groundwater was producing a high yield, the City would not be looking at alternative water sources as it has been for years—the Arroyo Ditch, proposed Plymouth Reservoir, and Amador Water Agency pipeline are all considered preferred alternatives to groundwater use. While this section discusses the water in the basin, it does not mention a shortage of groundwater supply and the continuous problems associated with the insufficient yields from wells owned by the City and Burke Ranch homeowners (adjacent to and east of the City limits) every year in August and November.</p>
3.3-8	Paragraph	<p>The analysis states that "only two domestic wells within the City produce water at a greater rate than 200 gpm." This seems to contradict the statement on page 3.3-6 that the geology is such that there are high groundwater yields.</p> <p>This section states that "a large percentage of these wells produce water greater than 50 gpm." Specifically, what is the percentage of wells producing at greater than 50 gpm?</p> <p>The City Engineer has knowledge of low-capacity wells (1-5 gpm) in the Willow Springs area which is slightly more than two miles away from the project site, with no recorded data showing 50 gpm. There will always be a rare instance of a well or even several that will produce high yields, but the vast majority of low-yield wells is not discussed in the DEIS.</p> <p>The groundwater basin has barely been able to provide water to Plymouth and those in the vicinity. Many Burke Ranch wells have gone dry. The DEIS should provide a more in-depth analysis with quantifiable conclusions regarding the availability of groundwater to adequately supply City residents and Burke Ranch residents, as well as a large consumer such as the proposed casino. A modeling of the ground water in the Basin should be completed to give a full picture of the impacts.</p>
3.3-11	Table 3.3-4	<p>This table provides data for the existing onsite wells and the testing for yield. The manner of testing is an airlift that gives an instantaneous reading on the well production. This can serve as a good measuring stick if the well is going to be used marginally, but not for a well that serves as the primary and ongoing source of water. For reliable readings, a one-week test at multiple test flows should be conducted to measure the drawdown and recharge. An airlift is not adequate to evaluate these aquifers and the hydrologist should pursue more detailed tests.</p>
3.3-11	Table 3.3-4	<p>This table makes long-term well yield recommendations. There is no scientific data to confirm these figures. Air lift tests are not adequate and are not good indicators of long-term production values.</p> <p>The City experienced a severe drawdown on its main well one year during the County Fair and lost approximately 200 feet of water surface in two days. The well was tested and should have been able to produce</p>

L4-67
cont.

L4-68

L4-69

L4-70

		<p>600 gpm, but was only yielding about 200 gpm when the drawdown occurred.</p> <p>The State of California allowed 25% of the test yield (after a 72-hour test) as the firm yield figure for the City's main well. This 25% standard was applied to other wells without the benefit of the drawdown tests. Using the 25% criterion and Table 3.3—4, the yield for wells serving the proposed casino project would be 37.5 gpm. This yield is much less than the recommended 83 gpm for long-term yield in Table 3.3-4. The State standard of 25% should be applied to the proposed casino project as it is with the City's wells. This will help determine whether the project can provide a reliable water supply.</p>	L4-70 cont.
3.3-9	Paragraph 4	<p>The text identifies a network of confined aquifers and notes that pump tests may not be representative. With such uncertain groundwater conditions, how accurately can the DEIS assess potential water supplies and project effects? If the potential supplies and effects analyses are based on assumptions and speculation, it is difficult to see how water supply impacts identified in section 4.0 can be less than significant.</p>	L4-71
3.3-11	Groundwater Quality	<p>Text should be added to identify the implications of the sampling results. The general public is unlikely to know how to interpret results such as the maximum lead content of .015 mg/i from Table 3.3-5.</p>	L4-72

§3.4 Air Quality

The document makes reference to Air Quality standards and existing regulatory efforts to establish emission standards but does not give any quantitative analysis or information concerning the project's existing or proposed "carbon foot print." The Air Quality discussion in the document is not specific to the project or its impacts. This level of analysis is needed for the public to understand the impact of the project on the existing Air Quality and the projects contribution to Global Warming/Climate change.

L4-73

§3.5 Biological Resources

Page	Location	Comments	
3.5-15	Seasonal Wetlands	<p>The small-caps font heading for Seasonal Wetlands is different than the other waters of the United States font headings. As a result, is the DEIS categorizing the intermittent and ephemeral drainages as seasonal wetlands? If so, these are more aptly categorized as "other waters," not wetlands.</p>	L4-74
3.5-9	Figure 3.5.2 Waters of the United States	<p>The 2.78 acres identified as Waters of the U.S. seems low based on the City's knowledge of the project site and other properties in the area. This figure is not consistent with Corps-verified wetland delineations in the area. A Corps verification must be obtained prior to finalizing mitigation for impacts to these waters.</p>	L4-75

§3.6 Cultural Resources

The following are general comments on the cultural resources discussion of the affected environment:

- This section provides ample background information on the prehistory, ethnography and historical context of the project area. However, little of it is tied to what's actually found on the project site, leaving a substantial gap in the description of the affected environment. L4-76 cont.
- This section does not describe the 12 sites or the single district or what was found on them (e.g.; there is no mention of the site that contains the historic Pioneer Mine; which are mining-related sites, ditches, etc.). More site-specific information should be included. L4-77
- A distinction should be made as to which sites were previously identified and recorded as part of the 2001 Windmill & Osarina report, and which new sites were evaluated and recorded. L4-78
- The information requested above might have been found in Appendix K, but no cultural documents were provided with the DEIS Technical Appendices. In any case, for ease of public disclosure, which is the primary purpose of this NEPA document, key information should be extracted from the cultural reports and summarized for incorporation into the DEIS. L4-79

Page	Location	Comments
3.6-11	Records and Literature Search	There is a reference to Appendix K throughout Section 3.6.6. However, Appendix K was not provided as part of the Technical Appendices. This appendix needs to be included with the Draft EIS. L4-80

§3.7 Socioeconomic Conditions and Environmental Justice

Page	Location	Comments
		The DEIS fails to mention the City generally or note the transient occupancy tax the City derives from the Shenandoah Inn. This income is significant to the City and needs to be discussed. L4-81
3.7-5.6	Schools	The DEIS finds that the schools are currently overburdened, but it does not analyze the impacts later in the environmental justice context or discuss cumulative impacts with other regional projects. L4-82
3.7-7	Schools	The property tax rate of \$38,820 for '05-'06 tax year is included. This amount is probably lower now, which means less impact on County from parcel being transferred to trust, but greater impact overall since there will be less money for schools and services. This section needs to be updated. The DEIS only examines attitudes, lifestyle, etc. of the Tribe. Needs to also assess the entire community, including the non-Indian community (see "Affected Environment" sheet in BIA packet). L4-83
3.7-5	Schools	Monarch Montessori is located at 9082 Main Street; Plymouth Elementary School is located at 18601 L4-84

Comment Letter L4

		Sherwood Street.	L4-84 cont.
3.7-7	Schools	The first full paragraph indicates that sufficient funds are available for planned school projects over the next five years. The discussion should include the land use assumptions for the project site upon which the school district projections are based.	L4-85
3.7-3,4	Housing	A table and accompanying narrative should provide a breakdown of the rental vs. owner-occupied units, as well as multi-family vs. single-family units. Current housing prices, including for-purchase and rental rates should also be provided. The vacancy rate alone does not serve as an accurate indicator of Amador County's housing stock, particularly its affordable housing supply.	L4-86
3.7-11	Ethnic Composition	Census Tract 3.01 is a minority community because, according to the Census data in the DEIS, 52.2% of the community is minority. See discussion of environmental justice issues in Section 4.7 below.	L4-87

§3.8. Resource Use Patterns

Page	Location	Comments	
3.8.1	Transportation	The traffic impact analysis in Appendix M indicates the assumed increase in traffic as a result of the project. The DEIS needs to examine the trip/day increase assumptions and analyze the air quality impacts based on this data.	L4-88

§3.8.2 Land Use

Page	Location	Comments	
3.8-12	Parcel #1	Amador County General Plan designates Parcel #1 for non-urban, low-density residential uses. The proposed large-scale wastewater treatment plant and disposal areas are not consistent with this land use designation. The County's "X" zoning designation requires a Conditional Use Permit.	L4-89
3.8-13	Parcel #3	Amador County General Plan and Zoning Ordinance designate Parcel #3 for non-urban, low-density residential uses. The proposed large-scale wastewater treatment plant and disposal areas are not consistent with this land use designation.	L4-90
3.8-16	Parcel #12	Same as Parcel #3.	L4-91
3.8-16 – 3.8-22	General Plan	The review of City of Plymouth General Plan and zoning designations and policies should identify development standards such as for parking, landscaping, setbacks, building heights, etc, that defines the maximum building intensity for a commercial site. The City of Plymouth has been working on an Update to the General Plan. The document should mention this effort and the discussion should include analysis of the project's relationship to the proposed vision of the community as a rural, small town.	L4-92
3.8-20	Table 3.8-6	The Land Use goals numbering should be corrected to	L4-93

	correspond with the General Plan Land Use Element— they are 2.1.1 through 2.1.7.	L4-93 cont.
<p>The <i>Plymouth General Plan Land Use Element's</i> "vision statement" (Page 6) was not cited nor discussed in the DEIS. To ensure that future development is consistent with the City's goals, policies and objectives, it is critical that this proposed project be evaluated within the context of this vision statement as follows:</p> <ul style="list-style-type: none"> ➤ In the year 2015 Plymouth will be recognized as a "small town"; a comfortable place with a "country" feeling, friendly people and a sense of community. ➤ The City's unique history will be evident...in [new] building projects designed to enhance the City's Mother Lode charm. ➤ The revitalization effort will expand beyond Main Street to upgrade and beautify private and public properties...creating a source for local pride. ➤ Growth will occur [along]...the Highway 49 corridor where the City will work with businesses and land owners to cooperatively, but firmly implement the design standards necessary to achieve the common vision. ➤ The City will become larger in 2015 (total population 1,800 to 3,500) and the City limits and sphere of influence will be expanded. ➤ In order to assure that the area's rural character is not lost, only well-planned, fiscally sound developments will be accepted and large areas for open space and agriculture will be preserved. ➤ The larger population base will help create a stable economy and improve the quality of life. ➤ The City will become the commercial and cultural "hub" of northern Amador and southern El Dorado counties. ➤ Plymouth will become a place where people want to stop and visit. ➤ Publicly and privately owned services and facilities will be of high quality and affordable to local residents. ➤ The City's youth will be an active part of the City's present and future. 		L4-94

§3.9.1 Municipal Water Supply

The Environmental Impact Statement included information that described the existing environment, which may be affected by the proposed development. The table, below, provides a summary of the existing environment with respect to water services.

Assumptions, such as City's water source (City/Arroyo Ditch; groundwater wells) need to be discussed with the City and updated. Based on the new information, the analysis needs to be modified. The DEIS acknowledges that the City's storage tank meets existing needs, but is insufficient for future needs or summer/maximum day demands. How is City going to provide water for employee housing? This issue needs to be analyzed.

The California Department of Health Services was founded in 1987. The City lacked adequate water supply and imposed a moratorium on all new development within the City. Only a few homes were built in 1990 (because a new well source was found). There are 25 building permits currently available, but for low-income housing only. These assumptions need to be verified with the City and updated as necessary.

Pipeline from Amador Water Agency – see discussion in cumulative impacts section below regarding revised pipeline capacity.

Page	Environmental Base Condition	Comments
3.9.1	The total capacity of the City's water system is approximately 648 million gallons	The average water sales in Plymouth have ranged between 61 and 64 million gallons

L4-97

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	per day.	a year, although it peaked in fiscal year 2004 at 72.4 million gallons. This amounts to 198,400 gallons per day. The City's groundwater supply has limited capacity to enhance this production. In recognition of this limitation, the City and the Amador Water Agency have entered into an agreement to construct a 10" water main to the City of Plymouth to provide water supply.	L4-97 cont.
3.9.1	The City also obtains their water supply from groundwater wells.	This is the sole supply of water for the City of Plymouth at the current time. Future capacity from the proposed AWA pipeline is limited and the full build out of the City plus the project has not been analyzed with regards to water capacity adequately in the document.	L4-98
3.9.1	The City maintains their own water supply system.	The City contracts with the Amador Water Agency for the operation and maintenance of its water treatment plant.	L4-99
3.9.1	Based on Department of Water Resources (DWR) Well Completion Reports (DWR Well Logs) for all water supply wells within a two mile radius of the project site, approximately 36 domestic water producing wells are located within and near the City of Plymouth. These wells vary in depth from approximately 80 feet to 5000 feet below ground surface (bgs) with static water levels ranging from approximately 14 to 200 bgs. The majority of the wells are located on the western side of Plymouth. There are two wells located within the City of Plymouth that are reported to produce water at a rate greater than 200 gpm. There are approximately 87 domestic water producing wells south of the City of Plymouth. These wells vary in depth from approximately 100 to 700 bgs. A large percentage of these wells produce greater than 50 gpm. However, most of the wells located within the Immediate vicinity of the project are shown to be low producing wells. With the exception of three wells, the wells are shown to produce less than 15 gpm, with four wells producing less than five gpm.	The comments by the EIS noted that "most of the wells located within the immediate vicinity of the project are shown to be low producing wells. With the exception of three wells, the wells are shown to produce less than 15 gpm, with four wells producing less than five gpm."	L4-100

§3.9.2 Wastewater Service

Page	Environmental Base Condition	Comments
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Comment Letter L4

3.9.3	The existing on-site facilities are not discussed. The City's facilities which may not be utilized by the project.	<ul style="list-style-type: none"> • Wastewater treatment plants require a National Pollution Discharge Elimination System (NPDES) permit for surface discharge or a Waste Discharge Requirements (WDR) permit for discharge over land. The State of California Regional Water Quality Control Board (RWQCB) issues these permits. While this project will produce, treat, and dispose of wastewater on Tribal land, the water treatment, wastewater treatment, and disposal for Alternative A in figure 3-5 in Appendix B shows a 5.2 acre spray field 80 feet from the border of the property and a 27.3 acre foot reclaimed water seasonal storage reservoir 240 feet from the border of the property. Both of these facilities are uphill from non-Tribal property and could result in discharge to surface water drainage courses. • The Appendix S-the Results of Soil mantle and Percolation tests - was utilized as the basis evaluating onsite soil conditions. The appendix, on page 1, states that there is one spring in a drainage within the southwest quadrant and others in deep drainage courses east of the project. A spring is also thought to supply water to the pond in the southwest corner of the project. Given the presence of these springs and the possible flow off-site, the RWQCB should be the regulatory body, and not the USEPA. • Appendix B, notes that water flows horizontally along the bedded planes of shale. This indicates that wastewater disposal methods involving subsurface leachfields and spray irrigation will flow horizontally off-site. Given the horizontal flow off-site, the RWQCB should be the regulatory body. 	<p style="text-align: right;">L4-101</p> <p style="text-align: right;">L4-102</p> <p style="text-align: right;">L4-103</p>
3.9.3	The proposed site contains eight parcels with existing wastewater service from the City of Plymouth.	While the document discusses the City's facilities at the wastewater treatment plant, it does not describe the existing conditions on-site.	L4-104

§3.9.5 Public Health and Safety – LAW ENFORCEMENT

Page	Environmental Base Condition	Comments
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Comment Letter L4

3.9-9	<p>Under contract, the ACSO provides at least 20 hours of police service per day.</p> <p>The jail renovation recently added 1,298 square feet, though there is continued over-capacity by 10% - 15%. This expansion did not include an increase of holding capacity and there are no plans to increase this.</p>	<p>ACSO is assuming a 10-15 percent over-capacity. The data to support this should be made available which shows the inmate population by origin (City versus County) to estimate the City share of the facility.</p>	L4-105
3.9-5	<p>The nearest police sub-station is in the fire station in the City. A total of 3 deputies use this small facility. The main office and jail is located 14 miles from the project site.</p> <p>Response times to the City range from less than 5 minutes to 13 minutes for emergency calls, and up to 29 minutes for non-emergency calls depending on the vicinity of the deputy at the time.</p>	<p>Assumption is made that response times are due to low staffing levels, although there needs to be consideration for other possible attributes, including:</p> <ul style="list-style-type: none"> • Appropriateness of deputy deployment by time of day and day of week both inside and outside the City. • Efficiency of overall operations to respond to calls for service (i.e., handling time, dispatching time, etc.). 	L4-106
3.9-5	<p>CHP provides traffic enforcement to the project area from the main office located at 301 Clinton Road in Jackson.</p>	<p>Assumes that CHP provides all traffic services to the project area. The impact on City resources is not indicated.</p>	L4-107

§3.10.1 Noise

Page	Environmental Base Condition	Comments	
3.10-5	Regulatory Environment	This section should also reference the regulatory standards provided in the City of Plymouth's Noise Ordinance—Sections 9.01 and 19.06.040 of the Plymouth Municipal Code.	L4-108
3.10-6	Sensitive Receptors	Parcels #8, #9 and #12 are described as having residential structures onsite. The noise analysis should indicate whether each of these units are occupied or vacant, and whether they will be demolished or not. Without this information, the analysis is incomplete for the purposes of determining whether these are sensitive receptors and to what extent the project would adversely affect them.	L4-109

§3.10.2 Hazards and Hazardous Materials

Page	Environmental Base Condition	Comments	
3.10-9	Existing Conditions	The first paragraph discussion of the Phase I Site Assessment should state whether or not an asbestos survey, or lead paint or electric and magnetic field (EMF) studies were also conducted.	L4-110

§3.10.3 Visual Resources

Page	Environmental Base Condition	Comments	
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Comment Letter L4

3.10-14	Viewsheds	If the houses are presently occupied on Parcels #8, #9 and #12, this section should also describe the viewshed from the vantage point of these residents.	L4-111
3.10-11	Viewsheds	All the parcels are described except Parcel 12; a description should be added for this parcel. The visual resources discussion should be expanded to include identification of distant vistas from the project site.	L4-1112
3.10-14	Viewsheds	The visual resources discussion should be expanded to describe the current nighttime lighting conditions on and around the project site.	L4-113

4.0 ENVIRONMENTAL CONSEQUENCES

The following comments on Environmental Consequences are specifically directed to the DEIS's analysis of **Alternative A – Preferred Casino with Hotel**, but they also apply to the other alternatives analyzed by the DEIS to the extent there is parallel analysis for the other alternatives.

§4.2 Land Resources

Page	Environmental Base Condition	Comments	
4.2-1	Topography	The text includes a conclusory statement that Alternative A was designed to take advantage of topographic features but provides no details about the project design nor how it takes advantage of the topography. The text asserts that minimal grading will be required due to the design, however, much of the project is located on relatively flat portions of the site; under these circumstances, grading would be expected to be minimal whatever the design. In any case, the amounts of cut and fill identified in Section 2.0, do not suggest the project involves minimal grading. Furthermore, by proposing onsite water, wastewater end related facilities, the project creates the need for extensive structural and topographic modification, such as the 75 high dam and two 1.2 million gallon water storage tanks. With the proposed intensity of site modification and the absence of specific mitigation, topographic impacts would likely be significant, not less than significant.	L4-114
4.2-5	Wastewater Disposal Option 1/Dam	The text notes that the BIA will identify land uses that could potentially be affected by dam failure. Land uses are currently known and the potential effect is directly the result of proposing the dam; therefore, public safety impacts and hazard classification should be analyzed in the EIS, not deferred to another review.	L4-115
4.2-6	Mineral Resources	The text notes that one third of the site is proposed for development. As noted in earlier comments, only that third should be taken into trust. No land should be taken into trust until development is	L4-116

Comment Letter L4

		proposed and analyzed in an EIS.	L4-116 cont.
4.2-11	Topography	The text should be expanded to explain why the excavation amount for Alternative C is nearly the same as for Alternative B even though a smaller casino and no hotel would be built. Similarly, p. 4.2-13 should explain why the retail development alternative would require so much fill.	L4-117
4.2-12	Seismicity	All of the alternatives propose dammed reservoirs, million gallon water storage tanks, and/or detention basins. The seismic-related potential for seiche should be analyzed for these structures, and any other large contained water bodies. Where impacts are quantifiable, as for cut/fill/export, simple tables should be prepared to assist the public and decision makers in comparing the impacts of the alternatives.	L4-118

§4.3 Water Resources

Page	Environmental Base Condition	Comments	
4.3-9		The DEIS acknowledges that City's use of groundwater has lead to an overdraft of the groundwater, then concludes that the Tribe's use of groundwater would have a less than significant impact on the ground water due to the results of its pump tests and <u>possible</u> use of recycled water. Mitigation consists of groundwater monitoring program. (DEIS section 5, p. 5-7.) How can it be mitigated to less-than-significant if the groundwater is already depleted, before the Tribe pumps any water? This issue needs to be fully analyzed based on the discussion of cumulative regional groundwater impacts.	L4-119
4.3-2	Drainage	There is very little quantitative information on the site drainage summarized from the drainage study. It is not possible to estimate whether the detention pond or other strategies will be adequate without information on the amount of impermeable surface added, the expected runoff, etc. Furthermore, the document does not identify the condition of facilities downstream from the project or whether these facilities would continue to operate adequately with the project.	L4-120
4.3-3	Phase II	The DEIS states that the construction of the hotel/event center would result in a reduced amount of impervious coverage. This is misleading since the parking lot would be replaced. The overall fluctuation of the surface water should be analyzed with respect to the operation of the drainage facilities as well as to the	L4-121

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		effect on the biological resources downstream.	L4-121 cont.
4.3-4	Surface Water Quality	Water flows horizontally along the bedded planes of shale. This indicates that wastewater disposal methods involving subsurface leachfields and spray irrigation will flow horizontally off-site. Given the horizontal flow off-site, the RWQCB should be the regulatory body and not the USEPA.	L4-122
4.3-5	Surface Water Quality	Fertilizer source controls mentioned in the text are not included in the operational mitigations in Section 5.0. How will the project ensure that the controls will be implemented?	L4-123
4.3-9	Groundwater	<p>The description of the water supply in this section does not indicate how long groundwater recharge takes for each well. Will there be any hazardous material associated with the fresh or recycled water storage? It is not clear that the wells will support this kind of pumping for any prolonged period of time (See 3.3.9). The flow from all three wells is required to achieve the 85 gpm, so it seems unlikely that the pumping could be rotated to allow for recharge. Are all the wells that will be drawn from specified? The monitoring of the wells as far as water quality and volume appears to be insufficient.</p> <p>The unrecycled amount of wastewater is not enumerated; it should be 154,600-(38%*188,500) or 82,970 gpd. The subsurface disposal of treated wastewater could degrade the aquifer for all users. The seasonal storage pond will hold (12,186,843 / 82,970) or 147 days of the unrecycled treated wastewater flow, assuming there is no rainfall volume in the pond. The winter or wet months are usually November through April, 6 months. This could mean that 100 days of the unrecycled treated wastewater flow, over 8 million gallons, might be injected into the local aquifers in one year. An outside body familiar with local conditions, such as the State Regional Water Quality Board, should approve and monitor any such project.</p>	L4-124
4.3-9	Groundwater/Water Supply Option 2	The second sentence refers to dual plumbing, which is claimed to be included in the mitigation measures; however, dual plumbing is not mentioned on related mitigations on p. 5-6.	L4-125
4.3-9	Groundwater/Water Supply Option 2	The text states that the 3 wells will be pumped in rotation, however this feature is not included in the mitigations.	L4-126
4.3-10	Drainage	The drainage discussion text for Alternative C is the same text as for Alternatives A and B. The text does not reflect the much smaller building footprint of Alternative C that would presumably	L4-127
			L4-128

Comment Letter L4

		reduce runoff. Also, it is unclear why Alternative C (and D) would require detention basins identical to Alternatives A and B.	L4-128 cont.
4.3-14	Groundwater Quality	The groundwater quality text does not address the lower water demand for Alternative C, nor related reduced impervious surfaces, reduced amounts of treated wastewater effluent, and presumably lesser effects on groundwater quality. Since the first priority for mitigation is avoidance, it is reasonable to analyze whether a reduced project may be better able to avoid impacts. The discussion should also be expanded to address whether the lower water demand and reduced pumping would have result in any change in the project effects on neighboring wells. These comments apply to Alternative D as well.	L4-129

§4.4 Air Quality

Page	Environmental Base Condition	Comments	
4.4-1	Methodology	The document does not address climate change or global warming adequately. With the recent implementation of AB32, all projects in California should be analyzed with regard to their impact and contribution to this problem.	L4-130
4.4-1	Methodology	The text should briefly identify what construction and operational activities will be involved for the project. For example, all of the alternatives will require export of soil, however there is no discussion of related truck trips or types of construction equipment included in the analysis. Same comment applies to discussion for Alternatives B, C and D.	L4-131
4.4-2	2 nd full paragraph	Adjustment of the trip generation rates based on the traffic study estimates is appropriate. If any changes to the traffic study trip generation estimates are made in responding to comments, it would also be necessary to revise the air quality analysis accordingly.	L4-132
4.4-14	Construction-related emissions — Alternative ID	The text should be expanded to explain why the Alternative D construction emissions are so high, sometimes exceeding Alternative B.	L4-133
4.4-9	PHASE II EFFECTS - Ozone Precursor and PM10 Emissions Generated by Operation of Alternative A — Phase II	It should be clarified that the emission amounts identified in this paragraph are the estimated emissions resulting from operation of the entire Alternative A project in the year 2009, not just the operation of the hotel and event center.	L4-134

§4.5 Biological Resources

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Page	Environmental Base Condition	Comments	
4.5-1	Alternative A Potential Effects to Wildlife and Habitats	This section should include a figure that shows the proposed site plan overlaid on the habitat map in order to see how the habitat acreage impacts were calculated.	L4-135
4.5-2	Alternative A Waters of the U.S.	This section should include a figure that shows the proposed site plan overlaid on the wetland delineation map in order to see how the wetland acreage impacts were calculated.	L4-136
4.5-2	Waters of the U.S.	The text should be revised to specify where in Chapter 5.0 Mitigation the public can find the mitigation for impacts to waters of the U.S. To assist the public and decision makers, mitigations for significant impacts should be identified specifically in the text of either Chapter 4 or Chapter 5.	L4-137
4.5-2	Table 4.5-1 Effects to Habitat Types — Alternative A	The table has a "Percentage Affected" column that considers what percentage of the entire site is affected by impacts to each habitat. However, in order to address impacts to each of the onsite habitats, it would be valuable to include the percentage of onsite habitat acreage that would be impacted. For instance, approximately 56% of the onsite oak savannah habitat would be impacted by development of Alternative A.	L4-138
4.5-3	Alternative A Federally Listed Special Status Species	Discussion of mitigation measures are referenced to section 5.2.5, however, the mitigation measures then refer to modification of the site plan for avoidance. If the public is to evaluate this project, modifications to the plans should be done and then the project analyzed in a DEIS for circulation. If the layout changes after public review, the modification may have different and potentially significant effects on other issue areas that would not be disclosed or analyzed.	L4-139
4.5.3	Same as above	The listed species" discussion references mitigations in section 5.0 for observed and possibly present species, but no such mitigations are contained in related section 5.24. Specific mitigations are presented only for vernal pool invertebrates.	L4-140

§ 4.6 Cultural and Paleontological Resources

Page	Environmental Base Condition	Comments	
4.6-1	All alternatives	There is no explanation of how the 36 CFR Section 60.4 Criteria for Evaluation were applied to the sites to determine that none were significant.	L4-141
		It was determined that the new sites, when considered alone, were not considered eligible for the NRHP.	L4-142

		<p>However, the National Register Criteria for Evaluation indicates that ineligible sites may, when considered together, achieve significance and become eligible for the NRHP as a district. This would depend upon the interrelationship of the resources, such as reflecting one principal activity (e.g., mining) or encompass several interrelated activities.</p> <p>A statement should be included in the evaluation as to the sites' collective eligibility as a district.</p>
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L4-142
cont.

L4-143

§4.7 Socioeconomic Conditions and Environmental Justice

Page 4.7-11. Environmental Justice

There is no evidence that the BIA conducted outreach that is required for the minority communities identified in the DEIS census data or the low income community or that the BIA sought to create an advisory board, or do any of the other required outreach (see p. 11, section 2.0 of the "Guidance for Incorporating Environmental Justice Concerns in EPA's NEPA Compliance Analyses," referred to as the "Environmental Justice Compliance Manual." Although this is an EPA manual, the BIA uses it as part of its NEPA review.). Without such outreach, the environmental justice issues cannot be properly framed or analyzed.

L4-144

The DEIS concludes that, because the project would increase employment opportunities, the impact is less than significant. What about the housing impacts? The DEIS contains no data regarding the income of the minority communities identified in the DEIS Census data. Although average income for the area is above poverty, this may be because there is a group of very wealthy residents who raise the average, while the minority community may be below the poverty line. The City's 2004 survey discussed in Plymouth's comments on the ADEIS (p. 23) found that 51% of all Plymouth households were within the low or very low income range per HUD guidelines. If this is true, the housing impact will be felt even more significantly in any minority communities, especially if they work in low paying jobs either for the casino or elsewhere. The City's survey needs to be addressed specifically. Federal environmental justice guidelines require federal agencies to examine smaller sub-groups, particularly, where, as here, there is evidence that analyzing a larger group will fail to identify low income and minority groups within the project area. The Environmental Justice Compliance Manual notes that, as with minority communities, low income pockets may be masked by aggregated data. (Environmental Justice Compliance Manual, p.14.)

L4-145

The following are the review criteria from the Environmental Justice ("EJ") Compliance Manual for analyzing environmental justice impacts:

1. Examine whether there is a risk for disproportionate exposure.
2. Determine whether communities have been sufficiently involved in decision-making processes.
3. Examine whether the community suffers or has historically suffered from EJ environmental and health hazards or risks.

See the tables on pages 20-24 of the EJ Compliance Manual for a list of factors to consider in the analysis. These were not examined here, but they need to be.

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- Does the potentially affected community include minority and/or low income populations? If so, then it triggers need for enhanced outreach and increases potential for cumulative impact. [p. 28 [Q1].]

L4-146

- Are the environmental impacts likely to fall disproportionately on minority and/or low income members of the community? If so, then the potential cumulative impacts must be examined. [p. 29 [Q2].] Here, the housing impacts will fall disproportionately on the minority and low-income populations because the jobs that will be created will mostly be lower income jobs (average \$25,000 annual salary).

L4-147

- If there is a minority/low income community, then a smaller scale scoping analysis should be conducted with community participation for identifying alternatives and mitigation measures. [Section 3.2.3.1 (p.30).]

L4-148

Socioeconomic Analysis Concerns per Pages 49-52 of the EJ Compliance Manual:

1. Where environmental justice concerns have been identified, then the EIS needs to examine the interrelationship of socioeconomic impacts on both the population as a whole and on the minority/low income population.

L4-149

2. Traditional models for measuring income, environment, and housing don't generally provide accurate data for analyzing potential impacts on specific communities, individual populations or small geographic areas.

L4-150

3. The analysis should keep in mind that some information on the characteristics of local communities and environment may be available only from community leaders, local government offices, and the members of the community. (EJ Compliance Manual, p. 50.)

L4-151

As noted, the DEIS identifies the area as minority and the City of Plymouth's 2004 income survey shows that the community is low income. (Plymouth's ADEIS comments, p. 23.) The City specifically requested that this data be included in the text to more accurately reflect income levels. This was not done in the DEIS, and it must be done pursuant to the Environmental Justice Compliance Manual.

L4-152

Based on the above criteria from the Environmental Justice Compliance Manual, the BIA needs to conduct outreach into the minority communities identified in the DEIS Census data, as well as the low-income populations, and obtain their input to identify alternatives and mitigation measures to address the impacts of the project on their communities.

Moreover, other housing issues raised in Plymouth's comments to the ADEIS (pp. 29-30) were not addressed in the DEIS. These issues need to be addressed generally, and also in the context of their impacts on the low income population and any minority population.

L4-153

Page	Location	Comments
4.7-2	Employment	The project proposes to generate a total of 1,365 full-time equivalent (FTE) jobs. The analysis does not indicate the distribution of these FTE jobs between part-time and full-time positions. This distinction is needed in order to estimate annual employee income for the affordable housing analysis.
4.7-2	Employment	Annual wages are expected to average \$23,763 per full-time equivalent (FTE) position (slightly more for employees who earn tips). Since the analysis does not indicate the distribution of these FTE jobs between

L4-154

L4-155

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		part-time and full-time positions, it is not possible to determine the average annual income or level of benefit payment per employee (part-time employees are not typically provided with health insurance or other benefits). These income figures are needed for the affordable housing analysis.	L4-155 cont.
4.7-3	City of Plymouth Employment	This paragraph indicates 64 of the project employees would be residents of Plymouth. This section states that approximately "64 of those employed would be residents of Plymouth", but does not provide a mechanism to ensure that any Plymouth residents would be hired.	L4-156
4.7-3	Expenditures on Goods and Services	The analysis states that expenditures on goods and services "would be made primarily from vendors located in Amador County and surrounding counties." Unless there is some mechanism in place to ensure or promote this, the choice of vendors would likely be made based on competitive pricing and service.	L4-157
4.7.5	Housing	The analysis and conclusion regarding impacts on housing rely solely on vacancy rates. The analysis implies that the 36 vacant units in Plymouth and the 650 additional units elsewhere in Amador County would be available to casino employees. While it is likely that the demand for housing in the City and the County would increase as a result of the proposed project, a more in-depth analysis is required to make any conclusion regarding the adequacy of the housing supply to meet the anticipated demand. A closer look at the region's housing stock is needed, including an assessment of: <ul style="list-style-type: none"> • Housing types (single-family vs. multifamily units); • Tenure (rental vs. owner-occupied units); • Housing costs (purchase prices and rental rates);and • Housing affordability levels by income group. With this information, the analysis can reasonably conclude whether the existing housing stock can meet the need for new employee households and whether additional affordable units may be required.	L4-158
4.7.5	Housing	A community's jobs-housing balance is generally characterized by the number of housing units in proportion to the workforce living there. It describes a community in terms of its livability or "quality of life" for employed residents. Ensuring that there is adequate housing in close proximity to job centers generally reduces social and development costs, including commute times, traffic congestion, air pollution, transportation costs, and the need for infrastructure (road) maintenance. <p>The proposed casino, if approved, would become the largest employment center, by far, in the Plymouth area. The housing impact analysis should include a discussion of the jobs-housing balance and to what extent the Tribe would help to ensure an adequate supply of affordable housing for its employees, particularly in and around the City of Plymouth, and ensure that social and development costs are minimized to the greatest extent possible.</p>	L4-159
4.7-7	Libraries and Parks	The analysis concludes that casino patrons are not expected to frequent local parks and that impacts would be less than significant. However, there is no	L4-160

		basis provided for this conclusion. The analysis should include the number of patrons projected on an annual basis and the number/percentage of these visitors that could potentially utilize Plymouth parks and recreation facilities in conjunction with their trips to the casino. Whether the numbers are comparable to, or somewhat less than, those generated by other casinos in the region, Plymouth is the smallest among these communities; and with extremely limited financial resources, it would be difficult for the City to provide even a small increase in maintenance service levels for local parks and recreation facilities. Impacts could be considered significant.
4.7-7	Fiscal Effects	The DEIS discusses the fiscal effects of removing the 12 parcels from the property tax rolls. This discussion is woefully inadequate. Not only would the property be removed from the property tax rolls with the City of Plymouth not just the County lose existing review, but the transient occupancy taxes currently generated by the Shenandoah Inn would also be lost to the City of Plymouth. Furthermore the future review to the City of Plymouth of the development of these parcels would also be lost to the City. Calculations need to be shown for the proposed lost of revenue that shows the full fiscal impact to the City, County and School District.
4.7-7	Social Impacts	The discussion of the social costs of gambling is inadequate as are the mitigations. The discussion should be expanded to more comprehensively address the costs of gambling. It is difficult to see how the basic impact of gambling addiction can be mitigated to less than significant.
4.7-10	Crime	The assumption that tax revenues would fund expansion of Law Enforcement services has not been substantiated. A full disclosure of the anticipated revenues and costs associated should be included in this section. There is no estimates of the increase to public safety providers either in capital expenditures nor in maintenance and operation costs.
4.7-22	Regional Employment	The regional employment discussion should be revised. It appears to assume normal commercial uses, however, Alternative D is a regional retail outlet center and thus intended for a more regional, visitor-oriented draw.

L4-160
cont.

L4-161

L4-162

L4-163

L4-164

§4.8 Resource Use Patterns – TRANSPORTATION

The following are additional comments provided by City staff. In general, the analysis of potential traffic impacts is a cursory treatment of one of the most visible and pervasive effects of the project. The impacts are not well defined. More importantly, the analysis appears to absolve the Tribe of responsibility for mitigating the significant traffic impacts the project will generate in that the mitigations do not establish when mitigation (improvements) will be constructed, or whether they will be constructed in time to meet the demand created by any of the alternatives. Moreover, the analysis appears to require the Tribe to merely contribute to the improvements, even though the scant data provided appears to show the project traffic would cause numerous road segments and intersections to drop below an acceptable level of service. The Tribe should be fully responsible for mitigating those segments and intersections. Furthermore, little to no consideration is given to the cumulative nature of development in the City of Plymouth and Amador County greater areas. The effects on traffic from this proposal would have broad ramifications on traffic in the region when total expected growth is taken into consideration.

L4-165

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Page	Location	Comments
4.8		<p>This section of the Draft EIS does call out a discussion of cumulative impacts to the area around the proposal but does not take into consideration any other potentially significant impacts to traffic other than the historical growth for the County and impacted Cities. Despite little or no growth in the past, the City of Plymouth is currently working with developers for a significant (more than 100%) increase in residential and commercial development in the area. Many of these projects are currently being processed by the City and the information on the scope and size of these projects has been public record and has been available for many months. The traffic and transportation sections of this document do not address any of these developments nor does it take into account for the significant growth that is expected in the City of Plymouth Region. The cumulative effects of traffic on the surrounding road segments and intersections have not been addressed, and could result in significant drops in the level of service in the area. Because these potential impacts have not been addressed in the document, there are no alternatives nor mitigation measures to reduce the impact to a less than significant level.</p>
4.8		<p>Study Area – The study area should have included the segment of SR 49 from SR 16 to Main Street. Although this segment operates acceptably today, it is projected to be deficient in the cumulative condition and this segment of SR 49 fronts the project site and additional dedication may be required to provide the ultimate cross section on this segment of SR 49. Additionally, the project has proposed to signalize two intersections on SR 49 to provide site access. These intersections appear to be closely spaced (less than 1,000 feet). The analysis should evaluate the operations of the two closely spaced intersections in terms of vehicle queue spillback and turn pocket lengths.</p>
4.8		<p>Analysis Methods – The analysis does not appear to follow the traffic study guidelines set forth by ACTC. The ACTC travel demand model was not used to develop peak hour forecast for intersections in Amador County (as required by the guidelines), and the near-term assessment does not include the pending projects in the City of Plymouth.</p>
4.8		<p>Mitigations – Many near-term mitigations rely on fair share contribution to unfunded improvement measures. For many of the locations there are no planned improvements and no mechanism to collect fair-share contributions. The study needs to show where the remaining funds would be coming from, install the improvements, or identify these impacts as being significant and unavoidable until sufficient funds are</p>

L4-166

L4-167

L4-168

L4-169

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		available to construct the improvements.	
4.8-5	Construction Impacts	Construction impacts are characterized as temporary, but no information as to the actual impacts is provided. This discussion needs to be expanded to disclose what the impacts are.	L4-170
4.8-8	Project Trip Generation	The text notes that only the PM peak was analyzed because it represents the worst congestion. If there are other periods (e.g. AM peak) that would be less congested but would meet the significance threshold per Table 3.8-3, they should also be analyzed.	L4-171
4.8-9-10	Peak Hour Intersection Effects	The list should identify the applicable jurisdiction of each road segment so the public knows which standard of significance applies from Table 3.8-3. Same comment applies to other similar tables.	L4-172
4.8-19		The DEIS indicates that Alternative A will be inconsistent with the City's subdivision ordinance and building density standards and will require a plan review. The Tribe will solicit a report regarding design review. In addition to analyzing the actual use inconsistencies, the compatibility with surrounding uses needs to be analyzed.	L4-173
4.9-2	Trucking	The secondary effects of truck delivery for water should be analyzed in terms of the number of truck trips, frequency of delivery, impacts to traffic, circulation, etc.	L4-174
5.2.8	Mitigation Measures	The mitigation measure should reference the related impact, using the same language and terminology so the public can "track" the mitigation response to the identified impact. Without this correlation, it is difficult to determine whether the impact has been adequately mitigated. Same comment applies to the 2009 scenario and other alternatives' mitigation.	L4-175

§4.8 Resource Use Patterns – Land Use

Page	Location	Comment	
4.8-17	Table 4.8-9	This table should be expanded to include any evaluation of the project's consistency with the Land Use Element's Vision Statement (page 6).	L4-176
4.8-17	Consistency with Plymouth Zoning Ordinance	As discussed in this section of the DEIS, the project site is located within Plymouth's Scenic Corridor Combining District, which was established to preserve the visual character and historical image of development along the Highway 49 corridor. The project design, as proposed, does not incorporate architectural features (i.e., structural, lighting and signage) that reflect the historic image the City is striving to maintain. Furthermore, there is no discussion of the project's consistency with the General Plan's Vision Statement that "the City's unique history will be evident...in (new) building projects designed to enhance the City's Mother Lode charm," nor of its consistency with the design guidelines found in the Chapter 19.50 of the Plymouth Municipal Code. In the absence of a design review process by the City of Plymouth, this is considered a potentially significant impact. Mitigation should be proposed to ensure that the architectural design features of the casino not only enhance this scenic corridor, but also provide a "historic feel" In keeping with the General Plan's Vision Statement and Chapter 19.50 of the Plymouth Municipal Code.	L4-177

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		In addition, the analysis does not discuss the project's consistency with density, setbacks, height, yard, parking, Landscaping or other similar standards.	
4.8-15 to 4.8-17	Effects to Project Area	The City of Plymouth Housing Element (Policy 1.3) requires that adequate Infrastructure and public services be in place to fully mitigate a project's impacts prior to approval of the project's construction.	L4-178
4.8-17	Table 4.8-9 Goal 2.1.2	The architectural features of the project, as proposed, does not reflect the historical feel of the area. In the absence of a design review process by the City and the County, this is considered a potentially significant impact Mitigation should be proposed to ensure that the architectural design features of the casino and signage provide an "historic feel" in keeping with the intent for newly constructed buildings along this scenic corridor.	L4-179 L4-180

§4.9 Public Services – DOMESTIC WATER

Page	Environmental Consequence	Comments	
4.9-1	Option 1	Option 1 – City Supplied Water Phase I (Casino) would require 25% of City's total water demand without reclaimed water and 17% with reclaimed water.	L4-181
4.9-2		<p>The DEIS concludes that either 25% or 17% of total City water demand is insignificant. Those are huge percentages of the City's total water demand generally, but even more so given the existing water issues in the City. It is simply inaccurate to conclude that increasing demand on an already over-burdened system would be less than significant.</p> <p>The DEIS indicates that during construction, the site would be connected to the City's existing water system. This statement appears to be based on the existing hotel's use of City water. But the City will not be required to supply water to the site once the land is transferred into trust. No agreement exists between the Tribe and the City for water on the site once the land is in trust. Consequently, this analysis needs to be revised to reflect the actual water availability during construction without City-supplied water.</p> <p>The DEIS states that Phase II (hotel and conference center) water demand will be 32% of supply capacity without reclaimed water and 20% with reclaimed. Again,</p>	L4-182 L4-183 L4-184

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		<p>this impact is significant and needs to be fully analyzed.</p> <p>The DEIS goes from a discussion of the water supply capacity to a conclusion that the impact will be less than significant. But water capacity is not the same as availability of water. The DEIS needs to analyze the availability from each water source and the individual and cumulative impacts of using water from each and all sources.</p> <p>The project proposes use of City Municipal Water System after the AWA pipeline is completed under Option 1 of all four development alternatives. The proposal is for the project to connect to City's existing system along State Route 49 and assumes the existing line is a 10" line capable of 2,000 gpm. Analysis of the distribution system will be required to verify this assumption.</p> <p>Service from the City's water system cannot be provided without completion of the "Plymouth Pipeline Project" with a second connection point to Segment Six (6). The amended MOU between the City and Amador Water Agency (AWA) requires additional storage triggered by increased water use. All City customers must be served from City storage facilities that do not impact AWA storage. These conditions require additional and extensive expansion of the City's water distribution system before service to the Casino could be provided. The EIS should address this condition and clearly identify required distribution improvements, land acquisition, and storage requirements; and how these required improvements will impact the City's water system and the water supply limitations of the "Pipeline Project." Existing AWA facilities outside the city limits will require upgrading to insure adequate water supply is available. Alternative surface water supplies may be needed to meet the combined demand of planned city growth and Casino development. Development of alternative surface water supply should be addressed.</p>	<p>L4-184 cont.</p> <p>L4-185</p> <p>L4-186</p> <p>L4-187</p>
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4.9-2	Option 2 – Ground Water and Trucked Water	<p>The DEIS states that groundwater the project would be using is not connected with City water. This is not necessarily true. (See discussion of cumulative impacts on groundwater below.)</p> <p>Use of well water may impact City's ground water sources. This impact should be investigated and impact to City wells documented and carefully reviewed by a City hired ground water specialist.</p>	
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L4-188

4.9.1	<p>The total average day demand for potable water is estimated at 188,500 gallons per day (gpd) for both phase I and phase II without recycled water but including average day landscape irrigation. The weekday estimated water demands for both phase I and phase II amounts to 148,600, while the weekend day amounts to 250,500.</p>	<ul style="list-style-type: none"> • The estimate of average day demand appears reasonable based upon comparisons to Jackson Rancheria and data supplied by the Amador Water Agency. • However, the EIS does not contain a peaking factor for peak day demands in Table 4.9-1. Peak demands at other casino/hotels of comparable size are in the order of 288,000 gallons per day. • The wastewater flows on 4.9.7 estimates a peak day flow of 351,338 gallons per day or more than 100,000 gallons per day than the peak weekend day presumption for potable water. 	
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L4-189

Comparison of Average Day Water Demand with and without Recycled Water (gpd)						
Site Layout Alternative	A		B		C	D ^c
	Phase I	Phase II	Phase I	Phase II		
Average day domestic water demand without recycled water ^a	160,200	188,500	139,800	168,100	105,100	34,400
Average day domestic water demand with recycled water ^b	98,000	116,700	86,500	104,000	64,900	34,400
^a Includes landscape irrigation. ^b Recycled water includes landscape irrigation, toilet flushing, and process water. ^c Alternative D does not include recycled water. Water demands rounded to the nearest 100 gpd.						

4.9.2	<p>Two onsite wells and one off-site well will produce water for the proposed alternative - alternative A. The long-term yields based on pumping tests showed, according to the EIS, a safe yield of 83 gallons per minute or 119,520 can be pumped from the wells. The safe yield represents 98% of the recommended water design flow (assuming use of recycled wastewater).</p>	<ul style="list-style-type: none"> • The comments in the EIS on page 3.9.1 noted that "most of the wells located within the immediate vicinity of the project are shown to be low producing wells. With the exception of three wells, the wells are shown to produce less than 15 gpm, with four wells producing less than five gpm." • Toma & Anderson, an engineering consulting firm retained by the lone Band of Miwok Indians to evaluate the Plymouth Casino water supply, stated in a July 2003 report to the lone Band of Miwok 	
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L4-190

		<p>Indians that "although not subject to California Department of Health Services (DOHS), once casino property is in trust land, there is good reason not to develop a major project like this on groundwater. Past experience with wells has directed the City into studying surface water supplies only, and DOHS strongly discourages any new developments be based on groundwater resources have not proven reliable in the past in this area." As a consequence, the consultant to the lone Band of Miwok Indians recommended connection to the surface water supply provided by the Amador Water Agency to serve both the casino-hotel and the City of Plymouth.</p> <ul style="list-style-type: none"> • If recycled wastewater is not utilized, these wells could only meet 63% of the average day demand projected in the EIS; the remainder would need to be trucked in. • These wells would meet only 42% of the peak day demand, based upon the experience of other casino-hotels, of 288,000 gallons per day. • The 119,520 gpm generated by the three wells is only capable of meeting 48% of weekend day demand without recycling and 63% with recycling. • Amador County noted in their comments regarding the Buena Vista Rancheria and the possible use of recycled wastewater that <i>"Reuse of reclaimed water on site has some potential for cross connections and potential risk to guests in the event of plant upset."</i> <p>The EIS does not evaluate the long-term impact of pumping 188,500 gallons per day from these three wells on the water table and on surrounding wells. The Pumping Tests included in Appendix C indicated on page 18 that the long-term yields were based upon aquifer response to a relatively short period of pumping." It further notes that this "approach assumes that sufficient precipitation will occur and that a significant percentage of recharge will reach the aquifer. It also assumes that the interconnected fracture network extends beyond the radius of influence created during the test, and that these fractures have sufficient storage to produce sustainable yields. However, these conditions may not be realized."</p>
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L4-190
cont.

Comment Letter L4

4.9.3	Potable water supply could be supplemented by purchasing water from an outside distributor and trucking the water to the project site. An estimated 50,000 to 60,000 gallons per day could be delivered to the project site.	Appendix E does not disclose the size of the tankers that would be used to haul water; as a consequence, the number of trips per day is unknown and not disclosed within the EIS. Given the peaking factor, the amount of water that would need to be hauled in would likely exceed 50,000 to 60,000 gallons. If recycled wastewater is not utilized, the water that would need to be hauled in for peaking would likely approximate 160,000 gallons per day.	L4-191
4.9.3	A water storage tank would be constructed on the site to store potable water. The recommended domestic water storage tank capacity is proposed as 1 million gallons.	<p>The water storage requirements are based upon four factors: average day domestic water demand, domestic water storage (four times the weekend day demand), and fire suppression. The average day domestic water demand is shown as 122,400 in table 4.9-. The source of the 122,400 is the recommended design flow with recycled water in table 4.9-2. The water storage tanks are being designed as if the project site will utilize recycled water, not based upon water demands without recycled water. The domestic water storage is based upon four times the weekend day demand. The domestic water storage is shown as 485,200. If, in fact, this is based upon four times the weekend day demand, than this domestic water storage assumes 121,300-weekend day demand. The weekend day demand shown in table 4.9-1 is 250,500 gallons per day. The source of the 121,300 gallons is not disclosed. The height, diameter, elevations, color and other details of the storage tanks should be provided, including any proposed landscaping, and any proposed grading to locate the tanks. A discussion of this aesthetic impact should be included in the Visual Resources section.</p> <p>Realistic water supply for this development must come from Amador Water Agency or the City. The project should consider relocating the proposed two 1.2 million gallon water tanks from the proposed locations to higher elevations and connecting them to City System. The City should own the tanks and all distribution system improvements after construction by Tribe. With appropriate short and long-term supply, distribution, and storage improvements, existing city water facilities could be substantially upgraded.</p>	L4-192
4.9.4	Two one million gallon domestic storage	This conflicts with the data presented in	L4-193
4.9.4	Two one million gallon domestic storage	This conflicts with the data presented in	L4-194

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	tanks are to be installed as part of Alternative A.	table 4.9-4.	L4-194 cont.
4.9.4	Water to supply alternative A would come from three sources: the City of Plymouth, on and off-site groundwater supply, and trucking the water to the project site. Recommended water supply for Alternative A with the use of recycled water is approximately 116,700 gallons per day. Water supply from the three sources would approximate 175,000 gallons per day. These three sources would approximate 152% of actual water demand. There is more than adequate water supplies to serve Alternative A; therefore, no adverse effects on water supply will result from Alternative A.	<ul style="list-style-type: none"> • The City Council has not committed to providing water to the proposed project. • This EIS fails to consider peaking demand. Peak demands at other casino/hotels of comparable size are in the order of 288,000 gallons per day. • The comments in the EIS on page 3.9.2 noted that "most of the wells located within the immediate vicinity of the project are shown to be low producing wells. With the exception of three wells". • Toma & Anderson, an engineering consulting firm retained by the lone Band of Miwok Indians to evaluate the Plymouth Casino water supply, stated in a July 2003 report to the lone Band of Miwok Indians that "although not subject to California Department of Health Services (DHS), once casino property is in trust land, there is good reason not to develop a major project like this on groundwater. Past experience with wells has directed the City into studying surface water supplies only, and DOHS strongly discourages any new developments be based on groundwater resources as groundwater resources have not proven reliable in the past in this area." • If recycled wastewater is not utilized, these wells could only meet 63% of the average day demand projected in the EIS; the remainder would need to be trucked in. The three wells proposed in the EIS would meet only 42% of the peak day demand, based upon the experience of other casino-hotels of 288,000 gallons per day. • Given the peaking factor, the amount of water that would need to be hauled in would likely exceed 50,000 to 60,000 gallons. If recycled wastewater is not utilized, the water that would need to be hauled in for peaking would likely approximate 160,000 gallons per day. 	L4-195 L4-196
4.9.5	Based on groundwater quality, an onsite water treatment plant will be required to remove iron and manganese.	The EIS does not disclose whether the water treatment plant operators will be certified by the DOHS. All individuals who operate or supervise the operation of a drinking water treatment facilities must	L4-197 L4-198

		possess a water treatment operator certificate. Additionally, some distribution operators must possess distribution operator certificates.
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L4-198
cont.

§4.9 Public Services – WASTEWATER

Specific wastewater generation rates set forth in Appendices Volume I, page 2-7 indicates the following estimated wastewater generation in gallons per day (gpd) for the four development alternatives:

Alternatives:	A		B		C	D
Phases:	I	II	I	II		
Week Day	105,800	126,900	90,000	111,300	63,800	23,800
Weekend Day	192,500	233,700	153,800	195,100	104,500	38,500
Ave. Day	130,600	154,600	108,300	135,200	75,400	28,000

Onsite wastewater treatment and disposal facilities, sized according to the alternative, are proposed for all four alternatives, and all are to be operated and maintained by the Tribe.

Alternates A & B have both proposed WWTP's that meets California Title 22, disinfected tertiary recycled water quality standards and would require an NPDES Permit. Both have proposed a WWTP capacity of 200,000 gpd that will be met under Phase I (page 2-12, 2-27 Alternatives).

Alternate C has proposed a WWTP, similar to Alternate A, with an average day capacity of 100,000 gpd to allow for peak flows and redundant capacity. (page 2-39 Alternatives)

Alternative D has proposed a WWTP, similar to Alternate A, with an average day capacity of 30,000 gpd to allow for peak flows and redundant capacity. (page 2-46 Alternatives)

An option not discussed is connection to the City's wastewater facilities, as other developments are required to do, which may be feasible and in the best interest of the Tribe and the City. This option was suggested in the City's comments on the 2005 ADEIS. The Casino projections for wastewater generation vary from 28,000 gpd to 192,500 gpd which equates to equivalent single family dwelling units (SFDU) as follows:

Gallons Per Day (gpd)	SFDU*
28,000	112
192,500	770
*gpd ÷ 250 gpd/SFDU.	

Wastewater projections and suggested treatment configurations set forth in the City's October 2007 Conceptual Plan For Wastewater Treatment And Disposal, prepared by Nolte Associates, identified the following:

SERVICE AREA	gpd
1. Current average dry weather flows.	126,000
2. Development within City sphere of influence with current flows.	320,000
3. Development within City's proposed sphere of influence with 1 and 2 above.	680,000

L4-199

4. Above flows with Casino wastewater.	872,500
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**TABLE 15
SUGGESTED TREATMENT CONFIGURATION FOR
FUTURE WASTEWATER FLOWS**

Phase No.	Description	Flow, gpd	Recommended Treatment Process
---	Current Capacity	144,000	Facultative ponds with minimal mechanical aeration.
1	Permitted Capacity	170,000	Facultative ponds with additional aeration.
2	Match Existing Disposal Capacity	260,000	Aerated lagoons
3	Match Expanded Disposal Capacity ^a	323,000	Aerated lagoons
4	Maximum Pond Treatment Capacity	385,000	Aerated lagoons
5	Buildout	680,000	Activated sludge
6	Buildout with Casino	872,500	

^aTwenty acres, Roy E. Mason property added to current disposal area.

L4-199 cont.

Upon the lifting of a Cease and Desist Order by the Regional Water Quality Control Board, the City of Plymouth Wastewater Treatment Plant (WWTP) permitted capacity is 170,000 gal/day. Projected flows associated with proposed land uses contemplated in the updated community general plan will increase total build out flows to 680,000 gpd. A five-phase expansion and upgrade of the WWTP and disposal system is programmed by the City considering the current capacity of the plant, treated wastewater storage reservoir, and spray field network. The initial two phases of system improvements are limited to expansion of the plant. Phases 3-5 require enlargement of the treated wastewater storage reservoir and acquisition of additional spray field area. Phase 5 also represents the construction of a new tertiary plant to produce recycled water for urban irrigation.

L4-200

Should casino flows (28,000-192,000 gpd) be routed to the City WWTP for treatment and disposal, the phasing of programmed improvements would be accelerated and build out flows would be approximately 30 percent higher. In terms of phasing impacts, additional storage reservoir capacity and spray field area would be required beginning in Phase 1 rather than in Phase 3. The timeline for implementation of initial improvements (Phases 1-2) would also be extended because of the increased permitting requirements and regulatory approvals associated with the larger more complex projects. The Casino EIS should investigate these issues.

Page	Environmental Consequence	Comments
		Wastewater treatment proposed for all Casino development alternatives consists of an onsite membrane bioreactor system which utilizes both a biological process and filtration that yields a high quality effluent. The proposal includes a discussion of recycled and non-recycled water. City strongly encourages the project to develop recycled water or contribute to City's effort in order to conserve water. The facilities proposed

L4-201

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		<p>would produce effluent that meets "California Title 22 Disinfected Tertiary Recycled Water Quality Standards." Two options for effluent disposal are:</p> <p><u>Option 1</u></p> <p>Disposal by a combination of spray fields, ground disposal, and reservoir storage.</p> <p><u>Option 2</u></p> <p>Disposal by surface water discharge alone or in combination with ground water discharge.</p> <p>Both of these options can create significant impact to adjacent property and downstream landowners and water users. These options will also require dedication of land areas for disposal and buffer areas to shield adjacent property owners.</p>	
4.9.3	For this project, zero percent I & I is used, as this project will be a new construction and may contain minimal length of PVC gravity sewer pipe and pressure force mains.	0% I & I is unrealistic, Wastewater mains leak.	L4-202
4.9.3	The EIS indicated that a membrane bioreactor (MBR) would be utilized to treat wastewater due to its small layout and its ability to reliably produce high-quality effluent. The EIS states that MBR's are ideal for the project's remote location where reliable wastewater treatment is critical to meeting strict discharge standards. The EIS indicated that a membrane bioreactor (MBR) would be utilized to treat wastewater due to its small layout and its ability to reliably produce high-quality effluent. The EIS states that MBR's are ideal for the project's remote location where reliable wastewater treatment is critical to meeting strict discharge standards.	<ul style="list-style-type: none"> • The City's wastewater treatment plant is within close proximity to the proposed site. The EIS did not evaluate the alternative of connecting the casino-hotel to the City's wastewater treatment plant • The disadvantages are not fully disclosed. The operational challenges associated with operating an MBR are: <ul style="list-style-type: none"> ○ The primary disadvantage associated with MBR is membrane fouling or dogging, which will be different for each application. As a result, the membranes' operating life is relatively short: 3 to 5 years. Fouling results from the accumulation and attachment of particulate and dissolved material at the surface of the membrane, which causes a significant resistance to filtration. ○ In addition, the presence of stringy material, such as hair, will significantly reduce membrane operation. This could be a major consideration for applications without fine screens or a high degree of primary treatment. ○ MBR configurations will periodically require some form of 	L4-203 L4-204

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		<p>chemical membrane cleaning. This can be accomplished with a chlorine solution or sometimes by immersion in an acid bath. However, the additional chemical storage and handling requirements created may be undesirable at some facilities.</p> <ul style="list-style-type: none"> o Membrane bioreactors are noted to have high energy and maintenance requirements relative to other activated sludge systems. MBR has the highest O&M cost relative to other processes due to highly computerized process requiring highly trained staff. • The EIS does not disclose how the chemicals used to clean the membranes would be disposed of and where the filters would be disposed of when replaced. The EIS failed to identify whether any landfills in the region that would accept this material and chemicals. 		<p>L4-204 cont.</p> <p>L4-205</p>
4.9.3	Although not included in the treatment plant facilities described below, experience at similar facilities shows the necessity of properly sized grease traps for all kitchens to strain wastes from the gaming facility.	The EIS does not discuss how grease traps should be integrated into the wastewater treatment process.		L4-206
4.9.11-15	The facility design of the wastewater treatment plant includes headworks, the MBR, an anoxic basin an aeration zone, membranes, disinfection using UV, chlorine disinfection, recycled water pump station, emergency/equalization storage basin, operations building, recycled water storage tank, recycled water pump station, and recycled water reuse facilities,	<ul style="list-style-type: none"> • The EIS does not discuss other wastewater treatment alternatives beyond MBR. • The EIS fails to identify how the disadvantages associated with the use of an MBR will be addressed including: <ul style="list-style-type: none"> o The use of chemicals to clean the membranes and how these chemicals will be disposed of; o The short life cycle of the membrane filters and where these filters will be disposed of; and o How and where the Tribe will find the skill and talent to operate the MBR plant. • The design flow of the MBR, based on page 5-14, table 5-5 in Appendix B, is only 0.2 MGD The EIS does not provide any analysis of the adequacy of this design flow and its ability to handle peak day flow as 351,338 gallons per day. That design flow also indicates that, on the average, the treatment plant will be treating wastewater for the average weekend day at its design flow capacity. • The MBR is undersized; the design 		<p>L4-207</p> <p>L4-208</p> <p>L4-209</p> <p>L4-210</p>

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		<p>flow should be increased to 0.5 MGD.</p> <ul style="list-style-type: none"> • The EIS uses the term "may." The Appendix B, page 6-4, states that spray irrigation should be the primary method of onsite disposal. Which statement is accurate? • The potential for increased contamination of the watershed resulting from the subsurface disposal was not evaluated as part of the EIS. • The water treatment, wastewater treatment, and disposal for Alternative A in figure 3-5 in Appendix B shows a 5.2 acre spray field 80 feet from the border of the property and a 10.3 acre foot reclaimed water seasonal storage reservoir 240 feet from the border of the property. Both of these facilities are uphill from non-Tribal property and could result in discharge to surface water drainage courses. • These design flows represent averages. The EIS has designed the disposal requirements based on a design average disposal flow of 90,000 gpd. The peak day flow is 351,338 gallons per day. The EIS fails to evaluate and propose disposal processes to address these peaks. • The EIS fails to identify the capacity of the landscape irrigation, spray disposal, and subsurface disposal to process these higher flows other than storing the effluent in the 10.3 million gallon storage reservoir. The EIS does not provide any analysis of the ability of the system to handle peak flows. The analysis is based upon the design average day disposal flow. 	<p>L4-210 cont.</p> <p>L4-211</p> <p>L4-212</p> <p>L4-213</p> <p>L4-214</p> <p>L4-215</p>
4.9.17	Sprayfield irrigation will be the primary disposal method due to limiting onsite soil conditions,	<ul style="list-style-type: none"> • The Appendix S- the Results of Soil mantle and Percolation tests - was utilized as the basis evaluating onsite soil conditions. The appendix, on page 1, states that there is one spring in a drainage within the southwest quadrant and others in deep drainage courses east of the project. A spring is also thought to supply water to the pond in the southwest corner of the project. The EIS fails to analyze how the sprayfield irrigation and the subsurface leachfields would impact those springs, and whether 	L4-216

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		these springs feed watercourses off-site.	L4-216 cont.
4.9.17	Seasonal storage reservoir for wastewater effluent will consist of an earth rockfill dam structure that will have the capacity to store 10.3 million gallons	The EIS fails to analyze the safety risks to the residents of the City of Plymouth should this dam break. The EIS should analyze the downstream risks associated with the failure of this dam, and develop measures to mitigate these risks. Leaving the determination of the dam risks to later analysis does not allow the public or decision makers to make an informed decision.	L4-217
4.9.17	The EIS states that leakage of detained water from the seasonal storage reservoir will be minimized through the use of a reservoir liner.	<ul style="list-style-type: none"> The EIS fails to analyze the environmental impacts of this leakage to surrounding springs and watercourses. The EIS fails to disclose the type of liner that will be utilized. 	L4-218
Appendix S, 4-8	There were 45 backhoe trenches dug. Trenches 36 through 45 were found to contain only a thin layer of soil, and due to time constraints were not fully logged.	Of the 44 percolation tests listed on pages 4, 5, and 6, 32 or 71% did not have percolation tests.	L4-219
Appendix S, 14	The rocky nature of the subsurface material at all but 2 or 3 of the trench locations precludes using standard soil types and percolation rates to determine acceptable loading,	If only 2 or 3 of the 19 percolation tests precluded using standard soil types and percolation rates to determine acceptable loading, then the EIS should evaluate through further percolation tests the proposed site for subsurface leachfields and assess the practicality of this disposal method.	L4-220
Appendix S, 15	There is only a thin layer of soil overlying bedded shale at almost all locations. Based on EPA'S table 4.3, the thin layer of soil present at the project is not suitable material for the disposal of treated water. Water flows horizontally and vertically along the bedded planes of shale. Soil mantle and percolation testing indicated that the area within the southwest corner of the project would be suitable for subsurface disposal. However, a review of this area after an extremely heavy rain indicated heavy flow to the surface. This has been interpreted to indicate very poor vertical transport into the clayey soil,	<ul style="list-style-type: none"> If there is only a thin layer of soil overlying embedded shale in almost all locations, subsurface leachfields and spray irrigation would not be practical. The soil is too thin to absorb the wastewater; it would flow off-site. As noted by the Applied Engineering and Geology Inc. In Appendix B, based on EPA's table 4.3, the thin layer of soil present at the project is not suitable material for the disposal of treated water. White Applied Engineering and Geology Inc. noted that the southwest corner of the project would be suitable for subsurface disposal, Applied Engineering and Geology Inc. also noted that a review of this area after an extremely heavy rain indicated heavy flow to the surface. This has been interpreted to indicate very poor vertical transport into the clayey soil. That indicates that not even the southwest area is suitable for subsurface disposal, and that the area used for spray irrigation would likely experience heavy flow to the surface during heavy rain with wastewater flowing off-site. 	L4-221
Appendix B, 2-11	The source for recycled wastewater in table 2-7 is the Irvine Ranch Water District. Other sources for the	The EIS should disclose the basis and the specific mathematical data for the assumption that 72% of the water	L4-222
			L4-223
			L4-224

	assumptions regarding recycled wastewater are not cited, including cooling towers.	demand within the casino, the event center, and retail Will be reduced through the use of recycled wastewater for toilets, and 27% for the restaurants and hotel. The specific information from the Irvine Ranch Water District should be included. Experience from other water utilities indicates that recycled wastewater reduces water demand at substantially lower rates than those indicated in the EIS.	L4-224 cont.
Appendix B, 5-15	The recycled storage capacity is 250,000 gallons as indicated on page 5-6.	The EIS does not present the basis for the sizing for recycled storage. The storage is the same size for phase I and phase II even though the amount of wastewater generated by phase II increases significantly.	L4-225

§4.9 Public Services – SOLID WASTE

Page	Environmental Consequence	Comments
4.9-20	Recycle and waste containers will be placed throughout the facilities and deposited into collection containers taken to the Western Amador Recycling Facility	The EIS makes no commitment to recycling goals.

L4-226

§4.9 Public Services – TELECOMMUNICATIONS

Page	Environmental Consequence	Comments
4.9-7	Telecommunications	There is no discussion concerning the impact to the use of mobile facilities for an increase in mobile calls and data transfer. This impact would likely be significant not only at the site, but also along the roadway corridors that would be frequented by the patrons/visitors to the facility.

L4-227

§4.9 Public Services – LAW ENFORCEMENT

Page	Environmental Consequence	Comments
4.9-7	The tribal security force would provide patrol and monitoring needs for the casino facilities in order to reduce and prevent criminal and civil incidents, Security personnel would work cooperatively with the ACSO.	Assumes the tribal security personnel will work "cooperatively" with the ACSO. This area needs to be better defined in order to determine the types of calls, incidents which may be handled as follows and result in varying situations that may or may not impact ACSO personnel: <ul style="list-style-type: none"> • Tribal security only to mitigate issue without need for ACSO services or personnel. • Tribal security only to mitigate issue with some possible assistance from ACSO dispatch to triage the call, resulting in no need for ACSO on-scene response. • Tribal security personnel to mitigate the issue which may result in the need for an arrest, at which point ACSO provide on-scene response.

L4-228

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		<ul style="list-style-type: none"> Tribal security personnel in addition to ACSO on-scene response to immediate life and property threatening situations. 	L4-228 cont.
4.9-8	The Jackson Rancheria accounted for approximately 16% of total county arrests at 105, and 2% total county calls for service at 130. The proposed development is similar in size and is roughly similar in distance from regional urban centers and would expect to result in similar demand on the ACSO services,	This comparison assumes that security policies and procedures (i.e., types of incidents / situations resulting in ACSO response, etc.) at the Jackson Rancheria will be identical or similar to that of the proposed development. This area needs to be well-defined as noted above to accurately gauge expected workload impacts on ACSO services and personnel.	L4-229
4.9-8	According to consultation with the ACSO, the City would require 24-hour a day / 7 day a week / 365 day per year law enforcement presence — equaling approximately 7 full-time deputies plus a sworn supervisor. The development of Alternative A would result in an addition of 6.5 personnel, for a total of 8 (1.5 currently plus 6.5 personnel).	EIS assumes 1 deputy could provide the arresting / booking services. However, these incidents may require 2 deputies in order to safely handle the incident, as well as provide continued presence in the area while transports to the jail are occurring. EIS assumes 1 supervisor for 7 deputies, however, there will not be 7 additional deputies working per shift, therefore, this assumption has no basis.	L4-230 L4-231

§4.9 Public Services – FIRE PROTECTION

Page	Environmental Consequence	Comments	
4.9.9	The Tribe would develop an independent fire station on the project site. The station would be located immediately south of the southern driveway.	The fire station would be in close proximity to AFPD's Station 122, which is located 1 mile from the proposed project.	L4-232
4.9.9	The Tribe will purchase the following equipment: <ul style="list-style-type: none"> 1,750 GPM Quint 1,500 GPM Pumper 750 Grass Fire Foam Truck 	The AFPD houses 2 pumpers, 1 aerial truck, and 1 utility truck at the fire station located in the City of Plymouth. Because of its close proximity to the proposed fire station, there might be opportunities to minimize costs relating to apparatus. Because a significant number of calls would be EMS calls and the Department would have to rely on mutual / automatic aide, a review of the apparatus housed in the area should occur.	L4-233
4.9.9	All members of the Tribal Fire Department, including the Chief Officer, will be trained to a minimum level of Fire Fighter I, as well as trained to the Paramedic (advanced life support) level under California licensure.	Currently, paramedic services are provided by a private ambulance company, which also provides transportation/ambulance services.	L4-234
4.9.9	It is expected that the Tribal Fire Station would enter into mutual-aid agreement with the Amador Fire Protection District and other local fire protection providers,	The Tribal Fire Department would require mutual and/or automatic aid to successfully handle structure fires and other high risk and demand situations.	L4-235
4.9.9	The fire station would provide apparatus bays, administrative offices, conference room, staff rooms, and operation support facilities,	Given that the AFPD station is located within 1 miles of the proposed project site, there may be opportunities to share facilities and related costs. As with the other public infrastructure items, the location of facilities at this site may be	L4-236

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		redundant and require additional facilities than would be required at this location under build-out of the community's General Plan.	L4-236 cont.
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§4.10.1 Noise

Page	Environmental Consequence	Comments	
4.10-3	Trucking	The secondary effects of truck delivery for water should be analyzed in terms of the number of truck trips, frequency of delivery, and resultant noise impacts.	L4-237
4.10-4	Mechanical Equipment Noise Evaluation Methodology	It does not appear that potential noise effects from pump stations and other onsite service facilities were analyzed.	L4-238
4.10-2	Construction Noise Evaluation Methodology	The text should be expanded to provide examples of the type and nature of construction activities that will occur with the project.	L4-239
4.10-2	Construction Noise Effects	The temporary nature of construction noise is not reasonable grounds for finding the impact less than significant. The noise exposure will occur, and would be "unwanted" by nearby residential receptors. The Impact should be identified as potentially significant and reduced to less than significant only after proper implementation of a revised Mitigation Measure A (page 5-20), limiting construction to day time periods only.	L4-240

§4.10.1 Hazards and Hazardous Materials

Page	Location	Comments	
4.10-9	Construction	Due to the age of the onsite buildings, asbestos-containing materials (ACMs) may be present and could be disturbed during demolition. This aspect of the project should be discussed. Completion of an asbestos survey under the National Emissions Standards for Hazardous Air Pollutants (NESHAP) guidelines and removal of ACMs, if found, in accordance with NESHAP guidelines should be included as mitigation in Chapter 5.0, to ensure that impacts from potential exposure to asbestos would be reduced to a less-than-significant level.	L4-241
4.10-10		Compliance with OSHA regulation or other safety regulations that are clearly enumerated should be included in the project.	L4-242

§4.10.1 Visual Resources

Page	Location	Comments
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4.10-10	Visual Resources	The text should be expanded to specifically identify and discuss the architectural features employed to make the structures complementary to the surrounding environment. The project should be evaluated within the context of the City of Plymouth's goals for the Hwy 49 Scenic Corridor and its desire to preserve the historic character of the City as outlined in the General Plan vision statement, Downtown Design Guidelines, and Zoning Ordinance Chapter 19.50.
4.10-11	Visual Resources	Significant night lighting impacts should be added to the DEIS analysis, including a detailed description of proposed lighting in Chapter 2.0, a description of existing night light conditions in section 3.0, and analysis of impacts in Chapter 4.0 under visual resources. With the current undeveloped nature of the site and low intensity development in the area, the lighting impacts associated with the project are significant and unavoidable. Even with downward directed lighting, the lighting will nevertheless be highly visible in an otherwise dark nighttime environment and will be visible all night long.

L4-243

L4-244

§4.11 Cumulative Effects

The following comments are specifically referenced to the DEIS's analysis of **Alternative A – Preferred Casino with Hotel**, but they also apply to the other alternatives analyzed by the DEIS to the extent there is parallel analysis for the other alternatives.

Page	Location	Comments
4.11-2	Paragraph 1	<p>It is unclear when Amador County was contacted for a list of projects in the region, but the request may be as old as much of the other data in the DEIS and thus the fact that no projects were proffered may not indicate the absence of projects with significant cumulative effects. Further, it is unclear from the statement "no projects were suggested by Amador County for inclusion as cumulative projects" whether the County actually stated that no projects in the County had potential cumulative impacts or whether the County simply did not reply to the query. There is no evidence that the preparers of the DEIS conducted any further inquiries, such as making a public records request for information on projects within the County.</p> <p>The DEIS does not indicate that the City of Plymouth was contacted for a list of cumulative projects. This is a significant oversight as there are several major residential projects in processing in the City and these projects, together with the casino, could result in significant cumulative impacts that have not been addressed in the DEIS. Further, there is no mention of the cumulative</p>

L4-245

L4-246

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		<p>impacts of the Plymouth Pipeline, which is clearly a major project and has an EA/EIR which was certified in 2006. The failure to include the City of Plymouth's major projects within the scope of the cumulative effects analysis renders the entire cumulative effects section incomplete and inadequate. Likewise, the failure to conduct a reasonable inquiry into the existence of projects within the County renders the entire cumulative effects section potentially incomplete and inadequate.</p> <p>As discussed above, virtually all of the analysis in every part of the cumulative effects section is inadequate due to the lack of consideration of the other significant projects in the area. In addition to those defects, there are also other independent deficiencies in the specific analyses which are listed below. The following comments are specifically referenced to the DEIS analysis of Alternative A, but they also apply to Alternatives B, C and D to the extent there is parallel analysis for those alternatives.</p>
4.11-3	Cumulative Environment – Regional Growth	The projected growth figures for the City of Plymouth presented are outdated and do not address the information in the City's new proposed General Plan.
4.11-4		According to the DEIS, the Buena Vista Casino TEIR was released on May 11, 2005. What is the status of the Buena Vista Casino and TEIR now? This section needs to be updated to allow assessment of cumulative impacts of all of the casinos.
4.11-8	Water Resources – Groundwater	The analysis does not identify the projects and actions associated with cumulative groundwater effects, nor the geographic boundaries of the effects. There is no identification of the applicable groundwater basin or aquifer although it is implied that the affected community is the City of Plymouth. While the City of Plymouth likely is affected, the analysis contains no mention of the nearby developments within the County such as Burke Ranch which are dependent on groundwater and would quite possibly be within the aquifer that would be utilized by the project under the Water Supply Option 2 described on page 4.3-8. The assertion that groundwater pumping by the City is at its maximum rate should be qualified to reflect that this refers to pumping from the City's existing wells. Some of the City's wells are on the east side of Plymouth and may draw from the same aquifer as the project, thus the combined impact of these groundwater uses has the potential to be not only significant, but also disastrous. The City's concern about the impact of groundwater use on current water municipal supplies is reflected in its 2006 moratorium on residential well drilling permits within the City. While the City has an agreement with Amador Water Agency for the construction of a pipeline, the capacity of this pipeline is limited and will be readily

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		<p>absorbed by the projects currently in process with the City. It is incorrect to say that additional development in the area near the project will not result in additional groundwater extraction because "the City is already pumping at maximum rate." Much of the area around the project is within the County, and not subject to the City's moratorium on residential well drilling and generally speaking, groundwater extraction within the state is currently unregulated. It is not clear from the DEIS what the size or location of the affected groundwater basin/aquifer under consideration is, but given the dichotomy in well yields in the various areas of the City of Plymouth (as discussed on page 3.9-2) the affected aquifer is unlikely to be coincident with the City limits. Additionally, depending on the water supply location for water trucked into the project, the trucked water could also contribute to the groundwater impacts. The conclusion that cumulative impact of the project under Water Supply Option 2 is not significant is not supported by the limited analysis provided in the DEIS and the analysis itself is inadequate and incomplete. Water is the most significant resource in Amador County and the quality of the analysis should reflect the pivotal role of this resource.</p>
4.11-8	Air	<p>The greenhouse gas section fails to assess cumulative impacts of the project on greenhouse gases. There will be increased traffic from the project during construction and during operations from workers, employees, patrons, increase in population as the families of the employees move to the area, just to name a few potential sources of increased greenhouse gases.</p>
4.11-14	Housing	<p>The DEIS indicates that the County housing element supports 1,117 residential units, but that there are serious constraints to actual development, including the availability of water. The DEIS further notes that the most significant limitation on residential growth in Plymouth is the moratorium due to lack of water. The DEIS then asserts that the Tribe will simply mitigate the impacts on the local housing market by implementing a housing program to increase affordable housing. The obvious question that the DEIS completely ignores is how will the Tribe implement a housing program and increase affordable housing without adequate water? Not only is the project increasing demand on the already over-taxed water supply, but so will the Buena Vista project. Add to that housing for 1,704 families (not just individuals). Moreover, because this is a low-income area, the impacts will fall disproportionately on that population. These impacts need to be analyzed generally and using the Environmental Justice Compliance Manual criteria discussed above.</p>
4.11-15	Schools	<p>At the time the data was collected, local schools were below capacity, but were expected to exceed capacity</p>

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		by 2008. This section needs to be updated using current data. The impacts on school-aged children in the minority and low-income communities needs to be separately analyzed.
	Environmental Justice	Despite the fact that the DEIS identifies the area as being a minority community and the data provided to the BIA by the City of Plymouth indicated that the population is also low-income, there is no analysis whatsoever of the environmental justice cumulative impacts. (see, e.g., "EPA Review of NEPA Documents," p.5 and the EJ Compliance Manual criteria stated above.) The cumulative impacts of all three casinos on the minority and low-income populations needs to be analyzed. The average annual income for the proposed jobs at the project is approximately \$25,000. This income is very low, especially considering the average income in the area is \$46,000. This data suggests there will be a significant impact on the housing availability and price in the minority and low-income communities when 1,704 families move into the County. The DEIS contains no data on the current average housing costs. Moreover, the data provided by the BIA contradicts the City's recent housing survey, which indicated that 51% of the Plymouth residents were low or very low income families under HUD guidelines.
4.11-15	Socioeconomic Conditions	It is not clear what area of impact is analyzed. There is no data provided to support the conclusion that the addition of two casinos in new areas of the County will have no significant effect on access to gambling. By contrast, if the affected community is in the County, the City of Ione, or the City of Plymouth, it appears there will be significantly more access to gambling when the new casinos are completed.
4.11-15	Socioeconomic Conditions	The brief discussion of the social costs of problem gambling glosses over one of the most difficult issues for gambling establishments. With high social costs, as suggested in the cited studies here and elsewhere in the DEIS, and the difficulty of cure, the addition of two casino projects within such close proximity to an existing casino is clearly a significant cumulative effect. Moreover, the project is a large facility, in a highly accessible highway location with existing development nearby. The NGISC study cited in the text states that as the opportunities for gambling become more commonplace, the number of people who develop gambling problems will also increase. Contrary to the less-than-significant determination in the DEIS, the text discussion leads directly to the conclusion that the project will increase the numbers of problem gamblers, and is a significant contributor to the cumulative impact. The mitigations in Chapter 5.0 would be beneficial, but they clearly are not adequate to reduce this difficult effect to less than significant. The impact discussion

L4-253
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L4-256

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		should be revised to identify a significant and unavoidable effect.
4.11-28	Public Services – Water Supply	<p>No factual basis is provided for the statement that "the water supply obtained from the City of Plymouth's municipal system would be limited to that already provided to the parcels" and this appears to conflict with Water Supply Option 1 (as described on page 2-8 of the DEIS) which suggests that the capacity of the Plymouth Pipeline would serve the Project. The capacity of the Plymouth Pipeline allocated to the City in the agreement between the City and the Amador Water Agency was approximately 924 gallons per minute, not 2000 gallons per minute as described on page 2-8 of the DEIS. Also, recently revealed design constraints on the Plymouth pipeline have reduced the post construction yield to the City of Plymouth to 63% of the original anticipated yield (approximately 585 gallons per minute) and vast majority of this capacity (481 gallons per minute) is reserved to meet demands of current City water customers. There are several projects in processing with the City which will compete for the remaining pipeline capacity. Thus, if Water Supply Option 1 is selected, there will be impacts to the City and Amador Water Agency's supply, which together with the impacts of the other major projects in the City and County are likely to be significant in that they likely will exceed currently projected water availability.</p> <p>If Water Supply Option 2 is selected, there may be impacts to the City's water supply because the City's water will continue to be at least partially based on groundwater. Some of the City wells may share the same aquifer as the wells proposed under Water Supply Option 2. The DEIS does not provide sufficient information to determine whether this is the case. Thus, the well usage described in Water Supply Option 2, together with the current usage in the area and City usage, may have significant impacts on local Groundwater Resources. There is insufficient data and analysis in the DEIS to support a conclusion that these impacts are insignificant.</p>
4.11-6	Land Resources	<p>Erosion is described as a naturally occurring process; however, extensive grading is proposed for the project, primarily to accommodate onsite service facilities. The erosion potential for the project far exceeds naturally occurring processes. No standards of significance are identified for potential erosion; however, to the extent that Buena Vista contains sloping terrain and also proposes onsite facilities, it is likely that erosion potential for that project is also extensive. These factors suggest there is a cumulatively significant erosion impact due to this extensive grading, and that the project would significantly contribute to the impact. Mitigations for this impact would include using City of Plymouth public water and wastewater services to avoid the extensive grading.</p>

L4-256 cont.

L4-257

L4-258

L4-259

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4.11-7	Surface Water	A watershed's runoff characteristics are altered when impervious surfaces replace natural vegetation. As noted above, the project proposes extensive onsite improvements to accommodate onsite service facilities. Assuming that Buena Vista would result in a similar level of impervious surfaces, these projects together would appear to have a significant cumulative effect due to increased runoff potential. Mitigation for cumulative erosion impacts above would also apply to this impact e.g., providing City of Plymouth water and wastewater services would avoid the need for extensive onsite grading and improvement beyond the casino and hotel facility.	L4-260
4.12-25	Traffic	States that with the project mitigation measures and the Buena Vista Casino traffic, each of the intersections shown in Table 4.11-11 would have acceptable LOS; however, Table 4.11-12 shows that the intersection of SR16 and Ione Road would still have LOS F with mitigation, which is in the unacceptable range.	L4-261
4.12-24		Earlier comments regarding the project responsibility for traffic mitigation improvements applies to the Identified impacts. To the extent that there are overlapping patterns such that the project and Buena Vista both contribute to cumulative effects, it could be appropriate in this specific instance to each project to contribute its fair share of the needed improvements. If, however, the improvements are not installed at the time they are needed, the impact would continue to be significant and unavoidable.	L4-262
4.11-9	Greenhouse Gases	The brief description with regard to this subject is inadequate. Not only is the whole discussion contained in one paragraph, but there is no discussion of how the project or other cumulative contributors are being quantified. The Attorney General's office has made it clear that analysis should be quantifiable with regard to this item and should include project specific mitigation measures rather than relying on future laws to be enacted.	L4-263
4.11-26		To the extent other projects and projected development rely on groundwater, the uncertainty of determining groundwater availability noted in earlier comments would be a significant cumulative impact. The impact would remain significant until alternate water sources relieved the groundwater demand.	L4-264
4.11-29	Law Enforcement	See earlier comments regarding law enforcement and social costs of gambling. The DEIS does not contain data or analysis to support the finding that identified mitigations would avoid significant cumulative effects.	L4-265
4.11-32	Visual Resources	Under Visual Resources it is noted that the city has planned for the transformation of the project site by zoning it for commercial uses. As noted in earlier comments, the portion of the project site in the city is designated for commercial uses. However, the DEIS does not establish that the Intensity of the commercial development is also consistent with applicable city general plan and zoning standards.	L4-266

§4.12 Indirect Effects

This Section should also address the indirect effects that would be caused by the pumping and trucking of water under Water Supply Option 2. Overall there are a number of Indirect Effects related to this project and the discussion should not be limited to just off-site traffic mitigation.

L4-267

Page	Location	Comments
4.12-1	Improvements	Section 4.12-1 identifies 4 segment and 21 intersection improvement mitigations, reflecting a widespread need for traffic mitigation due to the project. As noted in earlier comments, requiring a contribution toward the future improvements rather than constructing the improvements is inadequate mitigation where the project traffic causes the segment or intersection to fail. Mitigations should be constructed so as to be in place when needed by project traffic. If the mitigation improvements are not in place when needed to accommodate project traffic, related traffic impacts are significant and unavoidable.
4.12		Will all the Improvements/mitigations exceed 1 acre such that the NPDES permit requirements apply? If not, the mitigations are inadequate and additional mitigation would be needed for land and water resources in place of the SWPPP.

L4-268

L4-269

§4.13 Growth Inducing Effects

The following comments are specifically referenced to the DEIS's analysis of **Alternative A — Preferred Casino with Hotel**, but they also apply to the other alternatives analyzed by the DEIS to the extent there is parallel analysis for the other alternatives.

Page	Location	Comments
4.13-2	Employment Generation	As noted in earlier comments, a 75% reduction in job and economic impacts for Alternative D is unreasonable since the commercial uses as described for a regional visitor-serving draw. Data and analysis should be added to explain and Justify an appropriate reduction.

L4-270

5.0 MITIGATION MEASURES

The DEIS does not include any program or identification of the mechanism(s) for ensuring proper implementation of the mitigation measures. Since effective implementation is key to ensuring environmental impacts will not adversely affect the environment and Plymouth residents, the City requests that, for each mitigation measure, the DEIS identify the following:

- a. Responsible party for carrying out the mitigation
- b. The monitoring authority to ensure proper implementation
- c. An implementation schedule that indicates the timing of the mitigation
- d. The party responsible for funding the mitigation
- e. Performance criteria that will be used to measure the success of the implementation.

L4-271

General Comments on the Mitigation Program

1. The beginning of each section indicates that the measures are "recommended" for certain Alternatives A, B, C and D (except the section on gambling problem mitigation in 5.2.6). This suggests these measures are not "committed mitigation measures" which is the title of Section 5.2. Are these measures committed to, or simply recommended?

L4-272

Mitigation measures are discussed in Chapter 2.0 that are not included in this section. Does that mean that those measures are considered optional? Any mitigation cited in the previous chapters of the DEIS should be identified in this chapter as well.

L4-273

2. The measures listed in each section would help limit mitigate the project's environmental impacts if they provided for outside compliance and results monitoring and enforcement. The Tribe is in the unique position of only having checks and balances on its activities when it agrees to them, thus an agreement with ongoing monitoring and compliance provisions would be required to make this project comparable with equivalent private sector projects in terms of public safety and enforcement.

L4-274

There is a limited discussion of impact fees as mitigation proposed with this project. A number of community facilities fees will be necessary as a result of the proposed casino operations including:

- Parks and recreation impact fees;
- City hall facility and equipment fee;
- Police impact fee;
- Police facility fee;
- Fire personnel fee;
- Fire house facility and equipment fee;
- Community center fee;
- Corporation yard fee;
- Library facility and contents fee;
- Parking lot and parking structure fee;
- General Plan update fee;
- Water, wastewater and sewer line fee;
- Public works equipment fee;
- Central business district redevelopment fee;
- Streets, roadways and sidewalks fee; Highway 49 parkway fee;
- Art in public places fee; School impact fees; and
- Senior center fee.

L4-275

While in need of repairs and remodeling, the City currently has sufficient office space for its administrative functions to serve the City's current population. However, as the City experiences population growth as a result of the proposed casino, additional City staff will be necessary to serve future residents. In turn, the additional staff will require additional building space, furnishings and equipment, creating a need for a new City Hall. The same can be said for other existing city facilities (noted above), wherein the impacts of the proposed casino will be significant, increasing the number of staff, space to house the employees and the necessary additional equipment to serve the increase in population. Generally speaking, there will be a need for funding for a police station, land acquisition, financing costs, personnel and police vehicles. Much the same can be said for all the other facilities noted above.

L4-276

The following are specific comments on the proposed mitigation measures, as well as additional recommended mitigation to ensure impacts can be reduced to less-than-significant levels.

§5.2.2 Land Resources

Page	Location	Comments
---	---	The measures listed do not address existing runoff and erosion problems. These problems should be addressed.
5-3	Mitigation Measure 15	In order to ensure that the grading standard adopted are in compliance with the City's standards, the City should review and approve the Project grading plans before grading is begun. What sort of individual is the "state licensed inspector," what licensing would he or she have and

L4-277

L4-278

L4-279

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		what authority would he or she have? On a normal project in the City, a city inspector can shut down the job until violations are rectified.	L4-279 cont.
5-3	Mitigation Measure 14	The Storm Water Pollution Prevention Plan (SWPPP) should be reviewed by the City of Plymouth and Amador County to ensure protection of the local water supply and public health and safety. The Tribe should commit to complying with the plan once prepared, and injunctive relief should be available for a failure to comply with the plan. Outside monitoring should be provided. Contractor/Tribe should agree to stop activities which cause plan violations if monitor directed or on receipt of facially valid complaint.	L4-280
5-4	Item 22	The DEIS should identify these permits and approvals, who would grant them, what standards they would impose, and how compliance would be monitored and enforced.	L4-281
5-4	Item 26	Indicate how the BMPs would be selected or what organization's recommendations they would be based on.	L4-282
5-6	Item 7, Option 1	Dam design should also be reviewed by the County, and public hearings held because this is a potentially serious public safety issue.	L4-283
5-6	Item 10	More detail about the downstream hazard classification is needed. The MOA should include the County as well as the Tribe since the hazard could affect County residents.	L4-284

§5.2.3 Water Resources

Page	Location	Comments	
		1. A detailed section on water conservation measures should be included.	L4-285
		2. The provisions of Plymouth Municipal Code Section 19.06.210 should be complied with.	L4-286
		3. The standard to which the water will be treated is described differently in different parts of the document, the description of the standard should be uniform so that it may be properly evaluated.	L4-287
5-6	Mitigation Measure A	1. This measure does not address existing runoff problems. These problems should be addressed.	L4-288
		2. This mitigation measure is not sufficiently detailed so as to allow a determination as whether it will mitigate site drainage problems.	L4-289
		3. Discussion of mitigation measures related to the construction of the detention pond should be included here or in the Land Resources section, in the same way that they are discussed for the dam.	L4-290
		4. Special pollution control measures for to handle the runoff from roads and parking lots should be included.	L4-291
5-7	Mitigation Measure B	See comments under Land Resources	L4-292

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5-7	Mitigation Measure C	<p style="text-align: center;">Mitigation Measure C, above.</p> <ol style="list-style-type: none"> 1. There is evidence presented that groundwater pumping on this scale will have an adverse affect on other users. There should be specific criteria for what an adverse effect is and an enforceable agreement that the Casino will not adversely affect the other existing users or pump to a level that measurably draw down the local aquifers. A significant draw down could occur before pumping effects are seen at the wellhead. 2. This mitigation measure does not specify the amount of loss of groundwater pumping capacity that would trigger a "significant effect" and who determines significance. This should be determined by agreement between the potentially affected parties. 3. The DEIS analysis of the ground water resources notes that separate wells may draw from separate isolated aquifers, so monitoring existing wells on may not be determinative of the pumping of the effects of the project wells. 4. The measures that the Tribe may take in the event of a "significant effect", such as drilling deeper wells, that may have harsh environmental consequences. The presence of a "significant effect" on the offsite users well's may indicate that the ground water table/aquifer is being drawn down, perhaps irreversibly by the Tribe's pumping. The EIS should explore and mitigate the effects of a draw down of the local aquifers in terms of subsidence and infiltration and other possible negative effects. 5. The Tribe should enter an enforceable agreement with the potentially affected offsite users that allows the users to maintain their groundwater use. 6. The negative effects associated with potential tanker truck deliveries should also be discussed. 	<p style="text-align: right;">L4-293</p> <hr style="width: 100%;"/> <p style="text-align: right;">L4-294</p> <hr style="width: 100%;"/> <p style="text-align: right;">L4-295</p> <hr style="width: 100%;"/> <p style="text-align: right;">L4-296</p> <hr style="width: 100%;"/> <p style="text-align: right;">L4-297</p> <hr style="width: 100%;"/> <p style="text-align: right;">L4-298</p> <hr style="width: 100%;"/>
5-8	Mitigation Measure D	<ol style="list-style-type: none"> 1. The local aquifers could become irreversibly contaminated or degraded as a result of addition of treated effluent in addition to what is tested in the Title 22 standards, there are many other components of treated effluent that remain and may have adverse effects on non-human water users. 2. It is not clear whether injection wells or percolation basins will be used for disposing of the treated effluent. To the extent that injection wells will be used for this disposal more detail on 	<p style="text-align: right;">L4-299</p> <hr style="width: 100%;"/> <p style="text-align: right;">L4-300</p>

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		<p>the wells and their location should be provided. Such sites should be monitored for compliance with State and Federal standards</p> <p>3. This measure does not compare water quality of the treated effluent to the groundwater.</p> <p>4. The project should comply with the policies and standards of these acts: State Water Regional Control Board Resolution #68-16 requires maintenance of existing State water quality unless it is demonstrated that a change will benefit the people of California, will not unreasonably affect present or potential uses, and will not result in water quality less than that prescribed by other State policies. Section 3020 of the Resource Conservation and Recovery Act prohibits disposal of hazardous waste above or into a formation, which contains a source of drinking water. California's Proposition 65 prohibits the discharge of chemicals known to the State to cause cancer or reproductive toxicity into ground water or surface water drinking water sources or onto land, which may pass into a drinking water source. California Water Code Section 13540 prohibits construction or use of any waste well extending to or into a water-bearing stratum that is suitable for, a source of water supply for domestic purposes absent Regional Water Board permission.) The federal Underground Injection Control Program requires that injection wells not (1) cause a violation of primary MCLs in the receiving aquifer, and (2) not adversely affect the health of persons (40 C.F.R. Sec. 144.12.)</p>	L4-300 cont.
5-8	Mitigation Measures D and E	<p>A wastewater treatment plant should be run only by licensed, qualified individuals-the EIS should definitely contain commitments to licensing, testing and training of these individuals so that public safety is protected. See comments under Mitigation Measure C, above.</p>	L4-301
			L4-302
			L4-303

Page	Area	Proposed Mitigation	Potential Impacts	L4-304
5-7	Groundwater Use	The Tribe shall develop a groundwater-monitoring program in consultation with BIA. The purpose of the program is to determine if the Tribe's groundwater pumping practices are significantly affecting an off-site user of groundwater. A	<ul style="list-style-type: none"> The EIS does not contain a peaking factor for peak day demands on Table 4.9-1. Peak demands at other casino/ hotels of comparable size are in the order of 288,000 gallons per day. This could result in groundwater tables being 	

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		<p>significant effect shall be found if an off-site groundwater user's pre-project consumption use is reasonably determined to have been reduced or list as the result of the Tribe's groundwater levels, the Tribe shall equip a number of groundwater monitoring wells are significantly affected, the Tribe shall undertake one or more of the following measures:</p> <ul style="list-style-type: none"> • May alter its groundwater pumping regime; • May pay for an off-site users well to be drilled deeper; • May pay for development of a new well; • May replace the water used by the off-site user that lost as a result of the Tribes pimping practice by either connection to the Tribe's pumping practice by either connection to the Tribe's water supply through the import of water via tanker truck. • The Tribe may decrease the projects reliance on groundwater and increase the importation of water via tanker truck. 	<p>depleted significantly.</p> <ul style="list-style-type: none"> • The wastewater flows on 4.9.7 estimates a peak day flow at 351,338 gallons per day or more than 100,000 gallons per day than the peak weekend day presumption for potable water. • The comments in the EIS on page 3.9.1 notes that "most of the wells located within the immediate vicinity of the project shown to be low producing wells. With the exception of three wells, the wells are shown to produce less than 15 gpm, with four wells producing less than five gpm." The Tribes usage of groundwater at the proposed groundwater table both for the private wells as well as for the City's groundwater wells, the only source of water supply for the City at this time. • The 119,520 gpm generated by the three wells is only capable of meeting 48% of weekend day demand without recycling wells proposed by the Tribe would be incapable of meeting the Tribes water supply needs. 	<p>L4-304 cont.</p> <p>L4-305</p> <p>L4-306</p> <p>L4-307</p>
5-8	Groundwater quality	<p>Effluent from the project will be treated by an immersed membrane bioreactor (MBR) plant, an advanced treatment facility that produces very high quality tertiary effluent that will meet Title 22 criteria for highest quality of recycled water (disinfected tertiary recycled water). Effluent from this facility will require no additional treatment typical of standard leachfields. Effluent from the</p>	<ul style="list-style-type: none"> • The Tribe could potentially be unable to recruit the staff with the skills necessary to operate the MBR. • The chemicals used to clean the membranes, if improperly disposed, could impact groundwater quality. The EIS failed to identify whether any landfill in the region that would accept the chemicals. • The solids generated by mechanical dewatering, if improperly disposed, could 	<p>L4-308</p> <p>L4-309</p> <p>L4-310</p>

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		<p>project will be treated by an immersed membrane bioreactor (MBR) plant, an advanced treatment facility that produces very high quality tertiary effluent that will meet Title 22 criteria for highest quality of recycled water (disinfected tertiary recycled water). Effluent from this facility will require no additional treatment typical of standard leachfields.</p>	<p>impact groundwater quality. The EIS failed to identify whether any landfills in the region that would accept the solids.</p> <ul style="list-style-type: none"> • The MBR, since it is undersized, could be incapable of meeting the wastewater treatment demands of the casino-hotel, resulting in the disposal of untreated wastewater and failure to meet the requirements of Title 22. • The disposal fields were designed for an average disposal flow of 90,000 gpd. The size of these fields could be inadequate to handle peaks. • The effluent from the MBR and disposal fields could result in the contamination of the watershed resulting from the subsurface disposal and sprayfields. • The effluent from the MBR and disposal fields could contaminate groundwater in the one spring in a drainage within the southwest quadrant, others in deep drainage courses east of the project, and a spring also thought to supply water to the pond in the southwest corner of the project. • The seasonal storage dam could break with downstream risks to residents and visitors associated with the failure of this dam. • The detained water from the seasonal storage reservoir could leak into the groundwater. • The southwest area of the project site selected for subsurface leachfields and spray irrigation could be subject to heavy flow to the surface during heavy rains with wastewater flowing off-site. • The projected wastewater recycling projections could not be achieved resulting in increased disposal requirements for the subsurface leachfields and spray irrigation fields that are under designed already. • The storage projections for recycled wastewater and 	<p>L4-310 cont.</p> <hr/> <p>L4-311</p> <hr/> <p>L4-312</p> <hr/> <p>L4-313</p> <hr/> <p>L4-314</p> <hr/> <p>L4-315</p> <hr/> <p>L4-316</p> <hr/> <p>L4-317</p> <hr/> <p>L4-318</p> <hr/> <p>L4-319</p>
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			seasonal storage appear to be under designed.	L4-319 cont.
5-8	Groundwater quality	A sampling and monitoring program on the wastewater treatment plant effluent will be developed and implemented. Typically, similar facilities generally monitor effluent quality for BOD5, TSS, and coliform on a regular basis. Waste activate sludge (WAS) and biosolids residual produced by the wastewater would be dewatered on site by means of mechanical dewatering system and ultimately hauled off site for disposal. In areas with greater environmental sensitivity, additional monitoring of effluent may include periodic tests for turbidity, ammonia, nitrates, and phosphate.	<ul style="list-style-type: none"> The sampling and monitoring program could fail to detect groundwater contamination. The sampling and monitoring program could fail to detect groundwater contamination off-site. 	L4-320

Summary of Additional Mitigation Measures Related to Water

The following table provides a summary of the issue area, the assumption, and potential additional mitigation measures, which should be considered to reduce potential impacts of the proposed development to less-than-significant levels.

Issue Area	Assumption	Potential Mitigation Measures
Groundwater Supply	<ul style="list-style-type: none"> The source of water supply for the City of Plymouth is groundwater wells, not the Mayo Ditch. The Ditch can be utilized for peaking, not the primary source of water. In 1987, the California Department of Health Services concluded that the City of Plymouth was not capable of providing adequate water supply to its residents. As a result of the inadequate City water system, a moratorium was placed on all new development within the City. The inability of the City to provide adequate water 	<ul style="list-style-type: none"> Include in the EIS the analysis of obtaining surface water from the Amador Water Agency. The City of Plymouth and the Amador Water Agency have entered into an agreement to construct a 10" water main to serve the City of Plymouth. The EIS should evaluate the ability of this 10" water main to serve the needs of the Tribe and the City of Plymouth. The EIS should evaluate the peaking requirements of the casino-hotel beyond the weekend for such events as the Amador County Fair, holidays, etc. that are likely to present abnormally high water demands. The EIS should be expanded to evaluate the effects of long-term groundwater pumping by the Tribe on surrounding off-site wells.

L4-321

L4-322

L4-323

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	<p>supply to its residents indicates the unreliability of groundwater for water supply.</p> <ul style="list-style-type: none"> • The comments by the EIS noted that "most of the wells located within the immediate vicinity of the project are shown to be low producing wells. With the exception of three wells, the wells are shown to produce less than 15 gpm, with four wells producing less than five gpm." • Toma & Anderson, an engineering consulting firm retained by the lone Band of Miwok Indians to evaluate the Plymouth Casino water supply, stated in a July 2003 report to the lone Band of Miwok Indians that "although not subject to California Department of Health Services (DOHS), once casino property is in trust land, there is good reason not to develop a major project like this on groundwater. Past experience with wells has directed the City into studying surface water supplies only, and DOHS strongly discourages any new developments be based on groundwater resources as groundwater resources have not proven reliable in the past in this area." As a consequence, the consultant to the lone Band of Miwok Indians recommended connection to the surface water supply provided by the Amador Water Agency to serve both the casino-hotel and the City of Plymouth. 	<p>This should be based upon a hydro geological study of the aquifer for the surrounding wells, to ensure that the proposed production rates will not adversely affect water levels in nearby off-site wells. The study should analyze potential water quality impacts of changes in the availability of groundwater, as well as supply conditions, for at least a 5-mile radius around the project site.</p> <ul style="list-style-type: none"> • The EIS should evaluate the capacity to meet the weekday and well end water demands without trucking given the potential risks associated with relying on that source of water for long-term water supply. • The EIS should identify the number of trips required per day for weekdays, weekends, and peak days required to truck water to the project site. • The EIS should include an emergency plan for water supply in the event that the proposed water system fails. The plan should identify an emergency back-up system in case of failure of the groundwater wells proposed as the primary source of water for the casino-hotel. 	<p>L4-323 cont.</p> <p>L4-324</p> <p>L4-325</p> <p>L4-326</p>
<p>Groundwater supply (Cont)</p>	<ul style="list-style-type: none"> • The EIS did not evaluate the long-term impact of pumping 188,500 gallons per day from these three wells on the water table and on surrounding wells. The Pumping Tests included in Appendix C 	<ul style="list-style-type: none"> • The EIS, in analyzing the peak potable water demand, should resolve the discrepancy between the wastewater flows on 4.9.7, that estimates a peak day flow of 351,338 gallons per day, and the typical weekend 	<p>L4-327</p>

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	<p>indicated on page 18 that the "long-term yields were based upon aquifer response to a relatively short period of pumping." It further notes that this "approach assumes that sufficient precipitation will occur and that a significant percentage of recharge will reach the aquifer. It also assumes that the interconnected fracture network extends beyond the radius of influence created during the test, and that these fractures have sufficient storage to produce sustainable yields. However, these conditions may not be realized.</p> <ul style="list-style-type: none"> • The three wells proposed in the EIS would meet only 42% of the peak day demand, based upon the experience of other casino-hotels of 288,000 gallons per day. • The EIS did not develop or consider peaking beyond weekends. The peaking factor utilized by other casino-hotels was 288,000 gallons per day, not that much more the typical weekend day water demand of 250,500 without recycling or 198,700 for the typical weekend day with recycling. The amount of water that would need to be hauled in would likely exceed 50,000 to 60,000 gallons. If recycled wastewater is not utilized, the water that would need to be hauled in for peaking would likely approximate 160,000 gallons per day. • Appendix E does not disclose the size of the tankers that would be used to haul water; as a consequence, the number of trips per day is unknown and not disclosed within the EIS. 	<p>day demands for potable water of 250,500 gallons. The difference is more than 100,000 gallons per day of wastewater at peak than the peak weekend day presumption for potable water.</p> <ul style="list-style-type: none"> • The ground water monitoring program shall be approved by the City of Plymouth before the Tribe shall begin groundwater pumping. • The determination regarding whether the groundwater user's pre-project consumptive use is reasonably determined to have been reduced or lost as the result of the Tribe's groundwater pumping practice shall be made by an Independent engineer retained by the City whose cost would be paid for by the Tribe. • The monitoring groundwater wells shall be installed along the perimeter of the project site. The number, types and locations of the wells shall require the approval of the City of Plymouth. • These monitoring wells shall be required to be used to determine if ground water pumping practices are significantly drawing down subsurface water levels at off-site private wells. • The monitoring wells shaft be required to be in place prior to the commencement of groundwater pumping to establish pre-project baseline conditions. • The alternative selected to mitigate the Impact of the Tribe's pumping practices on off-site wells shall be the choice of the owner of the off-site well. 		<p>L4-327 cont.</p> <p>L4-328</p> <p>L4-329</p> <p>L4-330</p> <p>L4-331</p> <p>L4-332</p> <p>L4-333</p>
<p>Groundwater supply (Cont)</p>	<ul style="list-style-type: none"> • Given the peaking factor, the amount of water that would need to be hauled in would likely exceed 50,000 to 60,000 			

	<p>gallons. If recycled wastewater is not utilized, the water that would need to be hauled in for peaking would likely approximate 160,000 gallons per day.</p> <ul style="list-style-type: none"> The wastewater flows on 4.9.7 estimates a peak day flow of 351,338 gallons per day or more than 100,000 gallons per day than the peak weekend day presumption for potable water. 	
Water Treatment Plant	<ul style="list-style-type: none"> Based on groundwater quality, an onsite water treatment plant will be required to remove Iron and manganese. 	<ul style="list-style-type: none"> The EIS should identify whether these water treatment plant operators will be certified by the DOHS and the measures that the Tribe will utilize to maintain their certification. The EIS should identify the number of water treatment plant operators that will be employed by the Tribe, and whether the plant will be staffed 24/7. The EIS should disclose the disposal site and methods for the iron and manganese.

L4-334

L4-335

General Comments

With the proposed options for wastewater there are significant impacts that would occur. The absence of mitigation measures dealing with the wastewater issue needs to be addressed. The following are general comments that apply to all alternatives with regards to wastewater.

L4-336

The following tables provide a summary of the issue area, the assumption, and potential additional mitigation measures, which should be considered to reduce potential impacts of the proposed development to less-than-significant levels.

WASTEWATER

Page	Area	Proposed Mitigation	Comments
	Groundwater quality	Effluent from the project will be treated by an Immersed membrane bioreactor (MBR) plant, an advanced treatment facility that produces very high quality tertiary effluent that will meet Title 22 criteria for highest quality of recycled water (disinfected tertiary recycled water).	<ul style="list-style-type: none"> The Tribe could potentially be unable to recruit the staff with the skills necessary to operate the MBR. The chemicals used to clean the membranes, if improperly disposed, could impact groundwater quality. The EIS failed to identify whether any landfills in the region that would accept the chemicals. The solids generated by

L4-337

L4-338

L4-339

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		<p>Effluent from this facility will require no additional treatment typical of standard leachfields.</p>	<p>mechanical dewatering, if improperly disposed, could impact groundwater quality. The EIS failed to identify whether any landfills in the region that would accept the solids.</p> <ul style="list-style-type: none"> • The MBR, since It is undersized, could be incapable of meeting the wastewater treatment demands of the casino-hotel, resulting in the disposal of untreated wastewater and failure to meet the requirements of Title 22. • The disposal fields were designed for an average disposal flow of 90,000 gpd. The size of these fields could be inadequate to handle peaks. • The effluent from the MBR and disposal fields could result in the contamination of the watershed resulting from the subsurface disposal and sprayfields. • The effluent from the MBR and disposal fields could contaminate groundwater In the one spring in a drainage within the southwest quadrant, others In deep drainage courses east of the project, and a spring also thought to supply water to the pond In the southwest corner of the project. • The seasonal storage dam could break with downstream risks to residents and visitors associated with the failure of this dam. • The detained water from the seasonal storage reservoir could leak into the groundwater. • The southwest area of the project site selected for subsurface leachfields and spray irrigation could be subject to heavy flow to the surface during heavy rains with wastewater flowing off-site. • The projected wastewater recycling projections could not be achieved resulting in increased disposal requirements for the subsurface leachfields and spray irrigation fields that are under designed already. • The storage projections for recycled wastewater and seasonal storage appear to be 	<p>L4-339 cont.</p> <p>L4-340</p> <p>L4-341</p> <p>L4-342</p> <p>L4-343</p> <p>L4-344</p> <p>L4-345</p> <p>L4-346</p> <p>L4-347</p> <p>L4-348</p>
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			under designed.	
	Groundwater quality	A sampling and monitoring program on the wastewater treatment plant effluent will be developed and implemented. Typically, similar facilities generally monitor effluent quality for 80D5, TSS, and coliform on a regular basis. Waste activate sludge (WAS) and biosolids residual produced by the wastewater would be dewatered on site by means of mechanical dewatering system and ultimately hauled off site for disposal. In areas with greater environmental sensitivity, additional monitoring of effluent may include periodic tests for turbidity, ammonia, nitrates, and phosphate.	<ul style="list-style-type: none"> • The sampling and monitoring program could fail to detect groundwater contamination. • The sampling and monitoring program could fail to detect groundwater contamination off-site. 	<p>L4-348 cont.</p> <p>L4-349</p> <p>L4-350</p> <p>L4-351</p> <p>L4-352</p>

Issue Area	Assumption	Potential Mitigation Measures
Wastewater projections	The wastewater flows were based upon a facility program: table 2-2 on page 4.9.7. The facility program makes assumptions based upon other similar casinos and occupancy rates. The occupancy rate on weekdays is presumed to be 30% to 40% and on weekends to be 60% to 70%.	The assumptions should be adjusted to reflect a range of occupancy for the hotel-casino. The occupancy rates could be much higher during seasonal and holiday peaks, and mitigation measures need to be developed for these peaks. This would obviously affect the wastewater generated by the projected site.
I & I	For this project, zero percent I & I is used, as this project will be a new construction and may contain minimal length of PVC gravity sewer pipe and pressure force mains.	0% I & I is unrealistic. Wastewater mains leak. The EIS should develop mitigation measures to address the impacts of I & I on groundwater.
MBR WWTP	A membrane bioreactor (MBR) would be utilized to treat wastewater due to its small layout and its ability to reliably produce high-quality effluent. The EIS states that MBR's are ideal for the project's remote location where reliable wastewater treatment is critical to meeting strict discharge standards.	<ul style="list-style-type: none"> • The EIS should evaluate an alternative of connecting the casino-hotel to the City's wastewater treatment plant. • The EIS should fully disclose the disadvantages associated with operating an MBR, and develop mitigation measures to address those disadvantages. • The EIS should develop mitigation measures for the chemicals used to clean the membranes. The EIS should identify the landfills in the region that accept these chemicals and filters. The EIS should identify whether any landfills in the region accept

L4-348 cont.

L4-349

L4-350

L4-351

L4-352

L4-353

L4-354

L4-356

L4-357

L4-358

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		<p>biosolids generated by mechanical dewatering.</p> <ul style="list-style-type: none"> • The EIS should develop mitigation measures integrating grease traps into the wastewater treatment process. • The EIS should develop mitigation measures that address how the design flow of the MBR, 0.2 MGD, would handle peak day flow of 351,338 gallons per day, and the undersizing of the MBR. • The EIS should develop mitigation measures that address the recruitment of staff with the skills necessary to operate the MBR. 	<p>L4-355 cont.</p> <p>L4-356</p> <p>L4-357</p> <p>L4-358</p>
WWTP Effluent Disposal	<p>The effluent would be dispersed to subsurface leachfields, sprayfields, landscape irrigation, and seasonal storage ponds. The estimated effluent disposal requirements are presented below:</p> <ul style="list-style-type: none"> • Average day wastewater disposal flows: 83,000 gpd • Design average day disposal flows: 90,000 gpd 	<ul style="list-style-type: none"> • The EIS should develop mitigation measures for the potential contamination of the watershed resulting from the subsurface disposal. These mitigation measures should address the uphill location of the spray field and the subsurface leachfield and the potential discharge to surface water drainage courses off-site of Tribal property. • The EIS should develop mitigation measures that address peak effluent disposal, and not averages. The EIS should develop mitigation measures that evaluate and propose disposal processes to address these peaks. • The EIS should develop mitigation measures to mitigate the potential for contamination of the one spring in a drainage within the southwest quadrant, others in deep drainage courses east of the project, and the pond in the southwest corner of the project. The EIS should develop mitigation measures if the Tribe is unable to dispose of effluent on-site as a result of Title 22 requirements and groundwater contamination. 	<p>L4-359</p> <p>L4-360</p> <p>L4-361</p>
WWTP Recycling	<p>The source for recycled wastewater in table 2-7 is the Irvine Ranch Water District. Other sources for the assumptions regarding recycled wastewater were not cited, including cooling towers</p>	<ul style="list-style-type: none"> • The EIS should develop mitigation measures that address the potential of not meeting these recycling assumptions. Not meeting these recycling assumptions would require greater effluent disposal. • The EIS should develop mitigation measures that address the potential undersizing of storage projections for recycled waste water 	<p>L4-362</p> <p>L4-363</p>
Seasonal Storage Dam	<p>Seasonal storage reservoir for wastewater effluent will consist of an earth rockfill dam structure that will have the capacity to store 10.3 million gallons.</p>	<ul style="list-style-type: none"> • The EIS should develop mitigation measures to address the environmental impacts of this leakage to surrounding springs and watercourses. • The EIS should develop mitigation measures for the failure of the dam. The EIS should develop mitigation measures that address the potential undersizing of storage projections for 	<p>L4-364</p> <p>L4-365</p>

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Groundwater monitoring	A sampling and monitoring program on the wastewater treatment plant effluent will be developed and implemented,	<p>the seasonal storage dam.</p> <ul style="list-style-type: none"> • The sampling and monitoring program should develop specific mitigation measures that address the potential failure to detect groundwater contamination. • The sampling and monitoring program should include mitigation measures to detect groundwater contamination off-site resulting from contamination from wastewater effluent generated by the casino-hotel. 	L4-365 cont.
Groundwater monitoring	A sampling and monitoring program on the wastewater treatment plant effluent will be developed and implemented.	<ul style="list-style-type: none"> • The sampling and monitoring program should develop specific mitigation measures that address the potential failure to detect groundwater contamination. • The sampling and monitoring program should include mitigation measures to detect groundwater contamination off-site resulting from contamination from wastewater effluent generated by the casino-hotel. 	L4-366

§5.2.4 Air Quality

Page	Location	Comments	
5-8	Construction-Related Diesel Emissions	This mitigation measure lacks firm commitments. In California, commercial diesel-fueled vehicles with a gross vehicular weight rating greater than 10,000 pounds are required to limit idling to no longer than 5 minutes under most circumstances. Specific measures for attaining the goal of efficient construction-related trips should be identified, and these measures should be made a requirement of the contractors through the construction contracts.	L4-368
5-8	Mitigation Measure E	Should state that the Tribe will require this provision rather than encourage. The construction contracts should establish requirements that contractors must use a vehicle inventory in which at least 20% of the heavy-duty off-road equipment is powered by CARB-certified off-road engines, as follows: 175 hp - 750 Pip 1996 and newer engines 100 hp - 174 Pip 1997 and newer engines 50 hp - 99hp 1998 and newer engines	L4-369
5-9	Mitigation Measure E	Statement D lacks firm commitments and details. The statement should identify the specific measures that the Tribe will employ to facilitate carpooling.	L4-370

§5.2.5 Biological Resources

The following are general comments regarding the impact assessment of biological resources:

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- These mitigation measures should include timing of when the measures shall occur. For example, most of these measures should be conducted prior to any ground disturbance, grading, or other construction activities onsite. L4-371
- How will the sensitive habitats (e.g., wetlands and riparian woodland) be protected in the long-term (after construction)? L4-372
- Who will conduct or review the monitoring programs described in the Mitigation Measures? L4-373
- Mitigation Measures G, H, I, J, K, L:
 - a. The wetlands delineation should be verified by the Corps prior to construction activities and compliance with any 404 permit should be required. L4-374
 - b. Water Quality Certification seems unrelated to these mitigation items, if it is mitigation, it must be more thoroughly explained.

Page	Location	Comments
5-10	Mitigation Measure C	Temporary construction fencing should be placed around all onsite elderberry shrubs. A separate mitigation measure for the Elderberry Shrubs should be developed. L4-375
5-10	Mitigation Measure E,F,G,H	When shall the delineation be submitted to the Corps? Other mitigation measures and potential impacts are tied to the delineation being verified by the Corps (these are, among others, mitigation and impacts related to vernal pool habitat and waters of the U.S.). L4-376
5-10	Mitigation Measure H	Who will monitor the created or restored wetland habitat? L4-377
5-11	Mitigation Measure I	Specify the months of the dry season. L4-378
5-9	Mitigation Measure A, B, C	<ol style="list-style-type: none"> 1. The Plymouth City Code requires a tree removal plan if more than one tree is to be removed, which provides a good method for minimizing and measuring impacts. 2. The number of trees and which ones to be removed should be identified and a comprehensive mitigation program developed prior to construction activities. 3. Who will monitor compliance with this mitigation measure? L4-379
5.10	Mitigation Measure S	The mitigation ratio should be 1:1 or better. L4-380

5.2.7 Socioeconomic Conditions

Page	Location	Comments
5-13	Mitigation Measure B	Any amount should be based on the value of the developed land as the land would have been developed by a taxable entity, if the Tribe had not taken it in to trust. Alternatively, the mitigation amount should be calculated using the value that the Tribe paid for the land, which would be the rate for any non-sovereign who bought the property without developing it. Any mitigation based on lost property taxes should increase at the rate that such taxes would increase under the JaMs Gann Act. The City will also lose sales, use, and transient occupancy taxes L4-381

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		from the Shenandoah Inn, which should be mitigated.	L4-381 cont.
5-14	Mitigation Measures D-G	These numbers appear to be calculated based on the \$0.33 per foot state school impact fee. The restrictions on other mitigation fees may be lifted this fall, in which case this amount will not track the fees that a similar commercial project would pay for mitigation of school impacts.	L4-382

5.2.8 Resource Use Patterns – TRANSPORTATION

Page	Location	Comments	
5-14	Mitigation Measures A,B	Caltrans likely would need to prepare an EIR in order to issue encroachment permits these two driveways for the Casino.	L4-383
5-16	Paragraph One	If the Tribe only pays its proportionate share of traffic improvements, whenever that share is less than 100% the mitigation project likely will not ever be built. Thus those proportionate funds should be pooled and used to fully fund projects in an order of priority without waiting for other funding to appear. Mitigation costs should be Indexed for inflation based on a published public works index.	L4-384
5-15 to 5-21	Mitigation Measures C-Z, AA	The area of implement able surface created by the access and parking facilities should be listed here and in conjunction with the drainage section. An expected casino/hotel usage volume should be generated for comparison to ensure the adequacy of these facilities. If the only pays its proportionate share of traffic improvements, whenever that share is less than 100% the mitigation project likely will not ever be built. Thus those proportionate funds should be pooled and used to fully fund projects in order of priority without waiting for other funding to appear. Mitigation costs should be indexed for inflation based on published public works index.	L4-385

5.2.9 Public Services – SOLID WASTE

Page	Area	Comments	
5-21	Mitigation Measures A,B	These measures need further detail as to the method of exercise and standards to be applied before their mitigation potential can be analyzed. No specifics are given nor is there a quantifiable amount. For instance type of materials should be listed along with a % of materials to be used.	L4-386
5-21	Mitigation Measures C,D	Recycling areas per Plymouth Municipal Code Section 19.06.201	L4-387

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		should be provided.	L4-387 cont.
	Waste	<p>Materials would be sorted into recyclable materials and materials requiring disposal. Materials would be taken to the Western Amador Recycling Facility. Waste that cannot be recycled at that facility would be disposed of at the Keller Landfill.</p> <ul style="list-style-type: none"> • The impact to capacity at the Transfer Station needs to be addressed. • The existing Transfer station cannot handle the increase in material from the Casino and associated development. 	L4-388
	Litter	With significant increases in visitors to Plymouth as a result of the casino. There will be significant increases in roadside litter.	L4-389

Summary of Additional Mitigation Measures related to Solid Waste

The following table provides a summary of the issue area, the assumption, and potential additional mitigation measures, which should be considered to reduce potential impacts of the proposed development to less-than-significant levels.

Issue Area	Assumption	Potential Mitigation Measures	
Waste	Materials would be sorted into recyclable materials and materials requiring disposal. Materials would be taken to the Western Amador Recycling Facility. Waste that cannot be recycled at that facility would be disposed of at the Keifer Landfill.	The EIS should evaluate the capacity of the Transfer Station to handle the increase in material from the casino and associated development and, if the Transfer Station cannot handle the increase, develop mitigation	L4-390
Roadside litter	The impacts of roadside litter resulting from a significant increase in visitors to Plymouth have not been addressed in the EIS whatsoever	The EIS should develop mitigation measures for roadside litter.	L4-391

5.2.9 Public Services – ELECTRICITY, NATURAL GAS AND TELECOMMUNICATIONS

Page	Location	Comments	
5-21	Electricity, Natural Gas and Telecommunications	The additional demand on the telecommunications facilities by visitors/patrons as well as employees would need to be addressed. A tremendous increase in the use of mobile phones and data transfer facilities is anticipated both at project site and along road corridors that will be frequently traveled.	L4-392

5.2.9 Public Services – Public Health and Safety/LAW ENFORCEMENT

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Page	Area	Proposed Mitigation	Comments
5.22	Alcohol Consumption	The Tribe will adopt a Responsible Alcoholic Beverage Policy that would include, but not be limited to: carding patrons and refusing service to those who have had enough to drink. This policy would be discussed with the California Highway Patrol and the Amador County Sheriff's Office.	Policy must be comprehensive and strictly enforced to limit any negative impact, including drunk driving, fights, etc. which could have workload implications for law enforcement personnel.
5.22	Parking Lot	All parking areas will be well lit and monitored by parking staff, and / or roving security guards at all times during operation. This will aid in the prevention of auto theft and other related criminal activities,	Policy should include the provision for both proper lighting and security guards. This will help reduce the number if incidents in the parking areas and reducing potential impacts on police personnel. The project management should take measures to prevent off-site parking.
5.22	General Area	Areas surrounding the gaming facilities will have 'No Loitering' signs in place, will be well lit and will be patrolled regularly by roving security guards. This will aid in the prevention of loitering and crimes that relate to it.	Ensure the appropriate schedule and deployment of security guards for proper coverage to limit incidents.
5.22	Traffic Control	The Tribe will provide traffic control with appropriate signage and the presence of peak-hour traffic control staff. This will aid in the prevention of off-site parking, which could create possible security issues.	Ensure the definition of peak-hour time for traffic control staff to limit the impact on law enforcement personnel.
5.22	Direct Law Enforcement Services	The Tribe will provide payments to the ACSO to provide for one officer to be based in Plymouth on a 24-hour/seven day a week basis. This would require the addition of 6.5 officers. The Tribe shall negotiate the exact amount of compensation for services with the ACSO. The amount of payment shall be subject to annual review,	24-hour 7-day per week coverage requires 5-6 FT officers to provide 1 working officer around the clock. The need may be doubled for officer safety reasons during arrests and continued coverage for both the City and casino-affected areas. Also, potential impact on dispatch services requiring a certain percentage of FTE utilization, as well as investigative services for increased case load. There should be some assurances given that the Tribe will actually enter into an agreement with ACSO.
	District	The Tribe will consult with Plymouth and Amador	Increased caseload due to

L4-393

L4-394

L4-395

L4-396

L4-397

L4-398

	Attorney	County to assess and reasonably address the potential impacts on County law enforcement including increased activities of the District Attorney's Office. The Tribe will provide payments to the Amador County to mitigate impacts to the Amador County District Attorney's Office services.	incidents occurring. Comparative information shows approximately 60% of calls for service result in an arrest. For the new casino development — this could be up to 240 new cases annually.
	Traffic Enforcement	The Tribe will consult with the CHP to assess and mitigate potential impacts to CHP service in the area.	The increased traffic and related issues (i.e. parking accident investigations, etc.) could also have an impact on City resources. The Tribe should enter into an MOU regarding reimbursement for additional costs required to mitigate impacts to the CHP workload from Casino.
5-22	Mitigation Measure J	This mitigation measure does not contain a quantifiable element nor does it indicate by what measures the anticipated impact will be mitigated i.e. additional personnel added or payment for increased costs to the City of Plymouth and the ACDA.	
5-23	Mitigation Measure N	This measure needs further detail as to the method of exercise and standards to be applied before its mitigation potential can be analyzed.	

L4-398
cont.

L4-399

L4-400

L4-401

The section, which follows, presents additional review of the proposed mitigation measures. This includes a brief analysis of the impact of the casino on public services, which challenges the assumptions developed in the DEIS. The Matrix Consulting Group reviewed the assumptions and proposed mitigation measures identified in the DEIS. The sections, which follow, outline the projected population in the County, the projected impact of the casino and hotel project with respect visitor population, and the projected the workload and service level impacts on police services.

City Population Growth

The City of Plymouth is located in Amador County and is approximately 0.9 square miles. The table, which follows, presents the population statistics for Amador County and the City of Plymouth.

Amador County	2000	2001	2002	2003	2004	% of Total
Amador	196	200	210	210	210	1%
Jackson	7129	7250	7475	7475	7252	20%
Plymouth	980	990	1040	1080	1070	11%
Sutter Creek	2303	2340	2380	2450	2480	3%
Balance of County	20530	20750	21100	21350	21450	58%
Total	35,100	35,540	36,250	36,255	36,836	100%

The population for the City of Plymouth has grown by 9% from 2000 to 2004. Overall, Amador County has grown by 5% from 2000 to 2004.

Visitor Population and Estimated Call for Service Impact

The DEIS included impacts on government services. The DEIS estimates that the number of law enforcement calls will range from 1 call per 12,000 visitors to 1 call per 20,000 visitors, with an average of 1 call per 17,000 visitors, which is shown in the following table.

Point of Origin	No of Annual Visitors	Calls for Service (per 17,000)
0—25 Miles	1,030,000	60.6
25—50 Miles	1,146,000	67.004
50—75 Miles	400,000	23.5
75— 100 Miles	800,000	47.1
100+ Miles	220,000	12.9
Total	3,596,000	211.5

L4-402

Based on the assumptions utilized in the DEIS to determine the impact of the casino on law enforcement calls for service, the casino is expected to generate nearly 211.5 calls for service per year on-site. However, information collected by the project team shows a significantly higher number of calls for service for the casino, as shown in the following section.

Estimated Calls for Service Based on Comparative information

The project team collected comparative information from other jurisdictions, which resulted in workload impact on public safety services. Specifically, Thunder Valley Casino reports an average daily visitor count of approximately 8,000, with a law enforcement call for service figure of 961 for 2004. This equates to 1 call for service per 3,038.5 visitors. Applied to the estimated number of annual visitors to the proposed development of 3,596,000, the ACSO could expect to handle 1,183.5 calls for service, in addition to the current police call for service workload of 436, as summarized in the following table:

City CFS	Avg. City CFS/ Day	Estimated Casino CFS	Avg. Casino CFS / Day	Total City/ Casino CFS	Total Avg. CFS/Day
436	1.2	1,183.5	3.2	1,619.5	4.4

L4-403

As shown above, the City of Plymouth is current experiencing 1.2 calls for service per day. The proposed development can expect to generate an additional 3.2 calls for service for ACSO services, which equals a total of approximately 4.4 law enforcement calls for service per day. This estimated growth is further validated by the current ratio of law enforcement calls for service to fire / EMS calls for service of 3:1 (currently 436 police calls and 136 fire / EMS calls). As this report indicates, the new development is expected to create an additional 1,183.5 police calls, and an additional 400 fire / EMS, resulting in the continued ratio of 3 police calls for every 1 fire / EMS call.

Summary of Additional Mitigation Measures

The following table provides a summary of the issue area, the assumption, and potential additional mitigation measures which should be considered regarding the proposed development.

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Issue Area	Assumption	Potential Mitigation Measure	
Field Deputy Deployment	The EIS indicates 1 patrol deputy on duty per hour to mitigate both the current law enforcement in the City, as well as the increased incidents as a result of the new development,	Include in the EIS a provision for 2 deputies per hour per day to safely handle the area calls for service and ensure proper coverage, particularly the calls resulting in an arrest which requires prisoner transport. This equals approximately 12-14 total deputies to handle current and projected workloads for both the City and surrounding areas.	L4-404
Field Equipment	No assumptions for the utilization of additional equipment based on increased personnel required.	The EIS should include a provision for the additional equipment (personnel safety, vehicle, radios, lights, etc.) which will be utilized by the additional ACSO field personnel.	L4-405
Call-taking and Dispatching	The EIS did not consider the increase in call-taking and dispatching workload impacts on communications center personnel associated with an increase in visitor population.	The EIS should include a provision for the utilization or contracting for a proportion of call-taker and dispatcher personnel. Preliminary estimates indicate a total of 1,620 police calls for service per year. Utilizing a standard of 8.9 minutes / police dispatch — this equates to approximately 240.3 hours of workload. Assuming this to be multiplied by 2 for administrative tasks (breaks, relief, etc.) — the total time allocated to additional workload is 480.6 hours, or 0.3 FTE (assuming 1,664 FTE hours, or 80% availability).	L4-406
Investigations	The EIS did not consider the increase in investigative caseload relating to call for service incidents generated by the new development	The EIS should include a provision for the utilization and contracting for 1 full-time investigator to provide follow-up on investigations, arrest cases, coordination with the DA, etc.	L4-407

General Comments

The proposed project would have a significant impact on fire protection. The absence of mitigation measures dealing with the fire protection issues need to be addressed. The following are general comments that apply with regard to fire protection.

L4-408

FIRE PROTECTION

Page	Area	Proposed Mitigation	Comments	
	Casino Construction	Any construction equipment that normally includes a spark arrester will be equipped with one in good working order. Additionally, such equipment	<ul style="list-style-type: none"> Inspection of construction site for potential fire hazards. 	L4-409

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		<p>areas will be cleared of dried vegetation or other materials that could serve as fire fuel.</p> <p>The Casino, Hotel and Event Center would be built in accordance with the California State Building Code. The facilities will include automatic sprinkler protection, emergency signage, alarm and trouble signals standpipes, water supply system, kitchen hood system, fire extinguishers, smoke detection, fire alarm system, etc.</p> <p>Fire Hydrants will be located within 50 feet of the fire department connection.</p>	<ul style="list-style-type: none"> • Automatic sprinklers, as well as other fire suppression and warning systems reduce the potential damage and hazards of structure fires. These elements reduce the risk of devastating structure fires. • The site should include fire hydrant locations, gallons per minute fire flow, etc. consistent with ISO standards. 		L4-409 cont.
	Fire Station	<p>The Tribe will construct a fire station to the southwest of the casino and hotel to serve the facilities.</p> <p>Fire station will include space for apparatus bays, administrative offices, conference rooms, staff room and operational support.</p>	<ul style="list-style-type: none"> • The City of Plymouth owns a fire station, which is utilized by the Amador Fire Protection District to respond into and around the City of Plymouth, meaning that there would be two fire stations in close proximity. • There may be opportunities to share facility space with the AFPD to reduce costs and share resources (e.g. training, etc.) 		L4-410
	Apparatus	<p>The Tribe will purchase the following equipment:</p> <ul style="list-style-type: none"> - 1,750 GPM Quint - 1,500 GPM Pumper -750 Grass Fire / Foam Truck 	<ul style="list-style-type: none"> • The AFPD houses 2 pumpers, 1 aerial truck and 1 utility truck at the fire station in Plymouth. Because of its proximity to the proposed fire station, there might be opportunities to minimize costs relating to apparatus. • Because a significant number of calls would be EMS and the Department would have to rely on 		L4-411
					L4-412

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			mutual / automatic aide for fires, there might be opportunities to re-evaluate the type of apparatus housed at the station.	L4-412 cont.
	Personnel	<p>The Tribe proposes 24/7 coverage at the fire station, which would provide 4 FF1 / Paramedic quint company</p> <p>The Tribe propose that ambulance services would continue to be provided by a private company.</p> <p>The EIS assumes that administrative personnel will staff a second due in unit. Or, during after hours, staff will be called back.</p>	<ul style="list-style-type: none"> • The cost and time associated with training and maintaining paramedic status is significant. • The EIS does not address the staffing/costs to ensure adherence to EMS standards, including medical director, quality assurance 1 quality control. • Although concurrent calls would be rare, minimum staffing of 4 paramedics would allow the Tribal Department to handle two concurrent EMS calls. • Depending on the pool of candidates, staff might not live in a reasonable distance of the casino to ensure an adequate and timely response. 	L4-413
	Operations and Maintenance	<p>All automatic fire detection and suppression systems will be monitored at the Fire Command Center in the casino. Receiving 911 calls and dispatching of Fire/EMS resources will be coordinated through the center.</p> <p>The Tribe assumes that a secondary response would be provided via mutual or automatic aid. The Tribe assumes an 8-minute response from AFPD.</p>	<ul style="list-style-type: none"> • Currently, CDF dispatches fire and EMS calls for the AFPD. For mutual aid and ambulatory services, the Tribe will have to coordinate dispatch (particularly as the AFPD does not have fulltime staffed stations.) • Although agencies have entered into mutual and automatic aid agreements, the Tribe should not develop its fire service based on this assumption. 	L4-414

The section, which follows, presents additional review of the proposed mitigation measures relating to fire protection. This includes a brief analysis of the impact of the casino on fire protection services, which challenges the assumptions developed in the DEIS. The Matrix Consulting Group reviewed the assumptions and proposed mitigation measures identified in the DEIS. The sections, which follow, outline the projected population in the County, the projected

impact of the casino and hotel project with respect visitor population, and the projected the workload and service level impacts on fire services.

City of Plymouth Population Growth

The City of Plymouth is located in Amador County and is approximately 0.9 square miles. The table, which follows, presents the population statistics for Amador County and the City of Plymouth.

Amador County	2000	2001	2002	2003	2004	% of Total
Amador	109	200	210	210	210	1%
lone	7,129	7,250	7,475	7,475	7,525	20%
Jackson	3,989	4,010	4,050	4,080	4,100	11%
Plymouth	980	990	1,040	1,080	1,070	3%
Sutter Creek	2,303	2,340	2,380	2,450	2,480	7%
Balance of County	20,503	20,750	21,100	21,350	21,450	58%
TOTAL	35,100	35,470	36,255	36,450	36,835	100%

The population for the City of Plymouth has grown by 9% from 2000 to 2004. Overall, Amador County has grown by 5% from 2000 to 2004.

Visitor Population and Estimated Workload Impact Based on EIS Projections.

The Environmental Impact Statement included information relating to the development, number of visitors, employees, and assumptions relating to workload. The points, which follow, provide a brief summary of the preferred alternative (Alternative A).

Item	Alternative A	
	No.	Sq. Ft
Casino		
Slot Machines	2,000	50,000
Table Games	40 tables	15,000
Back of House Service and Support Areas		20,000
Food and Beverage Areas:		20,000
Buffet		
Specialty Restaurant	250 seats	
Coffee Bar	100 seats	
Sports Bar	10 seats, plus counter	
Public Area / Miscellaneous	50 seats	15,000
Phase I Total		120,000
Hotel	250 rooms	166,500
Event and Convention Center	1,200 seats	30,000
Phase II Total		316,500

As shown in the table, the casino project will consist of two phases: phase one will include the construction of a 120,000 square foot casino and food and beverage area; and phase two will include the construction of a 166,500 hotel and a 30,000 event and convention center. This amounts to 316,500 square feet. Estimated in the Environmental Impact Statement is the number

of employees for the casino, which is projected to be approximately 1,473 and for the hotel 44 employees.

The DEIS included impacts on government services. The DEIS estimates that the number of fire and rescue calls ranged from 1 call per 10,000 visitors to 1 call per 24,000 visitors. This is an average of 1 call per 18,000 visitors. Based on that assumption, the table, which follows, presents the impact of calls for service.

Point of Origin	No of Annual Visitors	Calls for Service (per 18,000)
0—25 Miles	1,030,000	57
25—50 Miles	1,146,000	64
50—75 Miles	400,000	22
75— 100 Miles	800,000	44
100+ Miles	220,000	12
Total	3,596,000	200

Based on the assumptions utilized in the ADEIS to determine the impact of the casino on fire services, the casino is expected to generate approximately 200 calls for service per year on-site. In other words, the service provider for the casino can expect to respond to approximately 200 calls on casino property. This number (200 calls for service) does not reflect off-site calls of people visiting the casino (e.g., traffic accidents, etc.) This equates to one fire or rescue call every 1.8 days.

Projected Call Volume Based on Comparative Information

The project team collected comparative information from other communities in which a casino has been built. Based on the comparative information, the project team established a standard of the average number of visitors per fire / EMS call - 8,112. This is significantly higher (e.g., greater frequency of calls) than projected in the Environmental Impact Statement. The table, below, presents a comparison of the comparative information to the projections included in the DEIS.

L4-415

Source	Average Number of Visitors per call	Number of Annual Visitors	Total Projected Calls
EIS	18,000	3,596,000	200
Comprehensive Information	8,112	3,596,000	443
% change	-55%	-	122%

As shown in the above table, the project team has projected calls for service at a level, which could be more than double the estimates provided in the Environmental Impact Statement. The table below shows the current calls for service in the City of Plymouth based on 2004 workload compared to the projected impact of the casino.

L4-416

Source of Calls	Average per Day	Average per week	Annual
City of Plymouth	0.4	2.6	136
AFPD Battalion 20 (excluding Plymouth)	0.9	6.5	340
Casino / Hotel Project	1.2	8.5	443
Total	2.5	17.7	919

With respect to fire and emergency medical services, the workload generated by both the casino / hotel project and the City of Plymouth is less than 1.6 fire / EMS calls per day. It should also be noted that personnel responding into the City of Plymouth from the Amador County Fire Protection District are also responsible for responding to calls for service occurring in Battalion 20. This results in an additional 300 calls for service, meaning that in and around the City of Plymouth and the casino there would be approximately 2.5 calls for service per day. This is particularly important, as the Tribe has assumed a mutual and/or automatic aid agreements with the Amador Fire Protection District. The Tribe would be reliant on the AFPD to provide additional units to structure fires, as well as other significant events.

L4-416
cont.

Summary of Additional Mitigation Measures for Fire Protection Services

The ADEIS did not fully address the impact of the casino on the City of Plymouth and its fire service provider. The following points present a discussion of additional mitigation measures that were not addressed in the DEIS:

- The DEIS proposes that the Tribe will construct a fire station and create a Tribal Fire Department to respond to calls for service for fire and emergency medical services strictly to calls on casino property.
- The DEIS proposes that the Tribal Fire Department will respond to calls outside the casino on a mutual / automatic aid basis only.
- The DEIS assumed that calls for service for fire / EMS on the casino would occur at a rate of 1 call per 18,000 visitors.
- The DEIS assumes the Tribal Fire Department would have mutual and / or automatic aid agreements with the Amador Fire Protection District and / or other neighboring agencies. This assumes that other agencies would participate in a mutual and / or automatic aid.
- The Tribe would be reliant on the AFPD or another fire service provider to provide apparatus and personnel to any significant event, as the proposed station would only have one fire company.

L4-417

The table, which follows, presents a summary of the issues and mitigation measures that should address potential issues with the current assumptions utilized in the DEIS.

Issue Area	Assumption	Potential Mitigation Measure
Impact on Local Services	The Tribe assumed an impact of 1 fire/ EMS call for service per 18,000 visitors.	The 1 fire / EMS call for service per 18,000 visitors reflected calls for service occurring on casino property. Comparative information indicates that a ratio of 1 fire / EMS call for service per 8,112 visitors might be more appropriate. The EIS did not account for calls generated off-site as a result of visitors traveling to and from the casino (e.g., traffic accidents) The Tribe must address and 1 or

L4-418

L4-419

L4-420

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		compensate the City and its fire service provider for the increase in fire and for rescue calls for service occurring off-site.	L4-420 cont.
Mutual / Automatic Aid Agreement	The EIS assumes that the tribal fire service would establish mutual and/or automatic agreements with neighboring fire services, including ACFD.	<p>The Tribe should develop a plan to address fire / EMS response without the significant reliance on mutual and/or automatic aid. That assumption could negatively impact the other agencies' abilities to meet their current workload demands.</p> <p>While the ACFD has a fire station in Plymouth, this station responds to calls inside and outside of the City. In 2004, this totaled 476 calls (a call 1.3 days).</p>	L4-421
Regional Service	<p>The Casino assumes that it would have a Tribal Fire Department, which would be responsible for providing fire and emergency medical services to the casino.</p> <p>The AFPD fire station is located within 1 miles of the proposed project site.</p>	<p>As noted, the City of Plymouth generates an average of 0.4 calls per day, the remainder of Battalion 20 generates about 0.9 calls per day, the casino is projected to generate 1.2 calls per day. This averages out to 2.5 calls per day.</p> <p>The casino will not generate sufficient workload to properly utilize a four person engine company. There are opportunities for the casino to reduce capital costs, as well as ongoing operating and maintenance costs by exploring Joint delivery of service with the City of Plymouth.</p>	L4-422

§5.2.10 Other Values — NOISE

Page	Location	Comment	
5-23	Mitigation Measure A	Construction Hours should be limited such that the noise limits provided in Plymouth Municipal Code Section 19.06.040 are complied with.	L4-423
5-23	Mitigation Measure B	<p>Where would the attenuation walls or earthen berms be constructed? A full description of this activity should be included in Chapter 2.0 Alternatives and evaluated in Chapter 4.0 Environmental Consequences.</p> <p>The City of Plymouth discourages the use of Noise Attenuation Walls and instead would rather that noise be mitigated by distance and earthen berm that preserve the small town rural appearance of the community.</p>	L4-424
5-23	Mitigation Measure C	Noise wall on-site at the building location should be incorporated into the building design and the architecture should be in keeping with	L4-425

Comment Letter L4

		the small town 1920's architecture. Walls at the property line are unacceptable.	L4-425 cont.
5-23	Mitigation Measure E	Noise/Sound walls should be used only as an exception. Distance from the source and earthen berms should be utilized first.	L4-426

§5.2.10 Other Values — HAZARDS AND HAZARDOUS MATERIALS

Page	Location	Comment	
5-24	Mitigation Measure F	Plymouth Municipal Code Section 19.06.030 and State laws regarding the use, storage and handling of hazardous materials should be complied with. An individual should be designated to enforce the SOP procedures.	L4-427
5-25	Mitigation Measure H,J,K	This measure needs further detail as to the method of exercise, standards to be applied, and enforcement before its mitigation potential can be analyzed.	L4-428
5-25	Mitigation Measure I	A Hazardous Materials Business Plan and exposure/accident emergency plan should be developed and kept on file with Amador Fire Protection District.	L4-429
5-25	Mitigation Measure L	Asbestos mitigation measures need also to be included for the removal of the existing structures.	L4-430

Additional Comments

Mitigation measures are needed to address the significant impact to the area's visual resources including night time lighting, architectural context of the buildings, massing of the buildings, utility infrastructure, etc.

L4-431

Exhibits

Attached as Exhibit "A" is a letter dated December 28, 2006 from the Office of Governor Arnold Schwarzenegger opposing the lone Band of Miwok Indians' Gaming Land Acquisition Application.

Attached as Exhibit "B" is a letter dated January 22, 2007 from Cathy Christian, Esq. on behalf of the County of Amador also opposing the lone Band of Miwok Indians' Gaming Land Acquisition Application.

We have included both Exhibits for your reference.

1118521.1



OFFICE OF THE GOVERNOR

December 28, 2006

Via Facsimile (916) 978-6099 & U.S. Mail

Mr. Clay Gregory, Regional Director
U.S. Department of the Interior
Bureau of Indian Affairs
Pacific Regional Office
2800 Cottage Way
Sacramento, California 95825-1846

Re: Ione Band of Miwok Indians' Gaming Land Acquisition Application

Dear Mr. Gregory:

The Governor's Office of Legal Affairs has reviewed the Notice of (Gaming) Land Acquisition Application from the Bureau of Indian Affairs (BIA) dated November 20, 2006, and letter and application from the Ione Band of Miwok Indians (Tribe) requesting the United States accept 227.58 acres into trust for the Tribe.¹ We are concerned about the proposed acquisition because the Tribe intends to use the subject land for class II and class III gaming but the Indian Gaming Regulatory Act (IGRA) (25 U.S.C. § 2701 et seq.) prohibits gaming on land acquired in trust for a tribe after October 17, 1988, and the State does not believe that the land meets any of IGRA's exceptions to the general prohibition of gaming on newly acquired land (see 25 U.S.C. § 2719). Moreover, we believe the Secretary of the Interior (Secretary) is not authorized to proclaim a new Indian reservation in California. In addition, the significant loss of tax revenue to the State and local governments, the jurisdictional problems and conflicting land uses that will result from the acquisition, and the absence of an Environmental Impact Statement (EIS) and a Tribal economic benefits plan support the denial of the land acquisition application at this time.

¹ The proposed acquisition is described as 12 contiguous parcels totaling 227.58 acres, located in the City of Plymouth and in an unincorporated area of Amador County, with the following parcel numbers: 010-200-006, 010-200-007, 010-200-010, 008-110-009, 010-200-003, 010-200-004, 010-200-011, 008-110-026, 010-200-008, 010-200-009, 008-110-022 and 008-110-021. The Notice incorrectly identifies two parcels as beginning with book number 080, instead of 008. The subject parcel numbers are correctly identified in this footnote, as confirmed by the Amador County Planning Department.

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Comments

The Tribe acknowledges in its application that, although it is landless, current Department of the Interior (Department) policy requires the instant request to be evaluated as an off-reservation acquisition under the criteria set forth in 25 Code of Federal Regulations part 151.11. (See Application cover letter.)

I. The Subject Land Does Not Qualify For the "Restored Lands" Exception to IGRA's General Prohibition of Gaming on Newly Acquired Land

As a general rule, IGRA prohibits commercial gaming on land acquired by the Secretary in trust for an Indian tribe's benefit after October 17, 1988. (25 U.S.C. § 2719(a).) This prohibition does not apply to gaming on, among other things, land taken into trust as part of "the restoration of lands for an Indian tribe that is restored to federal recognition." (25 U.S.C. § 2719(b)(1)(B)(iii).) On September 19, 2006, Carl J. Artman, Associate Solicitor, Division of Indian Affairs, determined the subject lands are eligible for gaming as the Tribe's "restored lands" under title 25 United States Code section 2719(b)(1)(B)(iii). On September 26, 2006, James E. Cason, Associate Deputy Secretary, concurred in Mr. Artman's determination. For reasons stated in our May 1, 2006, letter to the National Indian Gaming Commission and our Notice of Appeal to the Interior Board of Indian Appeals (IBIA) (courtesy copies enclosed herewith), the Department's findings are not supported by the facts or the law and, therefore, the proposed acquisition does not qualify for IGRA's "restored lands" exception. We maintain the exception is inapplicable because the Tribe's status as a federally recognized tribe was never formally terminated and if it were, the Department has not lawfully restored recognition to the Tribe. In addition, the Tribe has not demonstrated a sufficient historical or modern nexus to the proposed gaming site. Thus, the Secretary should not accept the land into trust for the stated purpose.

The Associate Deputy Secretary's determination that the proposed acquisition constitutes the Tribe's restored lands appears to be final agency action on that particular issue. The IBIA dismissed the State's appeal for lack of jurisdiction and, unless the Department specifies otherwise, the State appears to be without administrative remedy on the specific "restored lands" question. Therefore, we reserve the right to pursue judicial remedies as necessary to challenge the Department's "restored lands" determination in this matter.

In any event, even though the Tribe is landless and the United States has not created a reservation for the Tribe, the principle behind 25 Code of Federal Regulations part 151.11(b) should be applied here; that is, as the distance between the Tribe's traditional homeland and the land to be acquired increases, the Secretary shall give greater scrutiny to the Tribe's justification of anticipated benefits and greater weight to concerns raised by the State and local governments. (See 25 C.F.R. § 151.11(b).) In this case, the proposed acquisition is located about 13 to 16

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miles from a 40-acre parcel near Lone, California, which BIA records suggest may be the Tribe's historic land base. (See letter from Andrea Lynn Hoch to Andrea Lord re Opposition to Tribe's Request for Restored Lands Determination, pp. 1-3 (May 1, 2006).)

We recognize at least one federal circuit court of appeals has held that restoration of lands encompasses more than simply "the return of a tribe's former reservation." (*City of Roseville v. Norton* (D.C. Cir. 2003) 348 F.3d 1020, 1028.) In *City of Roseville*, the court held that "[g]iven the passage of years between termination and restoration of federal recognition of tribes, it is likely that earlier reservation land could not easily be reestablished as a reservation for a restored tribe." (*Id.* at p. 1030.) That holding, however, turned on a specific congressional finding that the tribe's pre-termination reservation was in fact unavailable to the tribe. (*Ibid.* [citing Sen. Com. Rep. that only 22 of 40 acres in the tribe's old reservation were "in Indian hands" when Congress enacted the tribe's restoration legislation].) The circumstances here are different. While the United States has not created a reservation or rancheria for the Tribe, or held land in trust for the Tribe, in 1916 the Department agreed to purchase the 40-acre parcel near Lone for the Tribe's benefit. (See Hoch-Lord letter at p. 2.) In 1996 a federal district court dismissed the Tribe's quiet title action involving the 40-acre parcel because the Tribe was, at that time, without a legitimate government and no individual had authority to act on its behalf. (*Id.* at p. 3.) Since then, however, the BIA has approved the Tribe's constitution and formally recognized its elected leadership. (*Id.* at p. 3, fn. 2.) We believe that, because the obstacles that apparently prevented the Tribe from proceeding with the quiet title action in 1996 no longer exist, it may be reasonable to require the Tribe to first renew its attempt to reacquire the 40-acre parcel before the instant land may be considered. If the 40-acre parcel is genuinely unavailable, then we believe it would be appropriate for the BIA to require the Tribe to document the steps it took to try to acquire its traditional land base, and demonstrate why the 40-acre parcel is otherwise unavailable before any other land can be considered for gaming under the restored lands exception.

This procedure is consistent with case law holding that before land can be taken into trust for gaming under the restored lands exception, the Secretary shall determine that doing so provides equitable relief to the tribe. (See *City of Roseville, supra*, 348 F.3d at p. 1029; *Grand Traverse Band of Ottawa and Chippewa Indians v. U.S. Att'y for W. Dist. of Mich.* (W.D. Mich. 2002) 198 F.Supp.2d 920, 935.) In fashioning an equitable remedy, the Secretary must consider all equities surrounding the application, and the remedy should balance the interests of all the affected parties. (See *British Motor Car Distrib. v. San Francisco Auto.* (9th Cir. 1989) 882 F.2d 371, 374; *FTC v. H.N. Singer, Inc.* (9th Cir. 1982) 668 F.2d 1107, 1113.)

In determining whether a parcel of land meets the restored lands exception, the lower court in *City of Roseville* recognized that "restoration of lands" referred to lands that would place the tribe in its "former" position. (*City of Roseville v. Norton* (D.D.C. 2002) 219 F.Supp.2d 130, 159.) In construing what was intended by a "restored" land base, the district court determined that Congress intended to provide a land base that was "roughly equivalent" and "which might

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not be identical." (*Ibid.*) We do not believe that the 228-acre acquisition proposed here can be considered roughly equivalent to what BIA records suggest is the Tribe's 40-acre historic land base.

II. The Secretary Is Unauthorized to Create a New Indian Reservation in California

The Tribe requests that in addition to taking the subject land into trust, the Secretary also proclaim the land a new Indian reservation by the authority vested in him under the Indian Reorganization Act of 1934 (IRA) (Act of Jun. 18, 1934, ch. 576, § 7, 48 Stat. 986; see also 25 U.S.C. § 467) and the Indian Land Consolidation Act of 1983 (ILCA) (Pub.L. No. 97-459, tit. II, § 202 (Jan. 12, 1983) 96 Stat. 2517; Pub.L. No. 106-462, § 103(1) (Nov. 7, 2000) 114 Stat. 1992; see also 25 U.S.C. §§ 2201-2219). (Application at p. 3.) We believe the law prohibits the Secretary from doing so.

In 1864, Congress passed "An Act to provide for the better organization of Indian Affairs in California," (the Four Reservations Act) (Act of Apr. 8, 1864, 13 Stat. 39), which provided, among other things, that

there shall be set apart by the President, and at his discretion, *not exceeding four tracts of land, within the limits of [California], to be retained by the United States for the purposes of Indian reservations*, which shall be of suitable extent for the accommodation of the Indians of [California], and shall be located as remote from white settlements as may be found practicable, having due regard for the purposes for which they are intended.

(*Id.* at p. 40, italics added.) Thus, the Four Reservations Act specifically limited the number of Indian reservations the Executive Branch was authorized to create in California. (See *Mattz v. Arnett* (1973) 412 U.S. 481, 489 [confirming the Act limits the number of reservations that can be proclaimed within California].)²

Subsequently, in 1891, Congress provided for the creation of a limited number of additional California reservations in the Mission Indians Relief Act (Act of Jan. 12, 1891, 26 Stat. 712), which provided, in relevant part, as follows:

That it shall be the duty of said commissioners to select a reservation for each band or village of the Mission Indians residing within [California], which reservation shall include, as far as practicable, the lands and villages which have

² In *Mattz*, the Supreme Court recited the history of the Four Reservations Act, and identified the reservations established pursuant thereto as (1) Hoopa Valley, (2) Round Valley, (3) Mission and (4) Tule River. (*Mattz, supra*, 412 U.S. at pp. 489-494.)

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been in the actual occupation and possession of said Indians, and which shall be sufficient in extent to meet their just requirements.

(*Ibid.*)

The Mission Indians Relief Act thus created an exception to the reservation limit established by the Four Reservations Act, specifically for Mission Indians residing in Southern California.³ (See generally *St. Marie v. United States* (9th Cir. 1940) 108 F.2d 876.) Subsequently, other congressional acts have also expressly authorized the establishment of specific reservations for California Indian tribes as exceptions to the general limitation established by the Four Reservations Act. (See, e.g., Auburn Indian Restoration Act (Pub.L. No. 103-434, tit. II, § 201 (Oct. 31, 1994) 108 Stat. 4533; see also 25 U.S.C. § 13001-2(c) [restoring the Auburn Indian Rancheria to federally-recognized status and providing that land conveyed to the United States in trust for the Tribe "shall be part of the Tribe's reservation"].) Therefore, the only statutory exceptions to the reservation limit established by the Four Reservations Act are the Mission Indians Relief Act and congressional acts specifically establishing reservations for particular California Indian tribes, none of which are applicable in this instance.

Contrary to the Tribe's suggestion, the IRA does not currently authorize the Secretary to proclaim a new reservation in California. While the IRA authorizes the Secretary "to proclaim new Indian reservations on lands acquired pursuant to any authority conferred by" certain enumerated IRA sections, including title 25 United States Code section 465, we believe Congress' specific restriction on the number of California Indian reservations, as set forth in the Four Reservations Act, controls the general reservation proclamation authority given the Secretary under the IRA. It is a settled tenet of statutory construction that absent clear intention otherwise, a general statute will not control or nullify a specific statute, regardless of the priority of enactment. (*Morton v. Mancari* (1974) 417 U.S. 535, 550; *California ex rel. Sacramento Metropolitan Air Quality Management Dist. v. United States* (9th Cir. 2000) 21 F.3d 1005, 1013.) The unambiguous purpose of the Four Reservations Act is to "provide for better organization of Indian Affairs in California." (13 Stat. 39.) On the other hand, Congress enacted the IRA principally to ameliorate the effects of the Indian General Allotment (or Dawes) Act (Act of Feb. 8, 1887, 24 Stat. 388; see 25 U.S.C. § 331) which broke up many Indian reservations, allotted parcels to individual Indians and made all or part of remaining parcels available for settlement by non-Indians. The principal purpose of the IRA was to end the allotment policy and authorize the rebuilding of Indian land bases through trust land acquisitions. (See *Mattz, supra*, 490 U.S. at p. 496, fn. 18.) There is no indication in the IRA's plain language

³ The Mission Indians are the those historically residing adjacent to, or near, the Catholic missions in Southern California who were members of four tribal groups: Serranos, Dieguenos, Coahuilas and San Luis Rey or San Luisenos living at 42 identified villages and named sites. (See Sen.Rep. No. 50-74, 1st Sess., pp. 1-4.)

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or legislative history that by giving the Secretary general authority to proclaim Indian reservations to help rebuild Indian land bases, Congress intended to repeal the limit on the number of Indian reservations in California.

We do not assert the Secretary is forever precluded from proclaiming a new Indian reservation in California. Currently, however, there are at least four Indian reservations in California—the maximum number allowed by the Four Reservations Act, absent subsequent congressional authority establishing a reservation for a particular tribe or tribes, or express congressional action removing the limitations set forth in the Four Reservations Act. If that number should fall below four, then it appears that the Secretary could exercise his authority under the IRA to proclaim a new reservation in California.

The Tribe does not indicate whether it is organized under the IRA, or seeks land into trust under the Indian Lands Consolidation Act (ILCA) (25 U.S.C. § 2202), which is applicable to non-IRA tribes. (See Application at p. 3.) In any event, the ILCA contains no provision that either directly establishes any “reservation,” or authorizes the Secretary to create one by proclamation or otherwise. Nor is the ILCA assimilated into the IRA as authority for the proclamation of a reservation in California. (See 25 U.S.C. § 467.) Therefore, the Secretary may not designate the proposed acquisition as a reservation.

III. The Proposed Acquisition Will Result in Significant Loss of Tax Revenue

In determining whether to accept the land into trust, the Secretary is required to consider the impact on State and local governments resulting from removing the land from the tax rolls. (25 C.F.R. § 151.10(e).) The Tribe contends the trust acquisition will have only a “de minimis” impact to State or local tax rolls. (Application at p. 8.) The Amador County Assessor’s office informs us that it assessed \$33,948.92 in taxes for all 12 parcels in 2004, and \$34,689.60 for the parcels in 2005. These figures represent about a 20 percent increase in tax value since 2001, when the County assessed \$27,526.54 in taxes. Given the significant increase in property tax assessments in recent years, it is inappropriate to evaluate the tax loss based on present value assessment. Such an analysis fails to consider appreciating property values and corresponding increases in property tax revenue.

The lost tax revenue must also be evaluated in light of the Tribe’s plan to undertake considerable commercial development on the subject land. (Application at p. 4.) While the land’s current tax value has increased significantly even though it remains largely undeveloped (see *id.* at p. 5),⁴ logically the tax value will increase exponentially if the Tribe develops the property on the scale proposed by the application. Additionally, the development and increased

⁴ The Shenandoah Inn—with 47 rooms—currently sits on one of the parcels in Plymouth. The Tribe, however, plans to build a hotel with up to 250 rooms (Application at p. 4), which would physically dwarf and have far-reaching tax, land use and environmental impacts beyond the much smaller Shenandoah Inn.

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usage of all lands within or near the proposed acquisition, without any incoming property taxes to prevent, mitigate or offset damages to the land, will negatively impact the State and county. As the Tribe builds and operates its casino, hotel and retail complex in this rural area of the State, the development will require a substantial increase in State and county services but the costs of those services will not be paid from property, income or sales taxes generated by or on the subject land because it will be exempt.

IV. The Proposed Acquisition Raises Jurisdictional Problems and Land Use Conflicts

Part 151.10(f) requires the Secretary to evaluate any jurisdictional problems or potential conflicts of land use, which may arise from the proposed acquisition. (25 C.F.R. § 151.10(f).) As the Tribe notes, it is currently involved in litigation regarding application of the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.) to a municipal services agreement (MSA) it reached with the City of Plymouth regarding the proposed development on the subject acquisition. (See Application at p. 9; *County of Amador v. Ione Band of Miwok Indians* (C050066, app. pending).) Last year the trial court found CEQA applied to the project and froze the MSA. We disagree with the Tribe's contention that even if the court ultimately determines the Tribe must comply with CEQA to validate certain provisions in the MSA, compliance with CEQA "essentially mirrors" the requirements set forth in the National Environmental Policy Act (NEPA) (42 U.S.C. § 4321 et seq.). (See, e.g., *Berkeley Keep Jets Over the Bay Com. v. Bd. of Port Comrs.* (2001) 91 Cal.App.4th 1344, 1379 ["there are important distinctions between the requirements imposed by CEQA and by NEPA in assessing noise impacts that allow us to depart from federal cases on this subject"].)

In addition, the Tribe's representation that "the land is primarily zoned for commercial use and used for commercial purposes" (Application at p. 5) may not be accurate. Our office is informed that four of the 12 parcels (217.76 acres) are located within Amador County, and currently undeveloped. The county reports the largest parcel, APN 008-110-009 (137.78 acres), is zoned as an "X District," meaning a special use permit is required for any use other than residential or agricultural. The remaining three parcels—008-110-026 (60 acres), 008-110-088 (7.86 acres) and 008-110-021 (12.12 acres)—are zoned for single-family residences and agricultural use. The Amador County General Plan, applicable to all four parcels, indicates that if the parcels are used for residential purposes, only one family residence may be built per acre. These current land-use restrictions are in direct conflict with the Tribe's proposed development.

The remaining eight parcels, totaling 9.82 acres, are located within the City of Plymouth and are zoned for commercial use. Therefore, only a small fraction of the land is zoned as commercial and used as such.

V. The Secretary Cannot Accept the Land Into Trust Unless and Until the Tribe Completes an EIS in Compliance With NEPA

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NEPA applies to discretionary actions of federal agencies, and requires the preparation of an EIS when a federal agency engages in a major federal action that significantly affects the quality of the human environment. (42 U.S.C. § 4332(2)(C); see *Sierra Club v. Babbitt* (9th Cir. 1995) 65 F.3d 1502, 1512.) Construction of, among other things, a large gaming facility, a 250-room hotel with conference facilities, an unspecified number of retail shops and food and beverage services, a fire station, administration space, surface parking, a wastewater treatment facility, and various internal roadways on 228 acres of largely undeveloped land will undoubtedly have a significant affect on the environment in and around the proposed acquisition. An EIS is also required where, as in this instance, a federal agency proposes to transfer land out of the State's regulatory jurisdiction. (See *Anacostia Watershed Society v. Babbitt* (D.D.C. 1994) 871 F.Supp. 475, 482-483.) Therefore, an EIS is necessary under the circumstances.

We understand the Tribe published a Scoping Report for an EIS in March 2004. The information and analyses contained in the Scoping Report are nearly three years old and may be stale. As a result, we believe it would be appropriate for the BIA to require the Tribe to conduct another Scoping Report followed by a comprehensive EIS. In our opinion, the instant trust land application is incomplete because it provides insufficient data for the BIA, State and local governments, and the surrounding communities to assess the cumulative impacts that this acquisition will have on the environment. The State will address this matter in further detail in response to the Tribe's EIS. Until that process is complete, however, the Secretary should not accept the land into trust.

VI. The Secretary Must Deny the Application Because the Tribe Has Not Submitted a Plan Specifying the Acquisition's Anticipated Economic Benefits

Based on recent conversations with BIA staff on December 13, 2006, we are informed that the BIA had not yet received a copy of Exhibit L to the Tribe's land acquisition application, described as an August 2005 market study prepared by GVA Marquette. (See Application at pp. 4, 10.) Part 151.11(c) specifies that "[w]here land is being acquired for business purposes, the tribe shall provide a plan which specifies the anticipated economic benefits associated with the proposed use." (25 C.F.R. § 151.11(c).) Because the instant application is one to acquire land for the Tribe's business purposes, the Secretary is not authorized to accept the subject land into trust without the requisite economic benefits plan. The State requests the BIA to produce a copy of the plan upon receipt, and further reserves the right to submit additional comments, as necessary, upon completing its review of the Tribe's supporting documents.

Conclusion

It is the State's position that the subject land does not constitute the Tribe's restored lands under IGRA, and is therefore subject to the general prohibition of gaming on newly acquired land. Therefore, the State believes that the Secretary may not acquire the land into trust for

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gaming purposes without a two-part determination by the Secretary and concurrence by the Governor pursuant to title 25 United States Code section 2719(b)(1)(A). Nor can the Secretary designate the land a reservation for gaming purposes. In addition, we believe the significant lost tax revenue, the jurisdictional problems and conflicting land uses, the absence of an EIS, and the absence of an economic benefits plan preclude the Secretary from accepting the proposed acquisition into trust at this time.

Thank you for your consideration of our comments.

Sincerely,



ANDREA LYNN HOCH
Legal Affairs Secretary

Enclosures

cc: James E. Cason, Associate Deputy Secretary, U.S. Department of the Interior
George Skibine, Acting Deputy Assistant Secretary, Indian Affairs for Policy and Economic Development, U.S. Department of the Interior
David Bernhardt, Solicitor, U.S. Department of the Interior
Carl J. Artman, Associate Solicitor, Division of Indian Affairs, U.S. Department of the Interior
Phil Hogen, Chairman, National Indian Gaming Commission
Penny Coleman, Acting General Counsel, National Indian Gaming Commission
Honorable Daniel Lungren, Representative, 3rd District of California, U.S. Congress
Matthew Franklin, Chairman, Ione Band of Miwok Indians
Cathy Christian, Esq., Nielsen, Merkasamer, Parrinello, Mueller & Naylor

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Clayton Gregory, Regional Director
U.S. Department of the Interior
Bureau of Indian Affairs
Pacific Regional Office
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Re: Ione Band of Miwok Indians' Gaming Land Acquisition Application

Dear Mr. Gregory:

On behalf of the County of Amador, thank you for the opportunity to respond to the Notice of (Gaming) Land Acquisition Application (the "Notice") forwarded by the Bureau of Indian Affairs ("BIA") and dated November 20, 2006 and Application (the "Application") from the Ione Band of Miwok Indians ("Band" or "Ione Band") requesting the United States accept 227.85 acres into trust for the Band.

At the outset, it is important to express that the Amador County Board of Supervisors has a duty to represent and advocate for the best interests of County residents and taxpayers in order to maintain and preserve the quality of life and public health and safety of county residents. Amador County is a rural county with a total population of less than 39,000 people, with limited road and related infrastructure and public services. There already is one large Indian casino and hotel complex in the county at the Jackson Rancheria; it imposes a substantial drain on County resources and the traffic it generates on narrow local roads creates serious public safety problems and traffic delays. A second tribe has also obtained permission from the federal government to open a casino in the County. The addition of yet another new casino would overwhelm the County and its taxpayers with demands for public safety and other services for which there is no money to pay, clog County roadways by generating far more traffic than they can handle, and create environmental harm to air and water quality, among other adverse impacts. Recognizing these adverse impacts, more than 80% of the County's registered voters recently voted to oppose any new casino in the County. Accordingly, the County submits this letter in opposition to the Ione Band's fee to trust application and intends to participate actively in this process.

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**INCORPORATION BY REFERENCE OF COMMENT LETTER SUBMITTED
BY THE OFFICE OF GOVERNOR ARNOLD SCHWARZENEGGER**

In the interests of brevity, the County hereby incorporates by this reference the letter to you dated December 28, 2006, submitted by Governor Schwarzenegger, and each and every point contained therein including without limitation: (1) that the subject land does not qualify for the "restored lands" exception to IGRA's general prohibition of gaming on newly acquired land; (2) that the Secretary is unauthorized to create a new Indian reservation in California; (3) that the proposed acquisition will result in significant loss of tax revenue; (4) that the proposed acquisition raises jurisdictional problems and land use conflicts; (5) that the Secretary cannot accept land into trust unless and until the Band completes an EIS in compliance with NEPA; and (6) that the Secretary must deny the application because the Band has not submitted a plan specifying the acquisition's anticipated economic benefits.

COMMENTS ON SPECIFIC QUESTIONS IN THE NOTICE OF APPLICATION

1. **If known, the amount of property taxes currently levied on the subject property allocated to your organization.**
2. **Any special assessments, and amounts thereof, that are currently assessed against the property in support of your organization.**

The current property tax distribution and special assessments for each parcel included within the Application is set forth in Attachment A hereto.

It is important to emphasize, however, that the amount of taxes currently being collected is *not* a proper measure of the adverse tax revenues impacts of the proposed casino application. The market value of real property in the area surrounding Plymouth has seen a dramatic escalation in recent years, which would eventuate in a similar increase in the amount of taxes generated. Were the options on the Plymouth Parcels to be exercised by the Band's investors, assuming the cost of the parcels to be roughly equivalent to market values in the surrounding area, then the expected tax increases that the County would forego from taxes imposed on a comparable development would vastly exceed the escalation in taxes over the past few years, dwarfing the amounts shown on Attachment A.

In addition, as referenced in the Governor's Letter, the considerable commercial development contemplated by the Band and its investors on the Plymouth Parcels will substantially increase not only the value of the land itself but also usage of lands in the vicinity of the proposed casino, without any property taxes to compensate for the change

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in usage. The comments made in the Governor's Letter with regard to the anticipated significant loss of tax revenue are incorporated herein.

Finally, taxpayer-funded County services (e.g., public health and safety, law enforcement, etc) to the property and surrounding area will dramatically increase as the result of a large scale, commercial/casino development, but the costs of such increased services would not be funded by real property taxes and assessments, income or sales taxes because of the exempt nature of the development.

3. Any government services that are currently provided to the property by your organization.

Currently the following Amador County departments provide services to the impacted unincorporated parcels. In some cases County departments provide services on an ongoing annual basis. Other County departments provide services only on an as needed basis. In addition, those noted with an asterisk may also provide services to the referenced parcels in the incorporated area.

General Government	Public Protection	Health and Human Services	Community Development
Auditor Controller*	Sheriff's Office*	Public Health*	Surveying
Treasurer/Tax Collector*	Office of Emergency Services*	Behavioral Health*	Public Works
Assessor*	Jail*	Social Services*	Planning
Clerk Recorder*	District Attorney*		Building
Elections*	Probation*		Environmental Health*
Veteran's Service*	Public Defender*		Code Enforcement
County Counsel	Public Conservator/Guardian*		Waste Management*
Board of Supervisors	Public Administrator*		
Information Technology*	Animal Control*		
Library*			
Airport			
Agriculture*			
Cooperative Extension*			

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The County further emphasizes that substantially increased demands--and accompanying cost burdens--will be placed on County departments and programs if a large casino is allowed to locate within what is now a residential and agricultural area regardless of whether the casino is placed in the incorporated or unincorporated area.

The County will provide a full and complete analysis of the impacts of the proposed casino project as part of its National Environmental Policy Act (NEPA) comments when and if a Draft Environmental Impact Statement (DEIS) is released that includes a more detailed project description upon which meaningful comments can be developed. Without more specific information about the proposed project(s) the Band plans on the land they seek to place in trust, it is not possible to comment further at this time.

4. **If subject to zoning, how the intended use is consistent, or inconsistent, with current zoning, including jurisdictional problems and potential conflicts of land use.**

The general plan designation is R-S, Residential-Suburban (1 family per acre population density) for all parcels in the County's jurisdiction.

The fee-to-trust application states that "Currently, the land is primarily zoned for commercial use and used for commercial purposes." (Application, page 5.) This is *not* correct. All parcels in the unincorporated area except 008-110-009-000 are zoned "R1A," Single Family Residential and Agricultural District. APN 008-110-009-000 is zoned "X," Special Use District, due to a previous Williamson Act contract cancellation, which limits the parcel's uses to single family residential, agricultural, or (subject to obtaining a Use Permit) any other use consistent with the R-S general plan designation, which generally limits the uses to residential. Consequently, 218 out of the 228 acres constituting the land proposed to be taken into trust are *not* zoned for commercial uses and are not used for commercial purposes, but instead are restricted to single family residential, agricultural or similar used allowed in the Residential-Suburban general plan designation.

The proposed uses noted in the Application are prohibited by the existing zoning laws. In many cases a general plan change, zoning change and possibly a use permit would be required to allow the proposed uses. The ancillary activities, such as roads, parking lots, runoff detention basins, wastewater treatment and disposal areas, etc. for a commercial facility are not consistent with the R-S General Plan or allowed by the "R1A" zoning and thus are likewise prohibited.

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Thus, the proposed uses flatly violate County land use laws and policies. Particularly in a rural county such as Amador, the importance of adhering to local land use codes and zoning cannot be overstated. The General Plan is the guide by which the community determines where residential, commercial and agricultural uses are appropriate. Based upon this document individuals decide where to build their homes, begin business or invest in agriculture.

The jurisdictional problems and potential conflicts of land use were also noted and addressed in the Governor's Letter, which comments are incorporated herein. A federal decision to disregard this locally developed plan and allow a use, such as a casino that is in gross conflict with existing residential and agricultural uses, will irreparably harm the surrounding community and change its entire rural character.

COMMENTS ON INDIAN LANDS DETERMINATION

The Band is seeking to establish a gaming facility in Amador County, California, within and around the City of Plymouth, pursuant to the Indian Gaming Regulatory Act (25 U.S.C. § 2701 *et seq.* ["IGRA"]). To accomplish that purpose, it has applied to the Secretary to have taken into trust a total of 228 acres consisting of twelve contiguous parcels (four parcels in the unincorporated area of Amador County totaling 217.76 acres, and eight parcels in the City of Plymouth totaling 9.82 acres). The twelve parcels are referred to as the "Plymouth Parcels.") The Band has asked the National Indian Gaming Commission ("NIGC") to determine that the land is eligible for gaming pursuant to Section 20 of IGRA (25 U.S.C. § 2719).¹

The Department of Interior (the "Department") determined that the Plymouth Parcels were eligible for gaming in a September 19, 2006 letter from Associate Solicitor, Division of Indian Affairs, Carl J. Artman, in which Associate Deputy Secretary James E. Cason concurred by letter dated September 26, 2006. In those two letters, Mr. Artman and Mr. Cason, on behalf of the Department of Interior, determined that the Plymouth Parcels are eligible for gaming under IGRA². Their conclusions were in error. The County expressly reserves the right to challenge these incorrect determinations in court and in all other appropriate forums.

¹ The Band does not now, nor has it ever, owned the 228 acres in question. Instead, investors have acquired options to purchase the Plymouth Parcels and transfer title to the Band in order to facilitate a casino operation.

² Pursuant to a Memorandum of Understanding between the NIGC and the Solicitor's Office, the Solicitor's Office acts on all Indian Land Determinations requested under IGRA if a fee-to-trust application for gaming purposes has also been filed.

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IGRA prohibits Indian gaming on lands acquired after October 1988 unless (1) the tribe complies with a two-part process in which the Secretary and the Governor of the State in which gaming is sought both conclude, after extensive consultation with affected interests, including local governments, that gaming would be "in the best interest of the Indian tribe and its members, and would not be detrimental to the surrounding community," 25 U.S.C. § 2719(a) & (b)(1)(A), or (2) one of the following exceptions applies:

- (B) lands are taken into trust as part of—
 - (i) a settlement of a land claim,
 - (ii) the initial reservation of an Indian tribe acknowledged by the Secretary under the Federal acknowledgment process, or
 - (iii) the restoration of lands for an Indian tribe that is restored to Federal recognition.

25 U.S.C. § 2719(b)(1)(B).

The Department concluded that the Plymouth Parcels would not, and could not, be taken into trust as part of a settlement of a land claim or as part of the initial reservation of an Indian tribe acknowledged by the Secretary under the federal acknowledgment process. These conclusions were correct, and Amador County does not dispute them. The Department erred in concluding, however, that the Plymouth Parcels can be taken into trust as part of "the restoration of lands for an Indian tribe that is restored to federal recognition."

The basis of the Department's action, contained in the Artman opinion and confirmed by Mr. Cason, is as follows:

1. The federal government "recognized" the Ione Band through a letter to the Band from the Commissioner of Indian Affairs, Louis Bruce, dated in October, 1972, and the act of recognition was authorized by the Indian Reorganization Act of 1934.
2. The federal government "terminated" the Ione Band of Indians by taking a position in Federal court and before the IBIA contrary to the position taken by Commissioner Bruce in 1972.
3. The federal government "restored" the recognition of the Ione Band by a March 1994 letter to the Band from Assistant Secretary Ada Deer "reaffirming" portions of the Bruce letter.

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4. The Plymouth Parcels are determined to be lands "restored" to an Indian tribe that is restored to federal recognition.

Each of the determinations made by the Department in order to characterize the Plymouth Parcels as restored lands eligible for gaming under the "restored lands" exception set forth in Section 20 of IGRA are incorrect and without any merit.

1. **The 1972 Letter from the Commissioner of Indian Affairs to the Band Does Not "Recognize" the Band.**

In support of its position that the Band was recognized, a necessary predicate to a determination that it was later terminated and then restored, the Department points only to a 1972 letter from Louis Bruce, then Commissioner of Indian Affairs, which stated that "federal recognition was *evidently* extended to the Ione Band of Indians at the time that the Ione land purchase was contemplated." (Emphasis added.) By its own terms, the 1972 letter refers to an *earlier* action by the federal government, "at the time the Ione land purchase was contemplated." It is noteworthy that the "Ione land purchase" that was referenced in the 1972 Bruce letter was *not* the 228 acres that the Department has currently tried to deem "restored lands" under IGRA, but rather approximately 40 acres in another location. Those 40 acres were never purchased by the federal government; the title to the 40 acres is held by several Ione Band members.

2. **The Federal Government Did Not "Terminate" Its Recognition of the Ione Band Because The Band Was Never Recognized, a Position Which the Federal Government Itself Conceded In Litigation Against the Band.**

To establish that a tribe has been "restored" to federal recognition under 25 U.S.C. § 2719, a tribe first must show that its recognition was at some point lost or terminated. The Ione Band has not and cannot make such a showing. It is beyond dispute that the Ione Band was never formally terminated by Act of Congress.³ Rather, the position of the Department is that the Ione Band was recognized by Louis Bruce in 1972, and thereafter was *implicitly* "terminated" by the Department's subsequent adverse position in litigation and administrative proceedings, where it argued that the Band was required to seek formal recognition through the Department's recognition regulations. This position is inconsistent with the position taken by the United States in

³ There are a number of California rancherias that were terminated by the federal government pursuant to the Rancheria Act of 1958. Ultimately, several tribes filed suit to re-establish the rancherias which were "un-terminated" pursuant to that action. See *Hardwick v. United States*, No. C-79-1710 SW (N.D. Cal. filed 1979). The resulting Stipulation and Order that re-established these rancherias did *not* equate to a specific tribal restoration act. See *Hardwick*, Stipulation and Order, December 22, 1983. Ione was not among the tribes involved in the *Hardwick* litigation.

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litigation, where, in order to defeat the Ione Band's claim that it had been recognized and therefore did not need to follow the acknowledgement procedures, the federal government argued that the 1972 Bruce letter did *not* recognize the Band. The government can't have it both ways.

In its Memorandum In Support of Motion to Dismiss and for Summary Judgment in *Ione Band of Mirwok Indians, et al. v. Burris, et al.*, (No. S-90-0993LKK/EM (E.D. Cal. 1992)), the United States asserted that:

"In 1972, the head of the BIA, Louis Bruce, was not entirely convinced that the Ione Band was federally recognized ('Federal recognition was evidently extended to the Ione Band of Indians at the time that the Ione land purchase was contemplated')." (*Id.* at p. 2.)

The government also contended that:

"Art Barber, the Area Tribal Operations Officer, repeatedly told [Plaintiffs] that the Ione Band was not federally recognized...." (*Id.* at p. 5.)

Finally, the government stated that:

"The essence of plaintiffs' argument is that the Ione Band was a federally-recognized tribe as of 1972 and was subsequently 'unrecognized.' The government submits that plaintiffs at least in 1977 that the United States did not recognize the Ione Band and certainly no later than 1979 when notice of the same was published in the Federal Register. To the extent that plaintiffs viewed this decision as a change from recognition status to nonrecognition status, *which change the government disputes*, plaintiffs were bound to bring suit no later than 1985 pursuant to the statute of limitations set forth at 28 U.S.C. 2401(a)." (*Id.* at p. 8; emphasis added.)

These statements are entirely inconsistent with the Department's current position, *viz.*, that the 1972 Bruce letter recognized the Band, but that the *Burris* litigation terminated the Band. These contentions were later adopted by the District Court judge who held that the Band was not recognized and was required to follow the acknowledgement procedures. If the Department desires to recognize the Band, then the Band should follow the same acknowledgement procedures required of all entities seeking such recognition – procedures which the Department in numerous communications and decisions told the Band that it must follow. The Department cannot now do an about face and assert a different state of facts in order to justify its desire to label the Band as a "restored tribe" entitled to "restored lands" under IGRA, and thereby

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avoid the two-part determination of both secretarial and gubernatorial approval of any land acquired after 1988 that is intended to be used for gaming purposes.

3. **The 1994 Letter from Assistant Secretary Deer Did Not Restore the Band Because (a) the Band Was Never Terminated and (b) Department Regulations in Effect in 1994 Mandated that the Band Must Go Through the Acknowledgment Process Before It Can Be Recognized.**

The Department determined that the Band's "restoration" as a tribe stems from a letter dated March 22, 1994, in which Ada Deer, then Assistant Secretary of Indian Affairs, issued a letter to the Band *reaffirming* the Band's relationship with the federal government and stating that the Band would be included on the list of tribes eligible to receive BIA services.

The language of the Ada Deer letter is inconsistent with the Department's conclusion that she was "restoring" a previously-terminated tribe. That letter did not use the terms "restore," "acknowledge," or even "recognize." Instead, Assistant Secretary Deer merely stated that she was "reaffirming" a portion of the 1972 letter from Louis Bruce, which as noted earlier, only referenced the Band's previous status. There is no discussion of any termination of the Band's "recognition" that the Deer letter was meant to "restore." That being the case, it is evident that the Band cannot qualify as being "restored." *If the Band did not lose its federal recognition in the first place, there was nothing to restore to it.*

Further supporting this conclusion is the fact that if the Department's logic was correct, and the Lone Band was "terminated" by the Department's litigation position, the inevitable conclusion would be that the Lone Band *is not now a federally-recognized tribe.* (Obviously if it's not a recognized tribe, it likewise cannot be a "restored" tribe.)

Even if the Lone Band was actually terminated, Assistant Secretary Deer's letter would have been legally insufficient to "restore" the Lone Band because, as now, the only means by which a terminated tribe's recognition could be officially restored in 1994 was through the administrative acknowledgment process set forth in 25 C.F.R. Part 83, (formerly 25 C.F.R. Part 54). *Lone Band of Miwok Indians v. Sacramento Area Director*, 22 I.B.I.A. 194, 192 I.D. LEXIS 112, *3 (1992) ("The Board agrees that the Department has authority to correct any errors it may have made with respect to the recognition of appellant. However, the forum in which any corrective action must be taken is the forum established in the acknowledgment regulations."). Moreover, Assistant Secretary Deer was obviously in a position to know that to be the case (*id.*), so interpreting her letter as a "restoration" would require the Board to assume that she affirmatively acted in direct contradiction of the law.

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It is indisputable that the Ione Band has not been formally acknowledged through the administrative acknowledgement process, which fact, on its own, precludes the determination that the Band was restored and therefore entitled to have its land acquisitions deemed "restored lands" under IGRA.

4. The "Plymouth Parcels" Do Not Qualify As "Restored Lands" Within The Meaning Of IGRA Section 20.

Not all lands previously held by a restored tribe and subsequently reacquired by the tribe qualify for the "restored lands" exception. *Wyandotte Nation v. Nat'l Indian Gaming Comm'n*, 437 F.Supp.2d 1193, 1213-14 (D. Kan. 2006). Rather, the courts have held that whether such lands are eligible for gaming requires the application of a three-prong test: "land that could be considered part of such restoration might appropriately be limited by the factual circumstances of the acquisition, the location of the acquisition, or the temporal relationship of the acquisition to the tribal restoration." *Id.* at 1214, quoting *Grand Traverse Band of Ottawa & Chippewa Indians v. United States Att'y*, 46 F.Supp.2d 689, 700 (W.D. Mich. 1999); see also *Confederated Tribes of Coos, Lower Umpqua & Stuslaw Indians v. Babbitt*, 116 F.Supp.2d 155, 164 (D.D.C. 2000). The purpose of these restrictions is to avoid a result—obviously contrary to the intention of the statute—that "any and all property acquired by restored tribes would be eligible for gaming." *Wyandotte Nation*, 437 F.Supp.2d at 1214, quoting *Confederated Tribes of Coos*, 116 F.Supp.2d at 164.

To fulfill the first criterion, "the factual circumstances of the acquisition must provide indicia of restoration." *Wyandotte Nation*, 437 F.Supp.2d at 1214. The second criterion relates "to the location of the land in relation to the tribe's historical location. Courts have been careful to observe that the restoration of lands encompasses more than simply the return of a tribe's former reservation, although 'placement within a prior reservation of the [tribe] is significant evidence that the land may be considered . . . restored.'" *Id.*, quoting *Grand Traverse Band of Ottawa & Chippewa Indians v. United States Attorney for the W. Dist. of Mich.*, 198 F.Supp.2d 920, 937 (W.D. Mich. 2002) ("*Grand Traverse II*"), *aff'd*, 369 F.3d 960 (6th Cir. 2004). At the very least there should be a "significant, longstanding historical connection to the land...." *Wyandotte Nation*, 437 F.Supp.2d at 1215, quoting *In re Wyandotte Nation Amended Gaming Ordinance*, NIGC Final Decision (Sept. 10, 2004). And finally, a significant time gap between a tribe's "restoration" and its subsequent reacquisition of the land in question may defeat a claim that lands are "restored."

Mr. Clay Gregory, Regional Director
U.S. Department of the Interior
Bureau of Indian Affairs
Pacific Regional Office
January 22, 2007
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For the reasons discussed in the letters of Amador County to Philip Hogen, Chairman of the NIGC, dated December 23, 2005, April 17, 2006, and May 1, 2006, and also discussed in the letter from the office of California's Governor to Ms. Andrea Lord at the NIGC, also dated May 1, 2006, these factors militate against a conclusion that the Plymouth Parcel constitutes "restored lands" within the meaning of IGRA § 20. Those letters are incorporated herein by this reference.

Furthermore, the D.C. District Court has concluded that "The plain meaning of IGRA's exception for 'lands ... taken into trust as part of ... the restoration of lands for [a restored] Indian tribe' dictates that the Court turn to principles of restitution." *City of Roseville v. Norton*, 219 F.Supp.2d 130, 163 (D.D.C. 2002). Restitution is an equitable remedy, and therefore requires that the Secretary balance the interests of the Lone Band against the interests of other parties, including Amador County, who would be affected by the determination, and including other federally recognized tribes in the area. Restitution, after all, is an equitable remedy. *Mertens v. Hewitt Assocs.*, 508 U.S. 248, 255 (1993); *British Motor Car Distrib. v. San Francisco Auto.*, 882 F.2d 371, 374 (9th Cir. 1989); *FTC v. H. N. Singer, Inc.*, 668 F.2d 1107, 1113 (9th Cir. 1982). The land determinations of the Department entirely failed to include any consideration of the potentially competing interests of other affected parties.

Finally, an independent, separate and additional reason for rejecting the application is that the Lone Band is not a tribe and has never established a historic tribal identity that would justify federal recognition; this fact has been recognized in numerous Department memoranda and correspondence, and demonstrated in factual history submitted by the County in its aforementioned letters dated December 23, 2005, April 17, 2006, and May 1, 2006.

CONCLUSION

For the foregoing reasons, it is the County's position that the Plymouth Parcels are not the Band's "restored lands" under IGRA, and are therefore subject to the statutory prohibition of gaming on newly acquired land. Accordingly the Secretary may not acquire the land into trust for gaming purposes without a two-part determination by the Secretary and concurrence by the Governor as discussed herein. Further, the Secretary should decline to accept the proposed lands into trust at this time due to the absence of an EIS, the absence of an economic benefits plan, the loss of significant tax revenue and the conflicting land uses and jurisdictional problems.

Mr. Clay Gregory, Regional Director
U.S. Department of the Interior
Bureau of Indian Affairs
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Thank you for your consideration of this letter.

Cordially,



Cathy Christian

CAC/mc
Attachment

cc: Ms. Andrea Hoch, Legal Affairs Secretary, Office of the Governor
Sara Drake, California Attorney General's Office
Randy Pinal, California Attorney General's Office
Members, Amador County Board of Supervisors
Martha Shaver, County of Amador County Counsel
The Honorable Dianne Feinstein, Senator
The Honorable Barbara Boxer, Senator
The Honorable Daniel Lungren, Congressman
The Honorable Dave Cox, Senator, California Legislature
The Honorable Alan Nakanishi, Assembly Member, California Legislature

Assessment A

Index of (County) Land Acquisition Application- SIA
 Comanche County of Anadarko

Assessment Parcel Number	Percentage	010-360-004	010-360-007	010-360-010	004-16-003	016-320-003	016-320-004	016-320-011	004-16-003	016-320-008	016-320-009	004-16-003	004-16-003	004-16-003	004-16-003	004-16-003	004-16-003	004-16-003	004-16-003	Total	
Assessor's Parcel Number:	002-000	002-000	002-000	002-000	002-000	002-000	002-000	002-000	002-000	002-000	002-000	002-000	002-000	002-000	002-000	002-000	002-000	002-000	002-000	002-000	
County:	23.6734%	31.8029%	13.220	128.87	153.82	1,014.23	237.22	4,833.12	491.20	682.44	238.20	149.41	81.17	824.14	9,284.71						
City of Pynchon:	27.0686%	0.0000%	141.44	142.34	144.24		271.88	6,538.20	918.20		278.80	124.04		7,064.84							
Water Agency:	0.3670%	0.0000%	2.08	1.88	2.02		3.46	7.24	7.23		3.46	1.87		144.27							
Anadarko County Unified School District (ACUSD):	13.2041%	60.0710%	146.21	178.21	482.44	1,528.86	334.20	6,008.11	834.69	1,244.17	332.64	131.29	861.87	728.53	3,103.01						
Education Revenue Appropriation Fund (ERAF):	14.2435%	14.8225%	73.87	78.86	75.28	307.24	143.48	2,528.29	272.87	282.18	142.17	64.89	179.29	1,153.83	4,841.74						
County School Services:	1.8941%	24.631%	8.00	8.81	8.81	8.82	18.15	334.44	36.11	36.10	7.21	41.09	28.87	481.87							
Total 1/4 1/8 2008-07:	100.0000%	100.0000%	560.78	638.11	646.23	3,258.82	1,058.74	20,502.78	1,914.24	2,620.74	1,461.74	483.82	1,364.89	14,789.34	54,789.34						
Special Assessment/Dist Service:																					
ACUSD Bond:			7.30	7.30	7.34	28.17	15.08	290.04	24.88	31.22	14.04	6.82	22.14	18.00	433.84						
Anadarko Fire Protection District (AFPD):			68.08	64.13	68.48	2,281.74	1,078.42	16,784.17	1,839.22	2,282.04	411.84	31.89	224.00	871.06	33,411.84						

A

Comment Letter L5

COUNTY OF EL DORADO

DEPARTMENT OF TRANSPORTATION



MAINTENANCE DIVISION
2441 Headington Road
Placerville CA 95667
Phone: (530) 642-4909
Fax: (530) 642-9238

RICHARD W. SHEPARD, P.E.
Director of Transportation

Internet Web Site:
http://co.el-dorado.ca.us/dot

MAIN OFFICE:
2850 Fairlane Court
Placerville CA 95667
Phone: (530) 621-5900
Fax: (530) 626-0387



July 10, 2008

Mr. Dale Risling
Deputy Regional Director
Pacific Regional Office
Bureau of Indian Affairs
2800 Cottage Way
Sacramento, California 95825

2008 JUL 18 11:12:21
PACIFIC REGIONAL
OFFICE

Dear Mr. Risling:

The El Dorado County Department of Transportation (Department) has reviewed the Draft Environmental Impact Statement (DEIS) and the traffic study submitted for the Plymouth Casino Project in Amador County. This project is located in the incorporated City of Plymouth and unincorporated Amador County with direct access from El Dorado County along the Latrobe Road and State Route (SR) 49 corridors.

El Dorado County DOT believes that the project should be required to mitigate all its impacts. The impacts to El Dorado County's traffic circulation and air quality have not been adequately analyzed. As an initial matter, the traffic report prepared by T.Y.Lin International (hereinafter "T.Y.Lin Report") appears to have substantially undercounted the traffic that will be generated by the proposed casino. It has been El Dorado County's experience that modeling projected traffic flows to and from a casino requires significantly more study than contained in the T.Y.Lin Report. It definitely requires more than the one data point used in the T.Y.Lin Report. The traffic study states that 26% of the anticipated trips generated from the project pass into El Dorado County (8,688 total trips or 2,259 trips into El Dorado County). One intersection within El Dorado County was analyzed for impacts, SR49 and Pleasant Valley Road. We request that the following intersections be analyzed in a revised traffic study:

- Latrobe Road @ South Shingle Road
• Latrobe Road @ Business Park Entrance 3
• Latrobe Road @ Business Park Entrance 2
• Latrobe Road @ Business Park Entrance 1
• Latrobe Road @ White Rock Road
• El Dorado Hills Interchange @ Highway 50
• Pleasant Valley Road @ Forni Road
• Pleasant Valley Road @ Missouri Flat Road
• Missouri Flat Road @ Forni Road
• Missouri Flat Road @ Motherlode Road
• Missouri Flat Interchange @ Highway 50

Reg Dir Dm Dm
Dep Reg Dir RS Rislinghydzik
Reg Adm Ofcr
Route Roads DECLMS
Response Required Yes
Due Date 7-28-08
Memo Ltr LTR
Tele Other

L5-01

Comment Letter L5

The errors in the traffic study affect and undermine the air quality of the area. While there are a number of problems with the air quality analysis - use of the wrong model, inadequate analysis of compliance with state ambient air quality standards and inadequate analysis of the cumulative impacts of this project - absent a comprehensive traffic study showing defensible traffic counts the air quality analysis does not comply with NEPA.

L5-02

In lieu of the requested analysis and potential mitigation, an equivalent deposit to the El Dorado County Traffic Impact Mitigation program would be acceptable. The equivalent impacts have been calculated per the following analysis:

Total New Trips 8688

- 7% along Latrobe 7%(8688) = 608 trips
- 19% along SR49/ Pleasant Valley 19%(8688) = 1650 trips

Equivalent Housing Trips @ 9.55 trips/single family house (sfh)

- Latrobe 608 trips/9.55 trips per sfh = 63.66 houses
- Missouri Flat 1650 trips/9.55 trips per sfh = 172.77 houses

L5-03

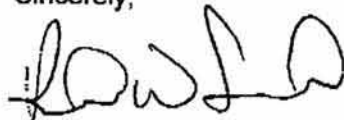
Traffic Impact Mitigation Fees for Single Family House

- Zone 8 Latrobe \$33,020(63.66 houses) = \$2,102,053
 - Zone 3 Missouri Flat/Highway 49 \$42,400(172.77 houses) = \$7,325,448
- \$9,427,501

Thank you for providing us the opportunity for review of this project. The Department will continue to offer the opportunity to work diligently with the agencies in a positive manner to obtain the mitigation measures needed to reduce the traffic impacts of the project. We look forward to receiving and reviewing the responses to comments and the Final EIS.

If you have any questions, please call me or my staff at (530)621-5981.

Sincerely,



Richard W Shepard, P.E.
Director of Transportation
El Dorado County

ewc

RESPONSE TO COMMENTS

LOCAL AGENCIES

L1 SACRAMENTO COUNTY DEPARTMENT OF TRANSPORTATION

- L1-01** The revised Traffic Impact Analysis (revised TIA) uses the urban services boundary (USB) map as recommended by the commenter to determine the level of service (LOS) thresholds for each corresponding intersection of the project study area. Refer to Table 1 of the revised TIA in **Appendix M** of the FEIS for the updated thresholds. **Section 3.8** and **Section 4.8** of the FEIS have been revised and updated accordingly.
- L1-02** Refer to the response to **Comment S4-09** regarding the consistency of reported average daily trip (ADT) traffic volumes for the roadway segments within the revised TIA.
- L1-03** Automated daily machine counts were conducted on Fridays and Saturdays in August 2008 to characterize travel patterns in the study area. Refer to Table 8 of the revised TIA in **Appendix M** of the FEIS for the updated existing ADT volumes of the roadway segments.
- L1-04** Refer to the response to **Comment S4-13** regarding the supplemental discussion of the trip generation rate included in the revised TIA in **Appendix M** of the FEIS.
- L1-05** The trip generation rates reported on page 49 of the TIA (**Appendix M** of the DEIS) were provided by the ITE Trip Generation, 7th Edition, volume 3, pages 1451, 1453, and 1455. The revised TIA calculated the trip generation rate for the hotel utilizing the ITE Land Use Code 320 Hotel, reduced to 25% of the total trip generation rates to capture internal trips based on the linked nature of the project. Refer to **Section 4.0** of the revised TIA for further discussion on the development of the trip generation rates for the project alternatives.
- L1-06** Comment noted. As discussed in the response to **Comment L1-03**, the updated traffic counts include Saturday ADT.
- L1-07** Refer to the response to **Comment S4-07** regarding the length of the roadway segments analyzed within the DEIS. As discussed in that response, the roadway segment lengths

were reduced, resulting in an increased number of roadway segments analyzed within the FEIS.

L1-08 **Section 5.2.8** of the EIS provides mitigation measures that would reduce traffic impacts to less than significant. **Section 5.2.8** of the FEIS indicates the share of each mitigation measure using Caltrans methodology. Where the trips associated with a project alternative solely result in unacceptable LOS, a full share of costs associated with mitigation has been identified.

L1-09 The TIA was coordinated with the local jurisdiction and the revised TIA was developed in response to comments received from local jurisdiction on the methodologies utilized within the study. As discussed in **Section 2.0**, the guidelines for traffic studies from Sacramento County, Amador County, El Dorado County, San Joaquin County, and Caltrans were reviewed and referenced during development of the revised TIA.

L2 AMADOR COUNTY BOARD OF SUPERVISORS

L2-01 The commenter states that the comments listed below identify issues that the Bureau of Indian Affairs (BIA) needs to consider in either a revision to the DEIS or preparation of a FEIS. The DEIS was developed in compliance with the Council on Environmental Quality Regulations (CEQ, 40 CFR Parts 1500 through 1508) implementing the procedural requirements of the National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*). Based on the comments received on the DEIS, the BIA has expanded discussions throughout the FEIS to improve various descriptions of the project alternatives (**Section 2.0**) and existing environmental setting (**Section 3.0**) and to clarify and improve the discussion of conclusions within the environmental consequences section (**Section 4.0**) of the FEIS. The changes made to the DEIS constituting the FEIS are consistent with CEQ Regulation 40 CFR 1503.4, which states that possible responses to comments within a FEIS are to:

- (1) “Modify alternatives including the proposed action”;
- (2) “Develop and evaluate alternatives not previously given serious consideration by the agency”;
- (3) “Supplement, improve, or modify its analyses”;
- (4) “Make factual corrections”;
- (5) “Explain why the comments do not warrant further agency response, citing the sources, authorities, or reasons which support the agency’s position and, if appropriate, indicate those circumstances which would trigger agency reappraisal or further response.”

Within the DEIS, impacts to County infrastructure (**Section 4.9**), the environment (including water resources, land resources, air quality, and biological resources within **Section 4.0**), agriculture (**Section 4.8**), historical integrity (**Section 4.6**), and open space (**Section 4.8**) including the potential financial impacts to the County (**Section 4.7**) are analyzed. Comments received on specific topics are addressed through one or more of the responses contained herein, and therefore do not warrant redistribution of or a supplement to the DEIS. These responses to comments, along with the updated text of the DEIS constitute the FEIS and meet the requirements of NEPA for the environmental review process.

- L2-02** Development of the project has been delayed. Appropriately, responses and revisions have been made in the FEIS to note the expected project timeframe. The passage of time from the start of the NEPA process until its completion may mean that the information used as the basis for analysis that appeared to be the most appropriate baseline is superseded. To perform subsequent analyses would merely invite a continual repetition of the same sequence -- delay followed by assertion that the process should start once again with fresher data or a more recent baseline. Such repetitious exercises are not required. As stated by the U.S. Court of Appeals for the District of Columbia Circuit:

“However desirable it may be for agencies to use the most current and comprehensive data available when making decisions, the (agency) has expressed its professional judgment that the later data would not alter its conclusions in the EIS or the approval of Alternative C, and it is reasonably concerned that an unyielding avalanche of information might overwhelm an agency’s ability to reach a final decision. (Citation omitted.) The method that the (agency) chose, creating its models with the best information available when it began its analysis and then checking the assumptions of those models as new information became available, was a reasonable means of balancing those competing considerations, particularly given the many months required to conduct full modeling with new data. Again, these judgments regarding the development of the baseline against which alternatives would be assessed are the sorts of expert analytical judgments to which courts typically defer.” Village of Bensonville v. FAA, 457 F.3d 52, 71-72 (D.C. Cir. 2006).

The data within the DEIS has been reviewed and, where necessary, descriptions of the existing setting and technical analysis have been updated. The

methodologies, assumptions, and impacts within the DEIS have been verified using the updated information. A supplemental document is neither necessary nor required as the updated studies and results have been included within the FEIS. For specific examples of updates within the FEIS, please refer to specific comments on individual topics below.

- L2-03** According to 40 CFR 1502.16, an EIS shall include a discussion of environmental effects and their significance, and means to mitigate environmental impacts. A discussion regarding significance criteria is included in **Section 4.1** of the DEIS, which states (in summary) that significance criteria are defined in standard practices, environmental compliance criteria, or the statutes or ordinances of the jurisdictional entities. Thus, the BIA's determination of significance of impacts was accomplished with the assistance of governmental entities that have jurisdiction or special expertise for each resource. While some other entities or consultants may also possess special expertise for assessing impacts to key resources, the EIS is particularly focused on the unique aspects of special expertise offered by the governmental entities charged with managing particular resources and systems. For example, Caltrans has unique expertise regarding transportation that other agencies may not have. Refer to **Comment Letters S-4** and **S-5** regarding comments and subsequent responses from Caltrans regarding transportation issues. Further, standard practices and criteria already established by regulatory agencies, when possible, were used in the preparation of the EIS.

The differing level of analysis among the environmental resources discussed in the DEIS is consistent with the provisions of the CEQ regulations governing the content of EISs and the level of detail required. According to 40 CFR 1502.15, "(t)he descriptions shall be no longer than is necessary to understand the effects of the alternatives. Data and analyses in a statement shall be commensurate with the importance of the impact, with less important material summarized, consolidated, or simple referenced".

The commenter does not provide specific examples regarding the comment that various assumptions within the DEIS are not supported. Technical studies in many cases were prepared to determine the potential impacts of the project alternatives. Various assumptions utilized throughout the DEIS are described in detail in the corresponding technical appendices. As described above, the level of detail required within the text of the EIS is commensurate to the importance of the impact. For example, in **Section 4.2.2**, under the discussion of topography, the DEIS states that while some cut and fill slopes would be required to ensure development of safe building envelopes, project design ensures that the major topographic features (i.e., hills and slopes) would be

preserved. Furthermore, project design has avoided placing building structures on or adjacent to steep slopes, preventing associated impacts and therefore implementation of Phase I of Alternative A would have a less-than-significant impact on topography. This section specifically references the technical document included in **Appendix P** of the DEIS. Therefore, the assumption that project design and siting have reduced impacts is supported by the inclusion of the findings and information within technical appendices.

L2-04 Refer to the responses to **Comments L2-01** through **L2-03** regarding general statements that the DEIS is flawed. As stated above, the DEIS is supported by various technical studies, including a water supply and wastewater feasibility study (**Appendix B** of the DEIS), groundwater well study (**Appendix C** of the DEIS), cultural resources study (**Appendix K** of the DEIS), drainage analysis (**Appendix G** of the DEIS), economic impact study (**Appendix R** of the DEIS), traffic study (**Appendix M** of the DEIS), and a biological resource assessment (**Appendix H** of the DEIS). The studies contain the detailed technical information necessary to make a full evaluation of impacts of the project alternatives.

As shown throughout the following responses, comments received on the DEIS have been considered and where applicable, responses are provided. The responses, including updates to the text and technical reports of the DEIS, constitute the FEIS in accordance with the provisions of NEPA and guidance from CEQ.

L2-05 Refer to the response to **Comment L2-02** regarding baseline of data within the DEIS. The commenter specifically mentions the traffic data utilized to identify the existing environment and discuss impacts to resource use patterns within **Sections 3.9** and **4.9**, respectively. A revised TIA has been completed with updated information and is included in **Appendix M**. As discussed in the revised TIA, an updated existing setting was developed and updated traffic counts were collected. These updated counts were utilized to evaluate the impacts identified in the DEIS.

The comment also references the cumulative section of the DEIS (**Section 4.11**) as being outdated, using examples from the May 2007 Final TEIR for the Buena Vista casino project. The commenter also states that the DEIS lacks a description of the Shingle Springs Casino and the impacts associated with four casinos (Jackson Rancheria, Buena Vista, and Shingle Springs) in close proximity to one another. In the Final TEIR for the Buena Vista project, the casino is described slightly differently than in the DEIS. The description of the Buena Vista project has been updated in **Section 4.11** of the FEIS in accordance with the Final TEIR dated May 2007. However, the cumulatively considerable impacts do not change as a result. The planned project list

was updated as part of the revised TIA. Refer to Table 10 of the revised TIA for the updated list of planned projects. Based on distance and the existing roadway network, the Shingle Springs Rancheria is not anticipated to result in cumulatively considerable impacts associated with the development of the project alternatives, except for socioeconomic conditions, which are addressed in Section 4.11. The Jackson Rancheria is an existing development, which has been accounted for in the cumulative analysis when applicable. For example, the existing trip counts and extrapolations to the cumulative planning year include those generated by the Jackson Rancheria.

- L2-06** The commenter provides a general statement that the EIS suffers from a lack of specificity and that the document is replete with conclusory statements without supporting data. The commenter does not give examples and therefore a specific response cannot be provided. According to CEQ guidance (NEPA’s 40 Most Asked Questions) “(a)n agency is not under an obligation to issue a lengthy reiteration of its methodology for any portion of an EIS if the only comment addressing the methodology is a simple complaint that the EIS methodology is inadequate” [46 Fed. Reg. 18026 (1981)].
- L2-07** Refer to the response to **Comment L2-06** regarding general comments on the DEIS and to **Comment L2-03** concerning significance criteria within the DEIS. The format and layout of the DEIS is consistent with the outline provided in the BIA NEPA Handbook (59 IAM 3), Section 6.4(E) which is consistent with 40 CFR §1502.10-1502.18 and other EIS’s prepared by the BIA for gaming projects. The mitigation measures are organized by topic and presented in an organized manner. The executive summary table also provides each mitigation measure next to its corresponding effect. Modifying the format to suit individual local jurisdictions would make the EIS process unnecessarily cumbersome, time consuming and costly. All mitigation measures identified to reduce identified effects are listed in **Section 5.0** of the FEIS.
- L2-08** The commenter states that tables and figures are missing from **Appendix E** of the DEIS. It is correct that some figures were missing from the electronic version of **Appendix E**; however, these figures have been inserted into **Appendix E** of the FEIS. These figures depict information readily available from other sources within the EIS. Figures 2a, 2b, and 3 of **Appendix E** were missing, however, this information can be viewed within **Figures 3-2** through **3-6** of **Appendix B** and within **Figure 3.3-1** of the DEIS. The missing material is not critical to the evaluation of the project alternatives.
- L2-09** The Tribe’s restored lands opinion is a separate process from the environmental review process. The purpose of the EIS is to determine the environmental impacts associated with the project alternatives. The comment is beyond the scope of NEPA.

- L2-10** The Tribe’s restored lands opinion is a separate process from the environmental review process. The purpose of the EIS is to determine the environmental impacts associated with the project alternatives. The comment is beyond the scope of NEPA.
- L2-11** Refer to the response to **Comment L2-10** regarding issues outside of the scope of NEPA.
- L2-12** Refer to the response to **Comment L2-10** regarding issues outside of the scope of NEPA. The Tribe’s restored lands opinion is a separate process from the environmental review process.
- L2-13** Refer to the response to **Comment L2-10** regarding issues outside of the scope of NEPA. The Tribe’s restored lands opinion is a separate process from the environmental review process.
- L2-14** Refer to the response to **Comment L2-10** regarding issues outside of the scope of NEPA. The Tribe’s restored lands opinion is a separate process from the environmental review process.
- L2-15** The statement of the purpose and need for the Proposed Project is presented in **Section 1.2** of the DEIS. The stated purpose and need meets the provisions required by the CEQ for implementing NEPA: “(t)he statement shall briefly specify the underlying purpose and need to which the agency is responding in proposing the alternatives including the proposed action (40 CFR 1502.13). The purpose and need as described in **Section 1.2** of the DEIS meets the above requirement.

The complexity of operating a casino under Alternatives A, B, and C provides the opportunity for employment of a wide range of skill sets, from business managers to support staff. The comment that there is no indication that the employment being generated by the Proposed Project would generate jobs suitable to the skill sets of Tribal members is unfounded. As discussed in **Section 4.7** of the DEIS, operation of Alternative A (full build-out) is estimated to generate 1,365 full-time equivalent jobs. **Table 4.7-1** of the DEIS shows that the largest portion of jobs, 649 positions or 48%, would be attributed to gaming. The remaining positions would consist of food and beverage, gift shop, entertainment, administrative, marketing, maintenance, and security opportunities. The wide range of employment opportunities would meet the employment needs of the Tribe. As discussed in **Section 4.7** of the DEIS, operation of Alternative D is estimated to generate 180 full-time equivalent jobs. Under Alternative D, the operation of a commercial center would be more limited in the types of jobs

available compared to the casino operation. Positions would still cover a wide range of skill sets from facility managers to facility maintenance staff.

Because the Tribe is landless, members live in various communities surrounding the project site, including Plymouth, Ione, Jackson, and Sacramento. The Tribe currently operates two office facilities, one in Ione and the other in Plymouth. The commute to the project site would be similar to the commute to these two offices.

Section 1.2 of the FEIS has been updated to cite the provisions of the Indian Gaming Regulatory Act (IGRA) which restricts the use of profits from Tribal gaming operations. Revenues raised from gaming are to be used to “promote tribal economic development, tribal self sufficiency, and strong tribal government” (25 U.S.C. Section 2710(b)(2)(A)). IGRA limits the use of net gaming revenues to the following:

- Funding tribal government operations or programs.
- Providing for the general welfare of the Indian tribe and its members.
- Promoting tribal economic development.
- Making donations to charitable organizations.
- Funding operations of local government agencies.

L2-16 Refer to the response to **Comment L2-10** regarding comments outside the scope of NEPA.

L2-17 Assumptions used in the Economic Impact Analysis (EIA) are based upon the financial projections for the proposed casino complex. The EIA presents a relevant and accurate estimate of potential impacts from the Proposed Project.

L2-18 The EIA states that \$181 million in revenue would directly result from Phase I of the casino project in year three. The EIA and **Section 4.7** of the Draft EIS evaluate the impact of this economic output on the region, showing that the Proposed Project (Phases I) would result in new in-state expenditures on goods and services totaling approximately \$27.5 million, of which it is expected the majority would result from existing vendors located in Amador County and surrounding counties. This amount represents 15.2% of total revenue in year three. This amount considers factors including industries in the area and the state, as well as substitution of current output in the region.

L2-19 The commenter is incorrect that the EIA assumes 100% of the classifications shown in the comment would result in output to the region. For example, as discussed in **Section 4.7** of the

DEIS, it is estimated that 60% or 763 of those employed under phase I of Alternative A would be residents of Amador County. The remaining employees are expected to reside in neighboring counties, primarily Calaveras, Sacramento, San Joaquin, and El Dorado Counties. While the close proximity of the project site to the City of Plymouth would make the proposed casino and hotel a convenient place of work, due to the limited size of the labor force residing in Plymouth, it is estimated that only 5% or 64 of those employed would be residents of Plymouth. Refer to the response to **Comment L2-18** for additional information regarding the anticipated revenues within Amador County from expenditure of good and services related to the operation of Phase I of Alternative A.

- L2-20** The EIA and Draft EIS state that 1,271 new jobs would result from Phase I of the Proposed Project. From this employment value it is assumed that 60% of new employees would come from the Amador County labor market. This employment amount already accounts for the 10% substitution rate and before accounting for substitution of employment, Phase I would result in 1,412 new jobs. Substitution of labor from the Jackson Rancheria is included in this 10% substitution rate.
- L2-21** The commenter is incorrect in the assumption that all direct and indirect expenditures are assumed to be taxable. The EIA determined that \$11.8 million in annual sales tax statewide from Phase I of the Proposed Project would result based on direct, indirect, and induced expenditures on good and services within the state. Expenditures within the state represent only a portion of total expenditures. Phase I would result in expenditures of \$163 million annually statewide (\$27.5 million from direct effects and \$135.8 million from indirect and induced effects) and a sales tax rate of 7.25%.
- L2-22** **Section 4.7** of the FEIS has been revised to include a brief discussion of fiscal impacts from construction. The discussion states that a temporary one-time, but modest, positive fiscal impact would result from construction activities.
- L2-23** Refer to the responses to **Comments L2-17** and **L2-18** regarding the EIA.
- L2-24** **Section 4.7** of the FEIS has been revised to include specific significance criteria for potential impacts to socioeconomics and environmental justice. **Section 3.7** provides background information and data, including Tribal demographics, population, employment, and housing. This data provides the background needed to evaluate Amador County's ability to fulfill new employment demands. As discussed in the response to **Comment L2-18**, a portion of total expenditures on goods and services would be directed to Amador County businesses.
- L2-25** The EIA assumes a substitution effect from the Jackson Rancheria Casino at a rate of 10%, as a worst-case scenario. As discussed, the Proposed Project would result in a substantial increase

in economic activity (output and employment opportunities). The EIA incorporates assumptions from the financial projections of the Proposed Project, which considers local competition. Because Jackson Rancheria Casino is the only existing facility in Amador County, no other opportunities exist for the substitution of a large quantity of economic activity from the existing gaming market.

L2-26 As discussed in the response to **Comment L2-18**, expenditures on goods and services were quantified at the state level, but it is expected the majority would result from existing vendors located in Amador County and surrounding counties. This level of analysis provides the reader with enough perspective to understand the beneficial impact from these expenditures.

L2-27 Each agency preparing an EIS sets out the objectives of the proposed action, which in turn shapes the range of reasonable alternatives considered in the EIS. As described in **Section 1.2** of the DEIS, development of a project alternative should provide:

1. Increased employment opportunities for Tribal members;
2. Improvement of the socioeconomic status of the Tribe; improvement of existing Tribal housing; construction of new Tribal housing; funding for a variety of social, governmental, administrative, educational, health and welfare services to improve the quality of life of Tribal members;
3. Capital for other economic development and investment opportunities;
4. Restoration of a lost land base;
5. Acquisition of land needed to exercise governmental powers; and
6. Economic self-sufficiency, thereby eventually removing Tribal members from public assistance programs.

Reasonable alternatives are defined as those that are technically and economically practical or feasible and that meet the purpose and need of the proposed action. In many cases the number of viable alternatives and variations approaches an infinite number. Accordingly, the federal agency is not obligated to analyze all viable alternatives, but instead must analyze an adequate range of alternatives.

The BIA has attempted to select and discuss alternatives in a manner that promotes informed public participation and informed decision-making. Several critical factors had to be weighed in determining which alternatives should be subjected to detailed analysis and review. First, alternatives that do not accomplish the purpose of an action are by definition not reasonable and should not be studied in detail. Secondly,

alternatives that do not significantly differ in impacts from other alternatives do not extend the range of alternatives.

The DEIS presents a reasonable range of alternatives: (A) the Proposed Casino and Hotel, (B) a reduced-size casino with hotel, (C) a reduced intensity or smaller casino without a hotel, (D) a different use (development), and (E) the “No Action” alternative. Except for the required “No Action” Alternative, the project alternatives all have the potential to at least partially meet the anticipated purpose and need. All four development alternatives would create a land base and would provide some level of economic development that would increase employment opportunities of the Tribe, improve the socioeconomic status of the Tribe, provide capital for other economic developments, and help the Tribe to ultimately obtain economic self-sufficiency. The time it would take to meet all components of the purpose and need would vary in accordance with the development type. For example, the revenues from Alternative D would be significantly less than Alternative A, as the majority of revenue from Alternative D would occur from rent of commercial space while revenue from Alternative A would be from gaming.

Alternatives that were considered but eliminated are discussed in **Section 2.2.6** of the DEIS. Prior to focusing on the project site, the Tribe considered another site in Amador County for development (**Figure 2-21**). The site is located on an approximately 40-acre parcel off Jackson Valley Road outside of the City of Ione in an unincorporated area of Amador County. The Tribe has attempted to obtain ownership to this land; however, the Federal Government has never been able to secure clear title to the property. The site was evaluated for its ability to meet the Tribe’s purpose and need and environmental suitability for development. The site was not further considered for several reasons including the requirement to remove a substantial number of trees and other vegetation, displace existing residents, and build within a 100-year floodplain. Based on the limited size of the site, the Tribe would not have the ability to accommodate any ancillary components, such as a wastewater treatment facility. Therefore, the site was not pursued further.

L2-28 In response to comments received on the DEIS, the discussion of the dismissal of the 40-acre site as a viable option for the Proposed Project has been supplemented in **Section 2.2.6** of the FEIS. The discussion includes additional factors that dictated the rejection, including title complications. Furthermore, the topography, existing conditions, and soil characteristics of the property make it unable to accommodate a casino and required ancillary components, such as a reservoir or wastewater treatment facility.

While the majority of the site has level terrain required for the facility, there are substantial hills in the center and southern portions of the site. The hill in the center would restrict the facility to the edges of the property, limiting the amount of buffer between the casino and surrounding properties. The southern portion of the property is located in a designated Zone A flood zone (FEMA). Zone A defines an area within the 100-year floodplain. As addressed in **Section 4.3** of the DEIS, Federal Executive Order 11988 requires the BIA to evaluate federal actions taken in a floodplain. If an agency proposes to allow an action to be located in a floodplain, the agency shall consider alternatives to avoid adverse effects and incompatible development.

There are also approximately seven residences currently located on the 40-acre site. Displacing these existing residents from the property would be necessary to develop the site.

L2-29 The descriptions of the project alternatives comply with 40 CFR § 1502.14(b), which states that agencies should “(d)evote substantial treatment to each alternative considered in detail including the proposed action so that reviewers may evaluate their comparative merits”. The level of detail included within the project description is sufficient to allow comparison of the project’s components to the baseline of the existing environment. The additional information requested by the commenter would not further clarify the analysis within **Section 4.0** of the DEIS and therefore this information has not been included within the DEIS.

Table 2-6 of the DEIS provides a comparison of the project alternatives including the “No Action” Alternative. This table allows the reader to readily compare the proposed alternatives.

L2-30 Alternative A was selected as the Proposed Project because the Tribal applicant’s initial request was for the development of Alternative A. In accordance with the BIA NEPA Handbook and CEQ Guidelines, a preferred alternative should be identified if one or more exists in the final document (40 CFR 1502.14). The FEIS has been updated to include the selection of Alternative A as the preferred alternative based on the ability to reduce anticipated impacts to less-than-significant levels and the ability to meet the purpose and need as outlined in **Section 1.2** in the timeliest manner. Refer to **Section 2.4** for a discussion of the selection of Alternative A as the preferred alternative.

L2-31 The commenter states that the analysis of Alternative E, the “No Action” Alternative is inadequate because no mitigation measures are included in the DEIS for this alternative. As discussed in **Section 2.2.5** of the DEIS, if the BIA takes no action and does not take the land into trust on behalf of the Tribe, it is anticipated that the site

would remain vacant for the near term, but ultimately could be developed in compliance with local zoning and land use ordinances. CEQ guidance requires the Lead Agency to review and develop feasible mitigation for potential impacts related to the Proposed Action. Because Alternative E would not require BIA action, NEPA would not apply and the City or County would be the Lead Agency under the California Environmental Quality Act (CEQA). Therefore, mitigation proposed for Alternative E in the FEIS would not be feasible, as the BIA would not be involved in the development and would not have the ability to enforce identified mitigation measures developed in accordance with CEQA. Furthermore, in accordance with NEPA and the BIA NEPA Handbook, complete mitigation of environmental impacts is not required to implement a proposed action. The purposes of NEPA are met by analyzing these impacts and disclosing them to the public in the EIS, while identifying reasonable mitigation.

- L2-32** Refer to the response to **Comment L2-15** regarding the employment opportunities associated with Alternative A.
- L2-33** Refer to the response to **Comment L2-30** regarding the preferred alternative.
- L2-34** The commenter states that the description of the smaller parking lot for Alternative A is incorrect. The description of the smaller secondary parking should have been labeled as southeast. To clarify, the text within the FEIS has been changed to state that the secondary parking lot is located east of the casino.
- L2-35** The commenter states that the description of the Plymouth pipeline is incorrect. The text in question has been removed as the description of the sphere of influence is not integral to the discussion of water supply. It should be noted that Water Supply Option 2, groundwater extraction (with limited trucking for Alternative A only), is the preferred water option identified in the FEIS.
- L2-36** The wastewater disposal figure reference within **Figure 2-1** has been changed to **Figure 2-5** in the FEIS. Additionally, **Figure 3.9-1a** was originally in the Administrative Draft EIS but was removed prior to release to the public. The reference to this figure within **Figure 2-3** should have been removed, and subsequently has been removed in the FEIS. This does not affect any of the conclusions of the EIS.
- L2-37** Clarification has been provided in **Section 3.2-3** of the FEIS to say no casino development would occur within areas of Parcel 1 where the Auburn silt loam (ArC) soil type has been identified. The facilities mentioned by the commenter are included in the mineral resources and geology impact analysis in **Section 4.2** of the DEIS.

L2-38 At this time, the most feasible and preferred wastewater alternative is to discharge to the intermittent creek pursuant to an NPDES permit and maximize the use of recycled water; however, the option of constructing a recycled water reservoir would still be pursued if an NPDES permit could not be obtained. The project description has been updated in **Section 2.0** of the FEIS to reflect this. To clarify and augment the conclusion of less-than-significant impacts to topography would result from the construction of the storage reservoir and proposed 75 foot earthen dam, additional discussion from the geotechnical study is included in **Section 4.2.2** of the FEIS. The geotechnical study was included in the DEIS as **Appendix E** and is included in the technical appendices of the FEIS.

The reservoir is proposed in a deeply incised canyon area with intermittent drainage that conveys seasonal flows. The canyon is heavily vegetated with annual grasses, brush and oaks. The canyon drains to the south at an approximate slope of 5% to Dry Creek and then to the Mokelumne River in the Sacramento/San Joaquin Delta. As described in the comment, the town of Drytown is approximately 3.5 miles downstream from the proposed reservoir site. The portion of the Dry Creek near Drytown is listed as a Zone A floodplain. While most of the structures in town are elevated approximately 20 feet or more above the top of the channel bank, a few residences and a motel and café with picnic area are potentially 20 feet or less above the top of the channel bank. However, the creek passes through several low-lying areas and intermittent canyons between the site and the town, which would dissipate flood flows in the extremely unlikely event of a dam failure. Based on the relatively small size of the reservoir, the topographic features separating the site from Drytown, and the fact that the town is 20 feet above the waterline level, the flooding risk to Drytown would be negligible.

Furthermore, as described in **Section 2.0** of the FEIS, the reservoir would be constructed in compliance with the Federal Coordination Council on Science and Engineering Technology's "Federal Guidelines for Dam Safety" and general industry standards. The design of the reservoir would be prepared by a registered professional engineer and reviewed by the BIA Pacific Region Safety of Dams Officer prior to construction. Additionally, the reservoir construction would follow recommendations listed in **Appendix E** of the FEIS, which are hereby incorporated into the project description. The area has been analyzed extensively through field assessments, geological laboratory testing, and a study of available information from the California Department of Conservation Division of Mine and Geology. Soils tests were performed in accordance with generally accepted test methods and protocols that are specified within American Society of Testing and Materials standards.

As described in **Section 5.2.2** of the FEIS, Based on the BIA’s downstream hazard classification, an Operation and Maintenance Program may be required to promote the safety of people and property downstream. If required, the Tribe shall enter into a Memorandum of Agreement (MOA) with the BIA to implement an Operation and Maintenance Program for the life of the dam.

- L2-39** Refer to the response to **Comment L2-38**. As discussed above, the project description has been updated in **Section 2.0** of the FEIS to reflect the Tribes intention to move forward with pursuing a NPDES Permit for effluent disposal as the preferred disposal option.

To clarify and augment the conclusion that less-than-significant impacts to topography would result from the construction of the storage reservoir and proposed 75 foot earthen dam, additional discussion from the geotechnical study is included in **Section 4.2.2** of the FEIS. The geotechnical study was included in the DEIS as **Appendix E** and is also included in the technical appendices of the FEIS.

- L2-40** Clarification has been provided in **Section 3.2.4** of the FEIS stating that portions of the abandoned Pioneer Mine are present on the project site and would be part of the trust acquisition; but is not part of the area to be developed. The mineshaft was filled with debris and abandoned and does not pose an unacceptable risk due to collapse or subsidence due to the distance of the mine from project components. The vertical mine shaft is located approximately 0.50 miles from the casino development areas. As such there is minimal risk from development of the proposed alternatives in relation to the abandoned mine. Additionally, there has been very little seismic activity at the site. Seismic impacts are discussed in **Section 4.2** of the DEIS. Further clarification is provided in **Section 4.2** in the FEIS stating the mineshaft does not pose a significant risk of collapse or subsistence from seismic events. Based on the findings and conclusion of the Geotechnical Investigation (**Appendix E**), relatively low seismic activity at the site, topographical characteristics of the site, and distance of the mine from development components, impacts that were analyzed in **Section 4.2.2** of the DEIS remain less than significant.

- L2-41** The commenter is referring to an outdated application that is “on hold”. As discussed in **Section 3.2** of the FEIS, the historic Pioneer Mine is located on the project site. Aggregate and slate are mined adjacent to the project site. **Section 3.2** of the FEIS has been updated to indicate that the adjacent surface mining operation utilizes the project site for access. However, the main access for the mining operation is from the south off New Chicago Road, east of Drytown. As stated in **Section 4.2** of the DEIS, taking the land into trust would not obstruct the ability to extract off-site mineral resources, as the

trucking route that approaches the mine from the south off New Chicago Road would remain operational and would be unaffected by the development.

- L2-42** **Appendix T** of the DEIS includes a preliminary soil report based on the National Resource Conservation Service (NRCS) online web based database. The NRCS soil database was used to conduct a preliminary soils analysis to identify potential hazard classifications. The preliminary grading analysis and online soils survey was sufficient to determine the level of impacts and to develop mitigation, as required by the BIA NEPA handbook. No soil limitations regarding special engineering requirements were identified in the soil survey. As stated in **Section 2.2** of the DEIS, the Tribe intends to use development standards no less stringent than Federal standards that are based on sound engineering principles for seismic safety. The proximity of the Pioneer Mine would be considered in the final grading plans.

Utilizing on-site materials and stockpiling on site is a common construction activity and would be addressed in the overall phased construction program. Clarification has been provided in **Section 4.2** of the FEIS. The phased approach to construction is included as mitigation in **Section 5.2.2** of the DEIS and FEIS.

- L2-43** The commenter did not provide examples of missing information and therefore a specific response can not be given. All identified missing information has been included in the FEIS.
- L2-44** The preferred project alternative would utilize groundwater and would not connect to the City's municipal water supply system. However, as described in the response to **Comment F1-02**, construction of the Plymouth Pipeline project began in February, 2009, and is anticipated to be completed in December, 2009 (Reece, 2009). The City acknowledges that the construction of the Ione Casino would occur pending approval, and has included land use consistent with the Proposed Project in its recent Water Supply Assessment that is scheduled to be distributed to the public at the end of November, 2008 (Howell, pers. comm. 2008). Therefore, the City's water supplies would be sufficient to serve the Proposed Project if the City chooses to provide such service.
- L2-45** Refer to the response to **Comment F1-02** for a discussion of the existing wells and their pumping rates, as well as a discussion regarding the existing overdraft of the aquifer in the vicinity of the City's wells, and how the implementation of the Plymouth Pipeline project would eliminate the existing overdraft situation. As previously discussed, the Project wells consist of wells M1, M3, and H1. Well M1 is used sporadically throughout the year, but predominately during the summer months for

providing water to livestock and to provide water for the County Fair. Well M3 is a recently drilled and developed well that had previously not been placed into production. Well H1 is an agricultural type well associated with irrigation and providing water for livestock. Refer to the response to **Comment F1-06** for a discussion of the pump testing that was conducted on the three wells. As mentioned in the response to **Comment F1-02**, the three Project wells would be pumped at the recommended long term well yields, which consists of 10 gpm for well M1, 37 gpm for well M3, and 34 gpm for H1, and the wells would be pumped in rotation to allow groundwater recharge between pumping periods. **Section 5.2.3.C** describes that if the Preferred Water Supply Option implemented, the Tribe would develop and implement a year round groundwater monitoring program that would ensure that well yields are maintained and that overdraft pumping does not occur.

- L2-46** Refer to the response to **Comment F1-02** for a discussion of the existing wells and their pumping rates, as well as a discussion regarding the existing overdraft of the aquifer in the vicinity of the City’s wells, and how the implementation of the Plymouth Pipeline project would eliminate the existing overdraft situation.
- L2-47** Refer to the response to **Comment F1-02** for a discussion of the condition of the water basin and the ability of the Proposed Action to obtain a sustainable water supply.
- L2-48** A description of the cistern has been included in **Section 3.3.3** of the FEIS. The cistern is located approximately 500 feet north of M1, within the project site boundaries, and a short distance off of State Rout (SR) 49. Wooden planks cover the cistern and conduit pipes lead to a submerged bladder pump. The historical use of the cistern is unknown. The capacity and dimensions are not known. The cistern would be properly abandoned prior to development of the access driveways.
- L2-49** The long-term yield calculations presented in the revised Pumping Test Report assumed that the three Project wells would be pumped at a continuous cumulative rate of 81 gpm. These estimates are considered to be conservative and defensible, based on a significant body of field data and a scientifically sound analysis methodology that considers individual well performance and uncertainties inherent in natural systems.

In **Section 4.3** of the DEIS it is stated that the Project wells “would be pumped in rotation to allow groundwater to recharge between pumping periods”. This rotation schedule is simply an operational strategy to enhance well efficiency by providing periods of non-pumping and dynamic water level recovery. It was not intended to decrease the cumulative sustainable yield of the three wells (total recommended yield of 81 gpm), but instead was proposed as a more efficient means of producing the

recommended yields of the wells. The rotation would involve pumping of two of the wells concurrently at rates that are higher than the recommended yields, while the third well is allowed to recover. The effectiveness of the strategy would be monitored and evaluated, and the strategy would be refined, as appropriate, to optimize well efficiency and reduce impacts.

Further, the site would maintain two 1 million gallon water tanks that would collect excess water from groundwater wells in times of low water demand to provide reserve water supply, and additional water sources would be utilized including trucked water, recycled water, and potentially surface water or additional groundwater sources.

L2-50 The Proposed Project is a federal action and therefore, state and local regulations (i.e. California Code of Regulations (CCR) would not apply once the site is taken into trust. Nevertheless, the procedures and methodology used to determine long-term yield is in compliance with CCR Title 22, §64554. As per §64554 (e): “The capacity of a well shall be determined from pumping test data existing prior to March 9, 2008, or in accordance with subsection (f) or (g).” The pumping tests were performed in December 2003 and July 2004, long before the March 2008 date, and the long-term yield well capacity was determined using that data.

Refer to the responses to **Comments F1-02** and **F1-32** for a discussion of the overdraft of the aquifer in the vicinity of the City’s wells. Refer to the response to **Comment F1-04** for a discussion of the duration of the pumping tests and methodology used to determine long-term yield values. Also refer to the responses to **Comments F1-9** and **F1-10** for a discussion of groundwater monitoring programs.

L2-51 As discussed in **Section 2.0** of the DEIS, based on water quality samples from the groundwater wells, an on-site reverse osmosis water treatment plant would be developed so that potable water meets all SDWA standards. Groundwater treatment would reduce elevated levels of iron, manganese, and total dissolved solids (TDS) identified in the source wells. The water treatment plant would be constructed east of the wastewater treatment plant (WWTP) (**Figure 2-1** of the DEIS). The reverse osmosis system involves passing the potable water stream through sheets of specialized semi-permeable membranes that remove minerals, salts, and other contaminants. The minerals and salts are captured as concentrated brine. The production of brine would result in a net loss of potable water for use at the casino. A 15,000-gallon storage tank would be installed to store the brine prior to being trucked to a treatment facility. With the inclusion of the water treatment plant, the use of groundwater to meet potable water demands would result in a loss of up to 10,000 gpd from brine production.

- L2-52** Wastewater treatment on the project site would meet Title 22 of the CCR, Division 4, Chapter 3, Water Recycling Criteria (Title 22) standards for disinfected tertiary treated recycled water. The Tribe would develop a dual-plumbed system consistent with Title 22 standards. The commenter does not provide justification for the assumption that wastewater upset conditions are likely. Compliance with Title 22 would ensure that the use of a dual plumbed system for recycled water use would not cause significant impacts to public health and upset conditions would be unlikely.
- L2-53** The estimations of total recycled water use for the project alternatives were based on actual use rates at local casinos as discussed in **Appendix B** of the DEIS. As discussed in **Appendix B** of the DEIS, the acreage for landscape irrigation acreages were estimated from the site plans for each project alternative. Irrigation rates for the landscaped acreages for each project alternative were estimated using evapotranspiration rates of the region including the use of native vegetation or vegetation that has been completely naturalized to the region as discussed in **Section 2.0** of the DEIS. For Alternatives A, B, and C, the sprayfield application rates were estimated to be 5,000 gallons per day (gpd) (5.6 acre-feet per year as indicated by the commenter) for landscaping covering approximately two acres. The type of landscaping was assumed to be typical with commercial developments, and as discussed in **Section 2.0** of the FEIS, would consist of native vegetation or vegetation that has been completely naturalized to the region. In response to comments on the DEIS, mitigation has been included in **Section 5.2.3** of the FEIS to require the Tribe develop a sprayfield monitoring plan to reduce potential impacts associated with the land application of treated effluent.
- L2-54** Refer to the response to **Comment L2-49** regarding rotation pumping of two of the production wells concurrently at rates that are higher than the recommended yields, while the third well is allowed to recover.
- L2-55** The total well yield upon which the comment is based is inaccurate. As discussed in the response to **Comment L2-49**, the rotational pumping involves pumping of two wells, not one as the commenter suggests, while the third is left to recover. The estimated well yield for the site, as discussed in **Section 2.2.1** of the FEIS, would account for approximately 92% of the total water demand. On days where the well yield is insufficient, supplemental water would be pumped from the 2-million gallon storage tank located on site. The remaining water would be supplied via approximately five water trucks (assuming 2,000-gallon tanks per truck) per day, a feasible method to meet the remaining water demand not met by the on-site groundwater wells. The impacts of these truck trips are inconsequential when considering patron and employee trips addressed in **Section 4.8** of the FEIS.

L2-56 The commenter suggests that relying on groundwater and water trucking is not a feasible approach to meeting the projected water needs of the project alternatives. Refer to the response to **Comment F1-02** for a discussion of the proposed water supply and to the response to **Comment L2-55** regarding the number of water trucks that could be necessary. Water trucking would only be required to meet the estimated potable water demands for full build-out of Alternative A. Trucking would not be required for Phase I of Alternative A nor Alternatives B through D. Trucked water would not constitute the entire potable water supply and would be diluted at a ration of 100 to 1 in the storage tank. The residual chlorine that would be required within the storage tank to ensure adequate health and safety of the Tribal drinking water would reduce the potential for 10,000 gpd of hauled water to contaminate one of the 1,000,000 gallon storage tanks. The USEPA would obtain jurisdiction regarding implementation of the provisions of the Safe Drinking Water Act. As discussed in **Section 2.0** of the FEIS, the USEPA would require the Tribe develop a monitoring plan for the drinking water system, which includes routine biological sampling from areas of use, which would include the heavily diluted hauled water.

L2-57 The pumping tests were performed in early December 2003 (H1), mid-December 2003 (M1), and July of 2004 (M3). Although the tests for wells H1 and M1 were conducted in December when water levels could be slightly higher than summer levels, the increases in water levels would not be significant when compared to total available drawdown for these wells. Wells H1 and M1 have total available drawdowns of 119 and 487 feet, respectively. A small relative increase in total available water in December would not result in estimates of long-term yield significantly different from those developed from summer tests. In addition, as discussed in **Comment F1-5**, appropriate factors were applied to account for variability in recharge and precipitation.

L2-58 Refer to the response to **Comment L2-49** for a discussion of the rotational pumping and water supply for the Proposed Project.

L2-59 This comment requests information on the impacts the former Pioneer Mine could have on groundwater quality, specifically (1) known groundwater contamination related to the mine, (2) type of mineral extracted from the mine, (3) if the mine contains or may contain contaminated groundwater, and (4) the extent this contaminated groundwater (if present) could be drawn into the nearby aquifer as the result of pumping from Project wells.

Traditionally, the source of the gold in this area was from sulfides (generally pyrite) that are disseminated within the slate and shale formation or contained within quartz veins. If the gold ore was associated with the sulfides and the mine workings or waste

rock materials were allowed to oxidize via the infiltration of precipitation, there is a possibility that acid mine drainage (AMD) could occur. AMD can result in the evolution of low pH waters with elevated concentrations of metals. The presence of acid neutralizing materials, such as carbonaceous shales and slates could buffer the pH within the neutral range and greatly reduce the risk of elevated metal concentrations. As part of the groundwater monitoring program, certain analytes would be monitored for based on potential sources in the area that could impact groundwater quality.

- L2-60** As described in **Section 4.3** of the DEIS, if surface water discharge is implemented it would be subject to an NPDES permit, which would ensure that surface discharge of treated wastewater meets water quality standards.
- L2-61** As described in the Water and Wastewater Feasibility Study (**Appendix B** of the FEIS), subsurface disposal would be permitted based on groundwater quality degradation criteria within recent USEPA guidelines. Compliance with applicable guidance included in the Water and Wastewater Feasibility Study would ensure that no adverse hydrologic impacts would occur due to the subsurface leachfields and spray irrigation.
- L2-62** **Section 4.3** states that compliance with an NPDES permit for wastewater discharge would ensure that the treated effluent meets established water quality objectives and is of sufficient quality to support beneficial uses of the receiving water. Further, refer to the response to **Comment L2-52** for a discussion of the regulatory compliance the project would adhere to for recycled water use.
- L2-63** Refer to the response to **Comment F1-02** for a discussion of the adjacent wells in the project vicinity, and the projected reduction of the overdraft condition related to the implementation of the Plymouth Pipeline project. This would reduce the probability for reversal of the hydraulic gradient to occur in the vicinity of the project wells. Further, refer to **Appendix C** of the FEIS for a discussion of the sustainable yield projected for the project wells. The Pumping Test Report calculates the safe available yield for the three project wells, which is based on the allowable drawdown in the wells, multiplied by a safety factor (to account for variable water recharge), accounting for position of the pumps, drought and seasonal water level declines, and future drops in well efficiency during operation. This would ensure that the aquifer is not in a state of overdraft, and would further reduce the probability for the reversal of the hydraulic gradient to occur. Additionally, **Mitigation Measure 5.2.3 (D)** requires that the Tribe implement a groundwater-monitoring program, which would further ensure the protection of water quality in the water basin. The implementation of the measures

described above would ensure that contamination of the groundwater basin does not occur as a result of implementation of the Proposed Project.

- L2-64** **Section 3.3** of the DEIS contains the results of water quality sampling that has been conducted on the site. Further groundwater quality monitoring would be conducted according to the groundwater monitoring program that would be developed and implemented as described under **Mitigation Measure 5.2.3 (D)** of the FEIS.
- L2-65** FEIS **Appendix S** has been revised to incorporate all the pages of the study. The commenter states that there is no indication of analysis of site hydraulic capacity. **Appendix S** of the DEIS concluded that the southwest corner of the site would be suitable for limited subsurface disposal of treated effluent, based on observed soil conditions during periods of heavy rains. To prevent daylighting of treated effluent, recommendations are provided in **Appendix S** that include application limitations of treated effluent based on the hydrologic performance of the soils. Such recommendations are based on standard engineering practices, which would ensure that groundwater quality would be protected. The recommendations are included in **Section 5.0** of the FEIS as mitigation measures to reduce the potential for runoff associated with on-site wastewater disposal. Further, the Proposed Project would obtain and comply with an NPDES permit and would implement a groundwater monitoring program, which would further protect groundwater quality in the project vicinity.
- L2-66** As described in the response to **Comment L2-38**, the preferred option for wastewater disposal would not include construction of a reservoir. It would consist of discharge to the on-site intermittent creek pursuant to a NPDES permit and maximization of recycled water use; however the Tribe has not abandoned the option of constructing a recycled water reservoir. The project description has been updated in **Section 2.0** of the FEIS to reflect the Tribes intention to move forward with pursuing a NPDES Permit for WWTP effluent disposal as the preferred disposal option. However, to clarify and augment the conclusion that less-than-significant impacts to topography would result from the construction of the storage reservoir and proposed 75 foot earthen dam, additional discussion from the geotechnical study is included in **Section 4.2.2** of the FEIS. The geotechnical study was included in the DEIS as **Appendix E** and also included in the technical appendices of the FEIS.
- The commenter states that effects on groundwater quality due to the use of an unlined wastewater reservoir were not evaluated or mitigated. However, these effects were analyzed in the geotechnical analysis (**Appendix E**), and as stated, if surface water flow is diverted from the reservoir with a culvert and French drain system as discussed in **Appendix E**, the additional contribution of subsurface seepage would be very small

with respect to the capacity of the reservoir. Additionally, siltation over time would aid in “plugging” potential drainage paths that could cause off-site seepage.

- L2-67** The Proposed Project would comply with the U.S. Army Corps of Engineers (ACOE) requirements. Consistent with CEQ Regulation 40 CFR 1503.4, and as required by 404 permit conditions, adequate mitigation and monitoring standards would be established, adopted, and reviewed by the ACOE and/or Fish and Wildlife Service (FWS) prior to construction and for the duration of the monitoring period to assure all permit stipulations are met.

Refer to the response to **Comment L2-38** regarding the options for wastewater disposal.

- L2-68** Refer to the response to **Comment L2-08** regarding the missing information from **Appendix E** of the FEIS.

- L2-69** Refer to **Section 4.3** of the DEIS for a discussion of the wastewater disposal and reuse system that would be utilized for the project. Specific design details for the reuse of recycled water are not specified at this time; however, as described in the response to **Comment F1-09**, additional beneficial uses of recycled water could include uses such as the on-site reuse of treated water for irrigation and flushing toilets.

- L2-70** Refer to the response to **Comment L2-52** for a description of the requirements that the project would comply with to ensure that recycled water use does not pose a health risk to the public. Further, **Section 4.3** Water Resources states that compliance with an NPDES permit for wastewater discharge would ensure that the treated effluent meets established water quality objectives and is of sufficient quality to support beneficial uses of the receiving water.

- L2-71** As discussed in **Section 2.0** and **Section 4.3** of the DEIS a drainage plan has been developed for Alternative A, and is included as **Appendix G (Figure 2-6)**. The drainage plan includes the use of several features designed to reduce surface runoff volumes and filter surface runoff prior to release into the existing on-site natural drainage channels. The drainage plan would be implemented prior to the operation of Phase I and would include all provisions necessary to provide conveyance and treatment capacities in response to additional runoff generated from Phase II. Specific design details are not available at this time; however, stormwater discharge would require a General Construction NPDES permit.

- L2-72** The analysis included in the FEIS considers the projections derived from the drainage study analysis. Furthermore, the drainage study (**Appendix G**) shows and specifically states that increased runoff resulting from development of the casino project, according to assumptions outlined in the study, can be mitigated by on-site detention, among other measures. As described in **Section 4.3** of the FEIS, the project would include an on-site detention basin, which was sized assuming that 90% of the surface area in the northern and western ends of the site would be converted to impermeable surfaces. Based on these values, the detention basin is designed to hold an inflow of 173 cubic feet per second (cfs), with an outflow of 62 cfs. See **Appendix G** for volume calculations, outflow quantities, and water surface elevations. The analysis included in **Appendix G** and in **Section 4.3** of the FEIS was conducted to ensure that post-project runoff conditions would be effectively managed.
- L2-73** As described in **Section 4.3** of the FEIS, the detention basin would be located at the lowest point on the property in the northwest corner. The runoff would naturally drain toward the lowest point on the site, and drainages would be engineered to channel flows to the detention basin. The outflow from the detention would enter Little Indian Creek, the existing drainage collector, and would not impact Dry Creek.
- L2-74** The correct pre-and post-project implementation runoff rates are provided in Table 2 of the drainage study (**Appendix G**). The study indicates that Little Indian Creek, located at the project boundary (confluence of detention outflow and Shed 12 with flow in main channel) experienced a pre-development discharge rates estimated at 258 cfs, while post project rates were estimated at 257 cfs with the planned improvements. Runoff from the site would be reduced further due to the decision to revise the site plan (**Figures 5-1 through 5-5** of **Section 5.0** of the FEIS) by reducing surface parking. This would reduce impervious surfaces thereby reducing runoff.
- L2-75** As described in the response **Comment L2-74**, the proposed action would result in a 1 cfs reduction in post-project outflows, from approximately 258 cfs pre-project to 257 cfs post-project. Therefore, because the post-project outflows would be less than pre-project outflows, the Proposed Project would not cause downstream flooding impacts.
- L2-76** Subsequent versions of the URBEMIS model have been released since the air quality modeling was performed (refer to the response to **Comment L2-02**). The methodology and assumptions from the original model, with the exception of the trip generation rate, have been used to complete an updated URBEMIS model analysis using URBEMIS 9.2.4. Updated traffic information, based on the revised TIA (**Appendix M**), has also been incorporated into the model run. URBEMIS 9.2.4 air quality model output files are provided in **Appendix Q** and appropriate revisions to tables in **Section 4.4** have

been completed. CO₂ is addressed as a greenhouse gas in **Section 4.11**, the URBEMIS 9.2.4 air quality model was used to estimate CO₂ emission from project related area and mobile sources and are analyzed in this section. As shown in **Section 4.4** and **4.11** of the FEIS, no additional impacts to air quality were identified by the current model or as a result of the updated traffic information.

- L2-77** **Page 4.4-3** of the FEIS has been changed to indicate new trips are 97% primary. This change does not significantly affect the results of the analysis.
- L2-78** The area of disturbance (footprint) is approximately 60 acres. This has been incorporated in the revised URBEMIS air quality model. Revised construction emissions are reported in **Section 4.4** of the FEIS and output files are provided in **Appendix Q** of the FEIS. The change in acres from 5.5 to 60 does not change the significance of the impact to air quality. Construction emissions continue to have a less-than-significant impact on air quality in the project region.
- L2-79** Regional significance under the General Conformity regulation is determined by calculating a project's emission as a percent of the County's total emission inventory. If a project's emission of any criteria pollutant is greater than 10% of the County's total emission inventory, then the project is considered regionally significant for that criteria pollutant. Regional conformity calculations were added to construction and operational emission tables in the FEIS. No significant regional impacts were identified.
- L2-80** Discussion of the trip generation rate for the event center is provided in the revised TIA. The revised TIA determines that the event center would have a 100% internal capture rate; therefore, no trips are attributed to this facility.
- L2-81** The Sacramento Valley Air Basin (SVAB) is in nonattainment for ozone, which is formed in the presence of sunlight. During the summer months, the days are longer, leading to higher ozone concentrations. Therefore, summer emission estimates provide a more conservative characterization of ozone emissions.

During the summer month, the SVAB is dry and hot (see **Section 3.4**), which can exacerbate fugitive dust emission from construction activities. Construction activities that do occur during the rainy season emit less particulate matter due to the natural dust suppression that rain provides. Emission estimates from the summer months provide a more conservative estimate of particulate matter emissions.

Furthermore, construction activities generally occur during the summer month due to weather conditions. For these reasons, focusing air quality modeling on summer months is appropriate

L2-82 The trip generation rate has been updated in the revised TIA. The updated URBEMIS 9.2.4 (refer to the response to **Comment L2-76**) air quality model uses the revised trip generation rate (see **Section 4.4** and **Appendix Q**). No new impacts were identified.

L2-83 As shown in **Appendix Q** of the FEIS, the URBEMIS output files indicate that each criteria pollutant emission is reported correctly in **Section 4.4** of the FEIS. However, the FEIS is based on an updated air quality model run using URBEMIS 9.2.4. The model reports emissions in tons per year, which is consistent with conformity regulations (40 CFR 93.153). The URBEMIS 9.2.4 model also incorporates the trip generation rate from the revised TIA, which is provided as **Appendix M** in the FEIS. No new impacts were identified due to the use of URBEMIS 9.2.4, and the revised trip generation rate from the revised TIA.

L2-84 The revised URBEMIS 9.2.4 air quality model includes the assumption of 6 day per week 12 hours per day for construction. This assumption is reflected by **Mitigation Measures 5.2.4 (G)** in the FEIS, which reads as follows:

“The Tribe shall limit construction activities at the project site to Monday through Saturday between the hours of 6 am to 6 pm.”

The URBEMIS 9.2.4 output files are provide as **Appendix Q**.

L2-85 The following Air Quality Management District dust control mitigation measures have been added as mitigation measures to **Section 5.2.4**. These measures are consistent with the mitigation measures used in estimating criteria pollutants using URBEMIS 9.2.4 and would provide adequate dust suppression so fugitive dust would not travel beyond the project boundaries.

- Water all active construction areas up to three times daily during dry weather.
- Cover trucks hauling soil, sand, and other loose materials or require trucks to maintain at least two feet of freeboard.
- Pave or apply (non-toxic) soil stabilizers on unpaved access roads, parking areas and staging areas at construction sites as appropriate.
- Sweep daily (with water sweepers) paved access roads, parking areas, and staging areas at construction sites as appropriate.

- Sweep streets (with water sweepers) if visible soil material is carried onto adjacent public streets.
- Hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas (previously graded areas inactive for ten days or more).
- Enclose, cover, water twice daily or apply (non-toxic) soil binders to exposed stockpiles (dirt, sand, etc.).
- Limit traffic speeds on unpaved roads to 15 miles per hour.
- Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
- Replant vegetation in disturbed areas as quickly as possible.
- Install windbreaks, or plant trees/vegetative windbreaks at windward side(s) of construction areas.
- Suspend excavation and grading activity when winds (instantaneous gusts) exceed 25 miles per hour.
- Limit the area subject to excavation, grading and other construction activity at any one time.

L2-86 Emissions tables in the DEIS report only mitigated emissions because, under conformity regulations, emissions should be mitigated to the extent possible before conformity is determined. Project emissions reported in **Section 4.4** of the FEIS are mitigated emissions. Table titles have been changed to clarify this. Unmitigated emissions, as well as mitigated and unmitigated criteria pollutants for which the district is in attainment, are provided in **Appendix Q** of the DEIS. Mitigation measures used in the model are default values and cannot be altered. Dust suppression mitigation has been added to **Section 5.2.4** of the FEIS and is shown in the response to **Comment L2-85**.

L2-87 Odor impacts are discussed in **Section 4.4**. The sense of smell is used to detect and recognize odors. Odor is the subjective perception of the sense of smell (olfaction). Not everyone has the same ability to smell objects at the same levels (or concentrations). The minimum concentration (threshold) of an odor that can be detected and identified through the sense of smell depends on how the odor is presented (such as flow rate and purity) and the sensitivity of the olfactory cells in the nose, which vary from person to person; therefore, numerical analysis of odors is problematic and imprecise. The most notable anticipated source of odor would be from the WWTP. The WWTP, as noted in **Section 2.2**, would be designed to satisfy several criteria that would comply with standards established by the USEPA. These criteria include restrictions on the generation of objectionable odors. Odors from the plant headworks would be controlled using an odor scrubber as described in the Water and Wastewater Feasibility Study (**Appendix B**).

L2-88 A discussion of diesel particulate matter (DPM) has been added to the FEIS in **Sections 3.4 and 4.4**. DPM is considered a hazardous air pollutant by the USEPA. Since a federal action is under consideration, federal regulations apply. Hazardous air pollutants are regulated under the National Emission Standard for Hazardous Air Pollution (40 CFR 61 and 63). Due to the distance to the nearest sensitive receptor (over 400 feet) from the project site and the dissipation rate of DPM (10% of original concentration at 500 feet) impacts would be less than significant. No new impacts were indentified. Refer to the response to **Comment L2-87** for a discussion of odor impacts.

L2-89 The ozone attainment status is discussed in **Section 3.4** of the DEIS. The commenter's claim that one ton per year of any ozone precursor from the Proposed Project would not allow the Amador Air District to reach attainment status is unsubstantiated. In accordance with the Clean Air Act and in compliance with conformity regulations, if a federal project shows conformity with the state implementation plan (SIP), than that project would not obstruct the attainment process outlined in the SIP (40 CFR 93, Subpart B).

By providing pedestrian walkways, patrons would be less likely to drive their cars to the other side of the facility, workers can access the facility easily, so on-site vehicle use can be minimized, which reduce NOx and ROG emissions (See Sacramento Metropolitan and Bay Area Air Quality Management Districts Land Use Mitigation Measures and CEQA Guidelines). Measures such as the one provided in the DEIS and mentioned by the commenter would reduce NOx and ROG emissions.

L2-90 All project alternatives comply with conformity as discussed in **Section 4.4**. Emissions from the Proposed Project would be less than significant under NEPA. No mitigation measures are required; however, the Tribe has agreed to implement mitigation measures that would further reduce project emissions, even though mitigation of project emission is not needed to comply with conformity *de minimis* levels. These mitigation measures are provided in **Section 5.2.4** of the FEIS.

L2-91 The most current emission factors available at the time were used in the DEIS climate change analysis. Subsequently, new and more accurate climate change emission factors have been published. The FEIS has been updated with emission factors from the Climate Action Registry and emission data provided in URBMIS 9.2.4. Given that climate change is a cumulative impact, the analysis is provided in the Cumulative **Section 4.11**. **Sections 3.4 and 4.4** provide the basis for the analysis. A comprehensive list of relevant reference documents is provided **Section 3.4**. This

includes guidance from the Governor’s Office of Planning and Research, the USEPA, and the CA Attorney Generals Office.

- L2-92** Refer to the response to **Comment L2-91** concerning air quality and climate change.
- L2-93** In response to comments, the FEIS has been supplemented in **Section 3.5** and **Section 4.5** with additional text from the technical appendices. The FEIS states in **Section 4.5**, in **Tables 4.5.1** through **4.5.8** of the DEIS, the acreages of all potentially affected habitats for Alternatives A through D; whereas mitigation measures for these potential impacts are outlined in **Section 5.2.5**. Additionally, upon acceptance and approval of the preferred build-out alternative and dependent upon the verification of the wetland delineation by the Army Corps of Engineers (ACOE), impact acreages can be verified. The impacts to wetlands would be minimized by measures specified in **Section 5.2.5**. Furthermore, all potential impacts to habitats on the project site with the potential to support special status species have been surveyed and identified in the DEIS and the supporting documents. Since this is a federal lead agency project, a Section 7 Endangered Species Act consultation is underway with the Fish and Wildlife Service to assess all potential impacts to Federally listed species as identified in the DEIS. The ACOE will verify the wetland delineation and approve mitigation consistent with ACOE and USEPA guidelines as stated in the response to **Comment F1-15** and **F1-16** to ensure that no adverse impacts would occur either on site or off site, to the practicable extent feasible.
- L2-94** The “study area” for the purpose of biological resource assessments is concurrent with the “total action area” and may include areas outside the project boundaries for special status species queries and impact analysis. The combination of all parcels that constitute the entire 228.04 acres of the project area, of which 10.28 acres are located within the City of Plymouth boundaries while the remaining 217.76 acres are located in unincorporated Amador County, is the “project site”. While the area of disturbance would be contained to the “project site” the potential for impacts related to these disturbances must be analyzed as the “total action area”. This clarification has been made in the FEIS where warranted; in accordance with CEQ Regulation 40 CFR 1503.4, refer to the response to **Comment L2-01**.
- L2-95** The California Department of Fish and Game (CDFG) California Natural Diversity Database (CNDDDB) search is a standard five mile radius (DEIS **Page 3.5-11**). This radius search incorporated the “Amador City, CA” 7.5 Minute Quadrangle as well as parts of the Latrobe, Irish Hill and Fiddletown Quadrangles. The Biological Resource Assessment (**Appendix H**) utilized a standard nine quad search, which was used to generate the special status species table in the FEIS. This information has been

included in **Section 3.5.5** of the FEIS to validate that all potential special status species were fully addressed.

- L2-96** As a supplement to analysis, the FEIS methodology section on **Page 3.5-2** and **Page 3.5-3** has been updated to identify all methodologies used while making explicit reference by footnote to the scientific and other technical sources relied upon for conclusions in **Section 3.5.5** of the FEIS. The methodology described **Section 3.5.2** of the FEIS clearly cites what biological surveys were conducted, what protocols were used and what dates the surveys were conducted.
- L2-97** The FEIS clearly depicts the on-site vegetative communities (**Figure 3.5-1**), and acreages of these habitats are compiled in **Table 3.5-1**. The Holland type, Sawyer Keeler Wolf classification, and/or Cowardin classification systems were used to delineate and digitize the habitat type's on site (**Page 3.5-3**) have been added as such in the methodologies section in the FEIS.
- L2-98** Wetland features and other waters (**Table 3.5-2, Figure 3.5-2, Pages 3.5-10, and 3.5-11**) have been consistently classified in the FEIS. Updates to the FEIS are consistent with CEQ Regulation 40 CFR 1503.4. Refer to the response to **Comment L2-01**.
- L2-99** The DEIS clearly states the methods and reasoning of concluding why a specific special status species does or does not have the potential to occur on site and why no further analysis was conducted for the species listed in the tables of **Section 3.5** of the FEIS (see **Page 3.5-11, Table 3.5-3, Table 3.5-4, Appendix H, and Figure 3.5-3**). Consistent with CEQ Regulation 40 CFR 1503.4, no further response is warranted.
- L2-100** The interpretation of the CNDDDB data on **Page 3.5-16** in **Section 3.5** has been changed from "occur" to "documented to occur". All CNDDDB documented occurrence data has been updated in **Section 3.5.5** to accurately state the dates of occurrence and other specific information applicable to analysis. Additionally, the life history and distribution information for vernal pool fairy shrimp on **Page 3.5-17** has been properly cited and updated in the FEIS.
- L2-101** Consistent with CEQ Regulation 40 CFR 1503.4, this comment does not warrant further response, as all on-site habitats with the potential to support vernal pool fairy shrimp and tadpole shrimp were assessed to the standards of the USFWS; *Interim Survey Guidelines to Permittees for Recovery Permits under Section 10(a)(1)(A) of the Endangered Species Act for the Listed Vernal Pool Branchiopods*. Two wet season surveys were conducted as required by USFWS consultation. There is no suitable off-site habitat that is within 250 feet of any proposed disturbance on site.

- L2-102** The discussion of sensitive habitats (**Tables 4.5-1** and **4.5-2**) within the FEIS has been updated to differentiate impact acreages between vernal pools, ponds and other waters in the FEIS. Additionally, any direct or indirect impacts to wetlands will be confirmed in the Section 404 permit to be issued by the ACOE as comprehensively outlined in the responses to **Comments F1-14, F1-15, and F1-18**. The response to **Comment L2-101** describes the sampling effort that was put forth to address vernal pool fairy shrimp to the extent feasible within 250 feet of the proposed area of disturbance. Additionally, focused botanical surveys did not show the presence of any vernal pool listed plant species to occur on site.
- L2-103** As recommended by the USEPA, the preferred wastewater disposal alternative has been identified to be the surface water discharge option. Please refer to the response to **Comments F1-13** and **F1-14** for detailed explanation of the surface water discharge option. In **Section 2.0** of the FEIS, it is stated that treated wastewater would be disposed of during the summer through landscape irrigation, sprayfields, and subsurface disposal and during the winter through surface water discharge (**Figure 2-5**). Surface water discharge would occur on the project site to an unnamed tributary of Dry Creek. This alternative is now the preferred option, and the impacts from this option are fully addressed in **Section 2.0** of the FEIS.
- L2-104** Refer to the responses to **Comments F1-14, F1-15, and F1-18** for a comprehensive explanation of the ACOE “no net loss of wetlands” policy. This policy firstly requires avoidance of impacts followed by minimization of impacts thence finalized through mitigation for unavoidable impacts to wetlands. The Section 404 permit requirements may include an alternatives analysis prior to creation of the mitigation and monitoring plan; therefore all mitigation for direct and indirect impacts to jurisdictional wetland features on site and off site would be implemented for cumulative habitat value and function prior to any disturbance on site. As outlined in the response to **Comment F1-14**, identification of the preferred wastewater disposal option and the utilization of a parking structure would significantly reduced impacts to wetlands.
- L2-105** This comment does not identify the “species” being addressed; therefore a detailed response to this comment is not possible. **Section 3.5** in the DEIS clearly discusses all state and federal species of special concern. Additionally, the **Sections 3.5** and **4.5** of the DEIS have been reviewed and no inconsistencies were identified.
- L2-106** The northwestern pond turtle has been noted to occur within five miles of the project site as shown in **Figure 3.5-3** of the DEIS. The comment refers to **Page 4.5-3**, which reads, “Impacts to wetland features... may impact northwestern pond turtles if they occur within the disturbed area. Measures to mitigate for wetlands and water of the

U.S. (**Section 5.2.5**) would minimize potential impacts to this species.” Extensive and comprehensive biological surveys were conducted in 2004, 2005, and 2007 for red-legged frog (RLF) and fairy shrimp as detailed in **Section 4.5.2**. The northwestern pond turtle was a secondary focus in all of these assessments to determine its presence as it was noted to occur within five miles of the site. These numerous surveys involved thorough examination of all on-site aquatic features. Additionally, the RLF protocol survey included the assessment of 38 sites outside of the project boundary. During all of these investigations, one Western pond turtle was observed. It was not captured to identify if in fact it was the northwestern sub-species. This occurrence was in Dry Creek, approximately one quarter mile south of the project site. The documented CNDDDB occurrences to the north of the project site were all within Indian Creek. With these extensive field surveys and comprehensive documentation, it has been concluded that the northwestern pond turtle does not occur on the project site. Therefore, no mitigation measures have been included because impacts to this species would not occur. The aforementioned excerpt in **Section 4.5-3** of the DEIS used the statements “may impact”, “if they occur”, and “would minimize potential impacts.” Updates have been made in **Section 4.5** of the FEIS to clarify that there would be no impacts to this species as outlined above.

- L2-107** Consistent with CEQ Regulation 40 CFR 1503.4, as a modification to analysis, valley elderberry longhorn beetle (VELB) mitigation measures as discussed in Appendix H have been added to **Section 5.2.5** of the FEIS. Additionally, formal consultation with USFWS is currently underway for all federally listed species including the VELB. While no impacts are anticipated based on completed surveys that identified no exit holes, if activities occur within 100 feet of any elderberry shrubs on site, mitigation consistent with a Biological Opinion (BO) issued by the USFWS would be implemented consistent with the USFWS protocol.
- L2-108** The BIA has initiated RLF consultation with USFWS. As a part of that consultation RLF protocol surveys were conducted. No RLF were identified. If USFWS determines that there is potential for impact to RLF then mitigation measures would be approved by the USFWS and would be implemented consistent with the BO that would result from this Section 7 Federal Endangered Species Act consultation. There are no known CNDDDB occurrences of this species within a ten-mile radius of the project site, which supports the negative findings of the surveys. The five-mile radius CNDDDB figure was included in **Section 3.5** of the DEIS.
- L2-109** Informal USFWS Section 7 consultation for all listed species has been initiated by the BIA and it would apply to any applicable federal permits that may be required, including the Section 404 and NPDES permits, which would be supported by a Section

7 Biological Assessment (BA). To date no special status species have been found on site, as detailed in the responses to **Comments L2-101, L2-106, and L2-108**. If listed species are found to be present in the “action area”, the Federal agency must determine if the action may affect them. The BIA would determine if the project “will have no effect”, “may affect, but not likely to adversely affect”, or “may affect, and likely to adversely affect” the listed target species. If the Federal agency determines that the action is not likely to adversely affect listed species (e.g., the effects are beneficial, insignificant, or discountable), and the USFWS agrees with that determination, the USFWS provides concurrence in writing and no further consultation is required. If the BIA determines that the Proposed Project is likely to adversely affect a listed species then formal consultation must be initiated with the USFWS. This formal consultation would require a BO from the USFWS that determines whether the project would jeopardize a listed species or destroy or significantly modify its critical habitat; whereas the mitigation measures outlined in the BO would be implemented as part of the Record of Decision (ROD) issued by the BIA. As stated above, the informal consultation process with the USFWS has been initiated and surveys for RLF, and fairy shrimp have been conducted to determine presence or absence. Other species as identified in the FEIS would also be addressed during the informal consultation; such as VELB and California tiger salamander (CTS). The FEIS was updated in **Sections 3.5, 4.5, and 5.2.5** where warranted to depict most current and accurate information now available.

- L2-110** The text in **Section 4.5.1** has been updated in the FEIS. Adverse effects to migratory birds would be avoided by implementing the measures identified in **Section 5.2.5 (N)**. These are standard mitigation measures which utilize the nesting window for all potentially occurring avian species to ensure that tree removal occurs outside of these windows to the extent feasible. Pre-construction clearance surveys ensure that there are no birds occupying trees slated for removal, prior to removal.
- L2-111** The oak tree removal and mitigation replacement ratios adopted by the Tribe are either 2:1 or 3:1 as detailed in **Section 5.2.5**. This ratio of replacement adheres to the CA Oak Woodlands Conservation Act guidelines which have been adopted by Amador County. Planting an appropriate number of trees, including the maintenance of plantings and replacement of failed plantings, is sufficient for mitigation. Although the Tribe would not be required to adhere to State, County nor local standards once the land is taken into trust, these mitigation ratios have been accepted to prevent degradation of the existing habitat while sustaining the existing vegetative communities on site.

- L2-112** The riparian woodland tree removal and mitigation replacement ratios adopted by the Tribe are 1:1 as detailed in **Section 5.2.5**. This ratio of replacement adheres to the CA Oak Woodlands Conservation Act guidelines which are adopted by Amador County.
- L2-113** In **Section 4.5.1** of the DEIS it is stated, “While potential habitat for the California tiger salamander (CTS) occurs within the project site no impacts are anticipated.” This evaluation of no impact is based upon observations made during CRLF and brachiopod surveys conducted in all the potential CTS habitat; the presence of predators (bull frogs) in all potential habitat; the lack of critical habitat on site; and the distance from any known sighting. However, as is the case with the CRLF and the Branchiopods the CTS is subject to the informal consultation now under way with the USFWS. If the USFWS issues a BO, its terms would be implemented as provided in **Section 5.2.5**. **Mitigation Measure 5.2.5 (M)** of the DEIS indicates that the specific mitigation measures already outlined in the section to avoid and minimize impacts to aquatic habitats, as required by the Section 404 permitting process, would minimize potential impacts if this species were to occur. The closest documented CNDDDB occurrence of CTS is approximately 15 miles southwest of the project site. As stated in **Section 4.5.1** and further detailed in the response to **Comment L2-106**, it is “unlikely that CTS occurs based upon observations made during CRLF and brachiopod surveys conducted in CTS habitat.” However, as is the case with CRLF and brachiopods, CTS is subject to formal consultation with USFWS, which is currently underway. If USFWS issues a Biological Opinion, its terms would be implemented as provided in **Section 5.2.5**.
- L2-114** Compensatory mitigation for impacts to wetlands shall be at a minimum ratio of 1:1, and may be greater as the final compensation would be formulated under USEPA mitigation guidelines. The USFWS will determine the ratios for compensatory mitigation based on the site specific impacts to habitat quality, habitat continuity and the results of special status species surveys conducted on the site. Again, as noted above, no special status species have been identified on site during any of the protocol level survey conducted to date. Therefore, the ratios are set at a level that supports the no net loss policy of the ACOE and the USEPA as outlined in the responses to **Comments F1-14** and **F1-15**.
- L2-115** The impact analysis for Alternatives B, C, and D has been updated in **Section 4.5** of the FEIS. Additionally, mitigation measures for potential impact to special status species have been updated in **Section 5.2.5** of the FEIS for Alternatives A-D; the responses to **Comments L2-106** through **L2-110** and **L2-113** thoroughly outline these changes to special status species mitigation measures. As stated above a more thorough impact analysis for Alternative C has been included in **Section 4.5** of the FEIS. The footnote in **Table 4.5-4** states that the table only applies to Alternative B, option 1.

- L2-116** Due to pagination, **Table 4.11-5** of the DEIS was moved to the adjacent page, which includes the discussion of biological impacts. **Table 4.11-5** of the FEIS is in **Section 4.11** within the discussion of greenhouse gasses. This comment warrants no further response.
- L2-117** The project site does not support the specific specialized riparian vegetative community to support this species occurrence (see Appendix C of **Appendix H** of the DEIS). Additionally, no CNDDDB occurrence of this species was observed within a ten-mile radius of the site (**Figure 3.5-3** of the DEIS). Therefore, this species was discounted from further analysis as outlined in **Section 3.5.5** of the DEIS.
- L2-118** The discussion of cumulative impacts for Alternatives A, B, C and D has been updated in **Section 4.5** of the FEIS where warranted in response to comments. The impact acreages for alternatives B, C and D are reduced respectively from alternative A.
- L2-119** As stated in the response to **Comment L2-115**, the discussion of cumulative impacts for Alternatives A, B, C and D has been updated in **Section 4.5** of the FEIS. The impact acreages for alternatives A, B, C and D have been reduced respectively from Alternative A. Additionally, mitigation measures for potential impact to special status species has been updated in **Section 5.2.5** of the FEIS in for Alternatives A-D; the responses to **Comments L2-106** through **L2-110** and **Comment L2-113** thoroughly outline updates special status species mitigation measures. Additionally, the cumulative effects discussion for biological resources has been updated in **Section 4.11-11**.
- L2-120** The response to **Comment L2-107** addresses mitigation measures for VELB. The response to **Comment L2-109** thoroughly details the informal consultation process with USFWS. Mitigation measures have been updated in **Section 5.2.5** of the Final TEIR.
- L2-121** The mitigation is provided in response to indirect biological impacts associated with off-site roadway improvements. As stated in **Mitigation Measure 5.2.5 (P)** of the DEIS, the Tribe's contribution for traffic impact fees shall include the cost of preparing environmental documents and the cost of mitigation for biological resources, including but not limited to purchases of land, contributions to mitigation banks or programs, and restoration of habitat.
- L2-122** Refining the cultural chronology of the Sierra Nevada foothills is an evolving pursuit that does not change the impact assessment or mitigation presented in the DEIS, particularly in light of the fact that no prehistoric resources are known to exist within

the project site. The cultural context presented in the confidential Section 106 report (**Appendix K** of the DEIS) and the DEIS is sufficient in that it provides a general overview of the prehistory, ethnography, and history of the general area that is widely accepted.

- L2-123** In response to the comment received, **Section 3.6** of the FEIS has been augmented to provide a paleontological baseline setting. Impacts to paleontological resources are considered in **Section 4.6** of the DEIS and FEIS.
- L2-124** A discussion of cultural resource inventory methods is presented in **Section 3.6.6** of the DEIS and in **Appendix K** of the DEIS. The entire project site was surveyed using pedestrian transects and was conducted to the standards set by the Secretary of the Interior. A more detailed description of the cultural resources study was included in **Appendix K**. Although not released to the general public in order to protect sensitive information on the nature and location of cultural resources, the confidential full appendix has been reviewed by the BIA for completeness. The findings of the cultural resources study contained in **Appendix K**, including the determination of the area of potential effects, were adopted by the BIA during the Section 106 process and the State Historic Preservation Office (SHPO) provided concurrence in a letter dated July 9, 2008. Please refer to **Appendix K** of the FEIS for a copy of the concurrence letter.
- L2-125** A discussion of Native American consultation can be found in **Section 3.6.6** of the DEIS. As noted in that section, the Native American Heritage Commission (NAHC) indicated, in a letter dated August 25, 2003, that there are no known sacred sites within the project area. At the same time, the NAHC provided a list of twelve Native American individuals and organizations to contact. Letters were sent and follow-up phone calls were made to all of these individuals and groups in September 2003. A complete record of Native American consultation can be found in the confidential **Appendix K**. Please refer to the response to **Comment L2-124**, above, regarding the confidentiality of **Appendix K** of the DEIS and SHPO concurrence.
- L2-126** Indirect and off-site impacts such as road construction and traffic improvements are addressed in **Section 4.12** of the DEIS.
- L2-127** Corrections have been made to references on pages **3.6-6**, **3.6-7**, **3.6-8**, and **3.6-10** of the DEIS.
- L2-128** Corrections have been made to the text on page **3.6-7** of the DEIS.
- L2-129** Corrections have been made to the text on page **4.11-48** and **4.11-61** of the DEIS.

- L2-130** **Section 3.7** provides a breakdown of all existing socioeconomic conditions, including employment information, of the Ione Band of Miwok Indians.
- L2-131** **Section 3.7** provides a breakdown of all available employment and other information from the Ione Band of Miwok Indians. The information regarding the expected socioeconomic impacts on the Tribe and Tribal members and in the surrounding area, including impacts on employment, is sufficient to allow for an adequate examination of these impacts and mitigation measures to address them. More detailed information on the Tribe is not necessary to allow for a through examination of socioeconomic impacts and their mitigation. Neither is information regarding the Tribe's membership, the Tribe's ownership of other lands, Tribal members current residence, Tribal members' receipt of services under programs administered by the Tribe and other governments, and Tribal planning and budgeting and spending.
- L2-132** Refer to the response to **Comment L2-131** regarding existing information on the Tribe presented in **Section 3.7** and the adequacy of the analysis of socioeconomic impacts to the Tribe present in **Section 4.7**.
- L2-133** Refer to the response to **Comment L2-131** regarding existing information on the Tribe presented in **Section 3.7**, and the adequacy of the analysis of socioeconomic impacts to the Tribe presented in **Section 4.7**.
- L2-134** A reference year is provided for the monetary values expressed throughout the socioeconomic existing setting description in **Section 3.7**. For example, the annual property tax rate of the project site is referenced for the 2005-2006 tax year and general fund revenues provided to the Amador County Unified School District are referenced for the school year of 2002-2003. In **Section 4.7**, the projections for monetary impacts are referenced from **Appendix R**, developed in 2004. At the time of development of **Appendix R**, the planned year of operation was 2006. The analysis provided within **Appendix R** provides an accurate depiction of the socioeconomic impacts using current methodologies. Refer to the response to **Comment L2-02** concerning the date of collection and baseline of data within the DEIS. Updating the monetary projections within **Appendix R** would not result in substantial changes within the DEIS.
- L2-135** Refer to the responses to **Comments L2-131** through **L2-133** regarding the socioeconomic effects of the Proposed Project on Tribal members.
- L2-136** **Section 3.7** of the DEIS provides a breakdown of the existing socioeconomic status of Amador County (the scope of the socioeconomic impact analysis), including population, housing, employment and community infrastructure. **Section 4.7** of the DEIS provides an analysis of

potential impacts to the region based on the socioeconomic status of the region presented in **Section 3.7** of the DEIS.

- L2-137** The commenter is incorrect in their interpretation of **Table 3.7-1** of the DEIS. **Table 3.7-1** states that, based on the survey that 32% of Tribal members responded to, 30% of employed Tribal members earn an income below \$10,000, 67% of Tribal members earn income less than \$40,000, and 81% of Tribal members earn an income below the National Median Income level. Comparing this breakdown of Tribal income status to the environmental justice low-income level of \$18,849 provides a perspective of Tribal income. As discussed in **Section 1.0**, part of the purpose and need of the Proposed Project is to increase the socioeconomic status of the Tribe, including through the employment of Tribal members. The environmental justice section is provided to analyze potential impacts to communities and other Indian tribes in proximity to the project site.
- L2-138** As discussed in **Section 4.7** of the DEIS, potential socioeconomic effects would be most pronounced in the proximity of each proposed alternative; and therefore, the scope of analysis focuses on effects to Amador County. This includes effects within the County as a whole. Effects such as expenditures on goods and services, employment, and housing would be distributed throughout the County, including all incorporated and unincorporated areas. Other impacts, such as fiscal effects, would be distributed to governments within Amador County and incorporated cities. Other impacts may occur to areas outside the County, but these effects are not analyzed in the DEIS because they would be minimal when compared to those within the County.
- L2-139** The commenter does not state any specific social effects of concern. New patrons to the area would result in increased visitors to the area and new expenditures on goods and service. This would not result in any potential social impacts not discussed in **Section 4.7** of the DEIS. Potential social effects not discussed in the DEIS are not considered to have the potential to result in a significant environmental impact as defined by NEPA.
- L2-140** Refer to the response to **Comment L2-25** regarding the use of a 10% substitution rate. The proposed Buena Vista Casino development is considered in the cumulative socioeconomic impact analysis presented in **Section 4.11**, and the Shingle Springs Casino has been added to this discussion. The substitution effect only considered the Jackson Rancheria because this is the only existing casino located in Amador County.
- L2-141** Refer to the response to **Comment L2-17** regarding assumptions used in the EIA and why the socioeconomic analysis is considered relevant and accurate.

- L2-142** The construction costs are based on financial projections for the proposed casino complex. Employment estimates are quantified in the EIA. In the EIA, employment was first estimated and then wages were estimated. Benefits would be in addition to these estimated wages.
- L2-143** Revenue projections for the Tribe are included in the EIA, and were used to determine expenditures on goods and services and employment effects, among others. The purpose of the socioeconomic section is to present and discuss potential economic impacts to the region.
- L2-144** The worker wage amount of \$23,837 provides a perspective of potential wages provided by the Proposed Project. This amount would be similar and competitive to wages paid by other regional/state gaming facilities. **Table 3.7-4** of the FEIS has been updated with more recent unemployment information for the City of Plymouth. Employment background data presented in **Section 3.7** shows that 24 individuals were unemployed in the City of Plymouth in 2004, based on an unemployment rate of 5%. These unemployed individuals would have access to new job opportunities at the proposed casino.
- L2-145** The 60% rate is based on the availability of labor in the region and the proximity of available labor to the project site.
- L2-146** Much of the data presented in **Section 3.7** of the DEIS corresponds to background data used in the EIA and **Section 4.7** of the DEIS. While more recent data may now be available in some instances, the use of this data to estimate economic impacts would not lead to significantly different effects and conclusions as those estimated in the Draft EIS.
- L2-147** Refer to the response to **Comment L2-18** regarding expenditures on goods and services in Amador.
- L2-148** Refer to the response to **Comment L2-146** regarding the relevance of data used in the EIA and DEIS.
- L2-149** According to the commenter, there have been “substantial increases in transportation costs over the last year.” However, according to the U.S. Energy Information Administration (<http://tonto.eia.doe.gov/>), as of October 27, 2008, the average price of gasoline in California is lower than it was one year prior. As discussed in **Section 4.7** of the DEIS, the construction of new housing may result from the Proposed Project but would not be required. New employees relocating to the project area could choose to rent or buy new housing, but it is expected that new housing would be limited by the number of employees able to finance a new home, the availability of residential zoned land, and local land use regulations. However, mitigation is provided in **Section 5.2.7** of the DEIS to address affordable housing within Amador County. The Tribe would develop and implement a housing program to address the availability of

affordable housing within Amador County. The housing program would coordinate its activities with Amador County and the City of Plymouth in order to further countywide planning efforts.

L2-150 Refer to the response to **Comment L2-146** regarding the relevance of data used in the EIA and Draft EIS. The scope of the housing impact analysis provided in **Section 4.7** of the DEIS is adequate in determining the potential impacts to the local housing. As discussed, due to the existing labor base in surrounding communities, the number of vacant units, the limited amount of new construction expected, and that new housing would be located over a wide geographic area, the potential effects to housing would be less than significant. Any further analysis involving housing costs or specifically where new housing could be located would be speculative and would not add to the understanding of this potential impact.

L2-151 As discussed in **Section 4.7** of the DEIS, potential impacts to housing would be less than significant. The mitigation measure provided in **Section 5.2.7** of the DEIS to address affordable housing would not be required to meet a specific threshold to reduce a potential impact to a less-than-significant level, as is sometimes the case with mitigation measures. Rather, this measure is included to show that the Tribe intends to work with Amador County and the City of Plymouth to further countywide planning efforts for affordable housing.

L2-152 Refer to the response to **Comment L2-146** regarding the relevance of data used in the EIA and Draft EIS. While Mr. Carey may no longer be Superintendent of the Amador County Unified School District, his contribution to the analysis is considered relevant because he held the position at the time the analysis was completed.

L2-153 Refer to the response to **Comment L2-146** regarding the relevance of data used in the Draft EIS. Additionally, as discussed in **Section 4.7** of the DEIS the Tribe would make a payment of \$107,610 to the Amador County Unified School District, or such other amount as may be negotiated between the Tribe and the School District, to mitigate effects that may occur as a result of the Proposed Project.

L2-154 As discussed in **Section 4.7** of the DEIS, the Tribe would make a payment of \$107,610 to the Amador County Unified School District, or such other amount as may be negotiated between the Tribe and the School District, to mitigate effects that may occur as a result of the Proposed Project. This payment amount is based on development impact fees and property tax revenues as discussed **Section 3.7** of the DEIS. This payment would reduce impacts to less-than-significant levels.

L2-155 The commenter does not substantiate or state the source of the referenced current developer/school impact fee. Refer to the response to **Comment L2-146** regarding the

relevance of data used in the DEIS. Refer to the response to **Comment L2-154** regarding mitigation provided by the Tribe to the Amador County Unified School District to reduce potential impacts to less-than-significant levels.

- L2-156** The \$107,610 payment to be made by the Tribe to the Amador County Unified School District is based on the development of a 120,000 square-foot casino in Phase I of Alternative A, percentages of revenue sources for the Amador County School District in 2005-2006, and the current property tax rate. This estimate provides a perspective of the level of impact that would occur from the Proposed Project.
- L2-157** The commenter's statement regarding tax revenue is inaccurate. **Section 4.7** of the DEIS states that approximately \$18,818 of the current property tax rate would be distributed to the school district, the Educational Revenue Augmentation Fund, and the County Office of Education. As discussed in **Section 3.7** of the DEIS, this distribution is dependent on the Tax Rate Area of individual parcels.
- L2-158** The commenter is correct that according to **Table 3.7-6** of the DEIS local elementary schools have a 5-year projected excess of two classrooms, but the total number of elementary schools considered in this estimate is six not three.
- L2-159** Refer to the response to **Comment L2-154** regarding mitigation provided by the Tribe to the Amador County Unified School District to reduce potential impacts to a less-than-significant level, and refer to the response to **Comment L2-156** regarding how the mitigation payment was estimated.
- L2-160** As discussed in **Section 4.7** of the DEIS, potential impacts to libraries and parks would be less than significant because only a limited number of employees would reside in the area or relocate, and patrons would not frequent these facilities because of the entertainment nature of the Proposed Project.
- L2-161** Refer to the response to **Comment L2-160** regarding the less-than-significant potential impact to libraries and parks.
- L2-162** Refer to the response to **Comment L2-160** regarding the less than significant potential impact to libraries and parks.
- L2-163** Refer to the response to **Comment L2-160** regarding the less than significant potential impact to libraries and parks. **Section 4.7** has been revised to remove the reference to mitigation of libraries and parks.

L2-164 As stated by the commenter, the referenced studies do not arrive at a definitive link between problem and pathological gambling and casinos. The studies used in **Section 4.7** of the DEIS were selected because they are the most recent collection of comprehensive research available. While each of these studies is distinct, they consider a range of sources including academic research, testimony on a range of topics from around the United States, review of articles and comments, and original datasets from statistics of 100 different United States communities and case studies of casino openings. Other studies that have been completed more recently lack the scope of the studies used in the DEIS.

The discussion of potential impacts to pathological and problem gambling in Amador County presented in **Section 4.7** of the DEIS does not dismiss the potential connection between pathological and problem gambling and casinos. As discussed, pathological and problem gamblers do reside in Amador County and have been exposed to many forms of gambling, including casinos, for many years. The addition of another casino in Amador County is not expected to substantially increase the prevalence of problem gamblers. It is not necessary to attempt to quantify the number of pathological and problem gamblers within Amador County. However, the Tribe has agreed to make an annual contribution of \$10,000 to an organization(s) to address problem gambling issues, in the case that there is any increase in demand for treatment of these issues within Amador County.

L2-165 As discussed in **Section 4.7** of the DEIS, the Tribe has agreed to make an annual contribution of \$10,000 to an organization(s) to address problem gambling issues, in the case that there is any increase in demand for treatment of these issues within Amador County. Providing this compensation is not mitigation but would ensure local organization(s) have funds to address these issues. Therefore, providing a more detailed analysis of the costs of these services would not change the conclusions or increase the understanding of this potential impact.

L2-166 Refer to the response to **Comment L2-164** regarding potential impacts to problem gambling from the Proposed Project, and refer to the response to **Comment L2-165** regarding the payment of \$10,000 by the Tribe to a local organization(s) that treats problem gambling.

L2-167 As discussed in **Section 4.7** of the DEIS, the existence of other gambling outlets has presented the region with existing opportunities for gambling. Based on existing research, the introduction of a new casino where gaming opportunities already exist would not substantially increase the occurrence of problem gamblers. Refer to the response to **Comment L2-164** regarding the payment of \$10,000 by the Tribe to a local organization(s) that treats problem gambling.

L2-168 As discussed in **Section 5.2.9** of the DEIS, all parking areas would be well lit and monitored by parking staff, and/or roving security guards at all times during operation.

This would aid in the prevention of auto theft and other related criminal activity. Attempting to estimate exact casino patrolling is not possible at this stage of the project. However, Tribal security personnel would work cooperatively with the Amador County Sheriff's Office (ACSO), which provides general law enforcement services to the City of Plymouth on a contract basis. Additionally, as described in **Section 5.2.9** of the DEIS, the Tribe shall provide payments to the ACSO to provide for one officer to be based in Plymouth on a 24 hour a day/7 day a week basis. This would require the addition of 6.5 officers. The Tribe shall negotiate the exact amount of compensation for services with the ACSO. The annual review contingency in Section 5.2.9 of the DEIS has been removed from the FEIS in response to comments.

L2-169 Background data from the Amador County District Attorney's Office (ACDA), as provided by the commenter, indicate that criminal incidences increased with the introduction of the Jackson Rancheria casino. Similarly, in the discussion of potential impacts to crime provided in **Section 4.7** of the DEIS, it has been determined that the Proposed Project would increase the number of criminal incidences in Amador County. New criminal incidences could occur at the project site or throughout the County. Any new criminal incidences are expected to be similar to existing crime in Amador County. The Proposed Project would not result in substantial new types of criminal activity, but may increase the number of crimes that occur within the County, due to the increase in visitors, employees, and general economic activity. As discussed in **Sections 4.7** and **4.9** of the DEIS, the Tribe would provide compensation to local law enforcement service providers so that these agencies have the capacity (i.e. employees or equipment) necessary to address any increase in demand for law enforcement services resulting from the Proposed Project.

L2-170 As discussed in **Section 4.7** of the DEIS, to mitigate the removal of the project parcels as a source of tax revenue, compensation would be provided by the Tribe in lieu of property taxes, in addition to compensation paid for public services. The commenter is correct that current transient occupancy taxes the City receives from the Shenandoah Inn would be lost under the Proposed Project. However, as discussed in **Section 4.7** of the DEIS, tax revenues lost to the City or County would be offset by compensation provided by the Tribe to Amador County and new sales tax revenues. Refer to the response to **Comment L2-18** explaining that the majority of expenditures on goods and services would occur within Amador County and surrounding counties. Therefore, substantial new sales tax revenues would also be generated within Amador County. As discussed in **Section 4.7** of the DEIS, fiscal benefits from the Proposed Project including compensation provided by the Tribe and new tax revenues.

L2-171 Comment noted.

- L2-172 Mitigation Measure 5.2.9 (G)**, states that all parking areas shall be well lit and monitored by parking staff, and/or roving security guards at all times during operation. This would aid in the prevention of auto theft and other related criminal activity. As discussed in **Section 4.9** of the DEIS, the incorporation of this mitigation measure would assist local law enforcement agencies and help reduce effects to law enforcement services to a less-than-significant level. **Section 2.0** of the FEIS has been updated to include security cameras. Prior to operation of Phase I, the Tribe would install security cameras and would employ security personnel to provide surveillance of the casino, parking areas, and surrounding grounds. Security tapes will be archived and may be provided to law enforcement on request.
- L2-173** As stated in **Section 2.2.1** of the FEIS, nonsmoking areas would be provided. **Mitigation Measure 5.2.4 (L)** has been added to the FEIS, which requires that patrons be informed, through the use of signs posted at the entrance to the facility and through educational pamphlets, of the health risk of secondhand smoke. It is unclear why the commenter refers to Contra Costa County.
- L2-174** The commenter is correct that asthma is a chronic illness than can have serious health consequences. Environmental “triggers” can cause more frequent asthma attacks. **Mitigation Measures 5.2.4 (L)** warns of the health effects of smoking.
- L2-175** The assertion that there would be an increase in asthma cases due to increase project traffic is unsubstantiated. The commenter is correct air pollution has serious health consequence and emissions from motor vehicles contribute to poor air quality. Emissions from vehicles traveling to and from the Proposed Project are analyzed in **Section 4.4** of the DEIS. Health risks are the driving force for the enforcement of the National Ambient Air Quality Standards (NAAQS). A project that increases the concentration levels of any criteria pollutant in an area, which exceeds the NAAQS would be considered to be significant. Conformity *de minimis* levels determine if a project would increase the criteria pollutant levels above the NAAQS. Since the project emission are below the *de minimis* thresholds, project emission would not cause an exceedance of the NAAQS in the vicinity of the Proposed Project. **Mitigation Measure 5.2.4 (C)** would reduce particulate matter emissions associated with the Proposed Project.
- L2-176** The DEIS provides an analysis of all reasonably foreseeable social impacts from gambling in **Section 4.7.2**. A more in-depth analysis is provided for problem/pathological gambling and crime because these issues have the potential to experience a substantial impact from the project alternatives. Social costs associated

with gambling not discussed in detail would not result in potentially significant impacts from the project alternatives.

- L2-177** Population totals have been added to **Tables 3.7-8** and **3.7-9** of the DEIS. As discussed in **Section 3.7**, census tracts are a small, relatively permanent statistical subdivision of a county delineated by a local committee of census data users for the purpose of presenting data. Census tracts are designed to be relatively homogenous units with respect to population characteristics, economic status, and living conditions at the time of establishment. Therefore, statistics of census tracts provide an accurate representation of a community's racial and economic composition.
- L2-178** For a discussion on the use of census tracts to identify communities in the affected environment refer to the response to **Comment L2-177**. The industry designation for Mule Creek State Prison on **page 3.7-5** of the DEIS is assigned by the California Employment Development Department.
- L2-179** The Proposed Project would be entertainment in nature and patrons at the project site would not significantly increase demand for day care facilities. Employees at the project site would mostly come from the local labor pool and a portion would relocate from outside the county. Only a portion of new employees would generate demand for child care facilities. Employees that choose to relocate would be dispersed and would not increase demand substantially for any one child care facility.
- L2-180** Supplemental traffic counts were conducted in August, 2008 and constitute the basis for the revised TIA provided as **Appendix M** in the FEIS. The supplemental traffic counts were utilized to update impact analysis in **Section 4.0** of the FEIS. Additionally, the land geometries, including stop controls, have been updated within the revised TIA.
- L2-181** Refer to the response to **Comment L2-180** regarding updated traffic counts. Friday counts were collected and the timeframe utilized to conservatively determine impacts to the existing roadway network during peak hours. Refer to the response to **Comment S4-14** regarding the use of Friday counts as a conservative measure to identify impacts to the exiting roadway network associated with the project alternatives.
- L2-182** Roadway descriptions for the existing roadway network have been updated within the revised TIA. The description of each roadway within **Section 3.8** of the FEIS does not include the County jurisdiction. However, County jurisdictions are identified in Table 1 for each intersection and Table 2 for each roadway segment to ensure the adequate

LOS threshold is utilized to determine significant impacts within the analysis of the revised TIA.

- L2-183** Refer to the response to **Comment S4-08** regarding expansion of the study roadway network within the revised TIA. As discussed in Section 2.0 of the revised TIA, the analysis was expanded to include 38 intersections and 22 roadway segments. The intersections recommended by the commenter, except for the Watt Avenue/SR-16 intersection, were included in the revised TIA. The intersection of Watt Avenue and SR-16 was not requested for inclusion by either Sacramento County or Caltrans and is not anticipated to experience a significant increase in volume of over 10% due to project-related traffic.
- L2-184** The LOS thresholds for the intersections within the study roadway network have been updated in the revised TIA. Refer to Table 1 of **Appendix M** of the FEIS for the updated thresholds.
- L2-185** Refer to Table 2 of **Appendix M** of the FEIS for the updated threshold for the roadway segments. For the roadway segments along SR-88, the threshold is identified as LOS C.
- L2-186** Refer to the response to **Comment L2-184** regarding update of LOS thresholds for intersections. Within the revised TIA, the thresholds for the intersections of SR-16 with both Stone House Road and Grant Line Road are identified as LOS E and LOS D, accordingly. As discussed in Section 2.0 of the revised TIA, and shown in Table 1, the thresholds were determined based on guidance from the County of Sacramento's *Traffic Impact Analysis Guideline*.
- L2-187** Refer to the response to **Comment L2-184** regarding update of LOS thresholds for intersections. Table 1 of the revised TIA (**Appendix M**) indicates that the intersection of Latrobe Road with SR-16 has a LOS threshold of D.
- L2-188** Refer to the response to **Comment S4-06** regarding update of the LOS thresholds for roadway segments within the study roadway network. For the roadway segments along SR 49, the threshold is identified in the revised TIA as LOS D.
- L2-189** Based on the analysis contained in the revised TIA (**Appendix M**), unacceptable roadway conditions would be experienced along SR-88. For example, the following roadway segments along SR-88 would operate under unacceptable conditions with the inclusion of trips associated with the operation of Alternative A:

- SR 88 between SR 124 and Liberty Road during Friday and Saturday,
- SR 88 between Liberty Road and SR 12 East during Friday and Saturday,
- SR 88 between SR 12 East and Tully Road during Friday and Saturday,
- SR 88 between Tully Road and SR 12 West during Friday and Saturday, and
- SR 88 between SR 12 West and Kettleman Lane during Friday and Saturday.

Refer to **Section 5.2.8** of the FEIS for mitigation. Refer to Section 6.0 of the revised TIA for the full analysis of cumulative impacts from the project alternatives.

- L2-190** The commenter does not provide justification for the list of roadway segments requested for inclusion within an updated TIA. As previously addressed, the revised TIA has been updated to include additional roadway segments as identified in Table 2 of the revised TIA. The list of roadway segments was compiled based on requests from Amador County, El Dorado County, Sacramento County, and Caltrans. Refer to **Section 3.9** for the updated list of roadways segments analyzed within the FEIS.
- L2-191** Refer to the response to **Comment S4-10** regarding use of the appropriate peak hour factor (PHF) for each intersection within the study roadway network analyzed within the revised TIA. The correct PHFs were utilized for the Caltrans intersections, as well as the intersections under the jurisdiction of El Dorado County and San Joaquin County.
- L2-192** Refer to the response to **Comment S4-03** regarding consultation with local jurisdictions to develop the approved project list for the revised TIA. The approved projects surrounding the City of Plymouth were included within the list obtained from Amador County. The Shingle Springs and Buena Vista Casinos were included on the approved project list. Refer to Table 10 in Section 30 of the revised TIA in **Appendix M** of the FEIS for the full approved project list.
- L2-193** The reduction of the annual growth rate of roadway segment vehicle trips from 2.47% to 2.2% is not considered conservative. The average growth rate of 2.47% was calculated from Caltrans traffic counts of roadway segments from 2002-2004. This growth rate for the roadway segments would not directly result in the same growth rate at each turning movement at the intersections along the roadway. The application of the 2.2% growth rate to project traffic levels at each turning movement of the roadway intersections under the Existing Plus Approved Projects conditions is considered conservative.

L2-194 and L2-195

Refer to the response to **Comment S4-02** regarding updated traffic counts obtained in August of 2008. These updated counts were utilized within the revised TIA as a basis for the analysis of impacts associated with the trips generated by the project alternatives. The cumulative existing setting was calculated as described in the response to **Comment L2-193**.

L2-196 Refer to the response to **Comment S4-13** regarding the supplemental discussion within the revised TIA (**Appendix M**) addressing the methodology utilized to determine the trig generation rates for the project alternatives.

L2-197 Gaming floor area is defined in the DEIS on **page 2-2** in **Section 2.0**. The methodology used to determine trip generation rate relied on the entire facility floor space. Refer to the response to **Comment S4-13** regarding recalculation of trip generation rates.

L2-198 Saturday ADT and peak-hour counts have been included in the revised TIA (**Appendix M**). Refer to Table 8 of the revised TIA for the results of the Saturday traffic counts.

L2-199 Refer to the response to **Comment L1-05** regarding the use of the ITE Land Use Code 320 Hotel, plus reductions from internal trips to calculate the trip generation rate for the hotel.

L2-200 through L2-203

The revised TIA used a marketing analysis to evaluate trip distribution originating from population centers in central California. Figure 12 of the revised TIA in **Appendix M** of the FEIS shows the trip distribution based on this analysis.

L2-204 The revised TIA identifies the time horizon of year 2025 as the cumulative year of analysis. Refer to **Section 5** of the revised TIA in **Appendix M** of the FEIS for more detail regarding the selection of the cumulative time horizon.

L2-205 Refer to the response to **Comment L2-194** regarding the determination of existing roadway trips (no project) for the cumulative setting within the revised TIA.

L2-206 Refer to the response to **Comment S4-06** regarding update of the significance threshold for roadway segments and to the response to **Comment L2-184** regarding update of the significance thresholds for roadway intersections within the revised TIA in **Appendix M** of the FEIS.

- L2-207** Refer to the response to **Comment L1-03** regarding the inclusion of Saturday ADT rates to analyze impacts to the roadway networks within the revised TIA. **Section 4.8** of the FEIS has been supplemented to include the analysis of roadway segment impacts based on the Saturday ADT traffic counts.
- L2-208** A discussion of the truck percentages included within the analysis of the revised TIA is provided on page 22 of the revised TIA in **Appendix M** of the FEIS.
- L2-209** As identified in Table 1 of the revised TIA (**Appendix M**), the intersection of the project driveway and Randolph drive has been included in the analysis of project-related traffic impacts. Please refer to **Section 4.8** of the FEIS for the analysis of impacts to this intersection associated with the operation of the project alternatives.
- L2-210** Warrants for signalization of unsignalized intersections as a result of project-related impacts were assessed according to the Peak Hour Volume Warrant (Warrant No. 11) in the Caltrans *Traffic Manual*. This traffic impact analysis did not evaluate the full number of warrants to determine if signalization is warranted, but instead focused on the peak hour warrant. Intersections that exceed the peak hour warrant are considered (for the purposes of this impact analysis) to be likely to meet one or more of the other signal warrants (such as the 4-hour or 8-hour warrants).
- L2-211** Refer to the response to **Comment L1-08** regarding the determination of full-share and fair-share contributions towards mitigation measures to reduce impacts to the roadway network.
- L2-212** Refer to the response to **Comment L1-08** regarding full or partial funding of mitigation measures.
- L2-213** In accordance with NEPA, all feasible mitigation is identified within the EIS. This does not preclude mitigation to roadway networks that are not currently funded or part of a program for implementation. Refer to Section 7.0 of the revised TIA (**Appendix M**) for the proposed mitigation measures to reduce impacts associated with the project alternatives.
- L2-214** As discussed in Section 7.0 of the revised TIA in **Appendix M** of the FEIS, the Ione Bypass is recommended as a potential mitigation measure.
- L2-215** The description of the Amador Regional Transit System should have stated that the service is based in the unincorporated area of Martell and not the City of Jackson.

- L2-216** Once taken into trust, the site would be sovereign land and in most cases would not be subject to local or state jurisdiction. **Section 4.8** of the FEIS provides an analysis of the affect that the Proposed Project would have on the adopted land use. **Table 4.8-9** compares the project’s proposed land use to the City of Plymouth General Plan’s land use; and **Table 4.8.10** compares the project’s proposed land use to the Amador County General Plan. These tables confirm that the Proposed Project is generally consistent with both local and county plans. The FEIS states that there are certain parcels are not consistent with local plans. **Mitigation Measure 5.2.8AAA** addresses this issue.
- L2-217** FEIS **Section 3.8** correctly states the General Plan densities, “X” zoning classification, and “R1A” zoning parcel size.
- L2-218** Refer to the response to **Comments L2-216** and **L2-217** regarding project inconsistency with general plan and zoning.
- L2-219** The General Plan dates and zoning codes on page 3.8-16 of the FEIS are correct.
- L2-220** Refer to the response to **Comment L2-41** regarding the analysis of mineral resources within the FEIS.
- L2-221** Refer to the response to **Comment L2-216** regarding compatibility with surrounding land uses. The project alternatives would not affect a neighboring property’s ability to be utilized in accordance with the Williamson Act.
- L2-222** Refer to the response to **Comment L2-41** regarding mining.
- L2-223** Refer to the response to **Comment F1-02**, which describes that the preferred alternative would utilize groundwater wells. Refer to the response to **Comment S6-07** regarding the City’s Water Supply Assessment.
- L2-224** As discussed in the response to **Comment L2-38**, the Tribe has throughout the environmental review process expressed its willingness to enter into an agreement with the City and/or County for wastewater treatment and other important services. At this time, the most feasible and preferred alternative is to discharge to the intermittent creek pursuant to a NPDES permit and maximize the use of recycled water; however the Tribe reserves the option of constructing a recycled water reservoir. The project description has been updated in **Section 2.0** of the FEIS to reflect the Tribes intention to move forward with pursuing a NPDES Permit for WWTP effluent disposal as the preferred recycled water disposal option. Compliance with the NPDES permit would ensure that no adverse impacts would occur.

- L2-225** As discussed in **Section 1.1.1** of the DEIS, the Proposed Action includes taking 12 contiguous parcels of land into trust. Once the 12 contiguous parcels are taken into trust, the Tribe would establish governmental control over the land through Tribal Council decisions as allowed for in the Tribe’s constitution. Therefore, any future development on Tribal lands would be at the discretion of the Tribe with environmental oversight performed by the USEPA and other federal agencies in accordance with applicable federal regulations such as the Clean Water Act and Clean Air Act. In **Section 4.9** of the FEIS, wastewater impacts are discussed according to the project alternatives. Refer to the response to **Comment L2-38** regarding wastewater disposal.
- L2-226** A “will serve” letter for solid waste service is not available at this time, because a solid waste vendor has not been selected. As presented in **Section 4.9** of DEIS, the Tribe would either retain the services of the local solid waste service provider/hauler (Amador Disposal Services) or conduct a competitive bidding process for a waste haul contractor for the transportation of solid waste in both development phases of the Proposed Project.
- L2-227** The Western Amador Recycling Facility (WARF), as stated in **Section 3.9** of the DEIS, is classified “as a large volume transfer/processing facility...” The DEIS does not state that it is currently a materials recovery facility. However, wastes brought into the transfer station are sorted by type (cardboard, glass, metal, etc), but it does not have a pick line for the sorting of materials. This facility is permitted and accepts the following types of wastes: agricultural, industrial, construction/demolition, mixed municipal, and tires (CIWMB, 2008). The City of Plymouth currently has a contract with Amador Disposal Services for solid waste removal. The DEIS description of Amador Disposal Services, Inc. and the WARF are accurate.
- L2-228** The WARF did receive solid waste for the County prior to closing in April 2004, and did briefly haul wastes to the Kiefer Landfill in Sacramento County. Currently, wastes are routed to the Forward Landfill, located at 9999 South Austin Road Manteca, California 95336, which is approximately 45 miles southwest of the project site. This landfill is located within San Joaquin County and is a permitted solid waste facility. Forward Landfill has a permitted daily maximum disposal rate of 8,668 tons per day and has a estimated permitted capacity of 51,040,000 cubic yards (CIWMB, 2008), a total estimated capacity used of 11,008,942 cubic yards (or 21.6% of total capacity), with a remaining estimated capacity of 78.4%. Permitted/accepted wastes for this facility include: agricultural, asbestos, asbestos/friable, ash, construction/demolition, contaminated soil, food wastes, green materials, industrial, mixed municipal, sludge (biosolids), and tires. The estimated closure date for this facility is January 2020. Information has been updated in FEIS **Sections 3.9** and **4.9**.

- L2-229** The recycling practices during both Phases I and II of the Proposed Project are not set with specific percentage rates. Construction and demolition materials would be recycled to the “fullest extent practicable”, as presented in **Section 4.9** and in **Section 5.2.9** of the DEIS. These provisions were presented to further reduce impacts to solid waste facilities.
- L2-230** Estimated “food wastes” are presented in DEIS **Tables 4.9-1** and **4.9-2** for both development phases of the Proposed Project. The amount of solid waste derived from food and beverage services for both phases are presented and discussed in **Section 4.9.1** of the DEIS. Both tables present related information for solid waste streams for Phases I and II and include: the employment category, number of jobs for each category, the California Integrated Waste Management Board business type classification, the rate of solid waste production (tons/employee/year), the annual total estimated for the business type, and the estimated amount generated each day. Phase I is estimated to produce approximately 1,876 tons per year (tpy), or 5.14 tons per day (tpd). Approximately, 2,045 tpy or 5.6 tpd is solid waste generation rate for Phase II, which is slightly more than that estimated for Phase I.
- L2-231** In response to comments received on the DEIS, **Section 4.9** of the FEIS has been supplemented to include a discussion on the generation of universal waste during operation of the project alternatives. As discussed there within, the operation of the project alternatives would result in the generation of universal waste such as electrical equipment for the casino floor and retail centers and light bulbs throughout the facilities. Federal regulations classify batteries, pesticides, mercury-containing equipment, and lamps as universal waste. The Federal regulations allow states to petition to add other types of electronic waste for regulation under the universal waste rule as state law. Although universal waste would be generated on trust land, the Tribe intends on recycling universal waste locally. In order to reduce impacts associated with the generation of universal waste on trust lands, the Tribe has agreed to adopt universal waste recycling requirements for all facilities within the project boundaries identical to California’s Universal Waste Rule. The implementation of these requirements would ensure universal waste generated on the Tribe’s trust lands would be handled and recycled similar to existing conditions.
- L2-232** The commenter states the Alternative E (No-Action Alternative) would require mitigation for telecommunications and electricity, regardless of whether any future development is tribal-related or not. The analysis presented in **Section 4.9** is related to the development alternatives. Estimates for electrical needs have been included in the development alternatives based upon the specific features of each alternative. Including mitigation measures for numerous potential future development projects

under the No-Action Alternative would be speculative and therefore is not included in the analysis.

L2-233 Refer to the response to **Comment L2-02** concerning the date of collection and baseline of data within the DEIS. The commenter states that there are “numerous blanks” throughout the Fire Plan. The Fire Plan has been updated and all blanks have been removed.

L2-234 The comment states that local fire protection personnel and equipment would not be sufficient in the event “of major incidents due to the multi-storied hotel, the high-occupancy casino, and the mixed-use components of the facility.” Furthermore, the commenter states that the DEIS did not fully analyze the project’s effects on local fire services. **Appendix F** of the DEIS includes the Tribal Fire Plan, which has been revised in the FEIS, developed by the Tribe for the proposed development projects. The Fire Plan specifies a built-in response system and automatic sprinkler system that would greatly reduce the risk of a catastrophic event (**Section 4.9** of the DEIS). The Tribe would also develop an on-site, independent fire station, equipped at a minimum with a 1,750 gallons per minute (gpm) quint, plus a 1,500 gpm pumper and a 750 gpm grass fire/foam truck. The equipment specified for the Tribal Fire Station was selected to meet the needs of the Proposed Project, in consultation with County agencies (**Appendix L** of DEIS), and would be implemented upon project approval by a qualified fire consultant firm (**Section 3.2** of Fire Plan).

All members of the Tribal Fire Department would be trained to a minimum level of Fire Fighter I. It is expected that the Tribal Fire Department would enter into a mutual-aid agreement with the Amador Fire Protection District (AFPD) and other local fire protection providers, which would provide the terms and conditions under which the parties would respond and assist in calls for aid.

L2-235 As described in **Section 5.2.9** of the FEIS, prior to construction plans being finalized, the Tribe would work with emergency service providers to avoid restricting emergency response. Police, fire, ambulance, and other emergency response providers would be notified in advance of the construction schedule, the exact location of construction activities, the duration of construction period, and any access restrictions that could impact emergency response services. A Traffic Management Plan (TMP) will be developed and would include details regarding emergency service coordination. Copies of the TMP shall be provided to all affected emergency service providers. During operation of the selected project alternatives, mitigation to traffic-related impacts would reduce impacts to access by emergency service providers to communities along the roadway network. Additionally, mitigation has been included

in Section 5.2.8 of the FEIS requiring at least three Tribal security personnel to be educated in traffic control procedures. These security personnel will perform traffic control at the access roads during special events at the event center to make sure that when fire/emergency vehicles need to leave the site, traffic control is provided at the exit of the service entrance to allow smooth movement of emergency vehicles.

- L2-236** A mutual aid agreement would be entered into to supplement the Tribal Fire Department. Anticipated provisions of the mutual aid agreement are provided in the Fire Plan, included as **Appendix F** of the DEIS. This would enhance the fire response provided to the Tribe and surrounding communities. Fire protection impacts resulting from the development of the Proposed Project have been addressed in **Section 4.9** and would be minimized through the implementation of mitigation presented in **Section 5.2.9** of the DEIS. Both the Amador Fire Protection District (AFPD) and the California Department of Forestry and Fire Protection (CDF) were consulted during the EIS preparation process.
- L2-237** Refer to the response to **Comment L2-234** regarding development of an on-site Tribal Fire Department. For clarification, the following language has been added to **Section 2.0** of the FEIS, “The Tribal Fire Department would be staffed, at a minimum, with three persons, 24 hours a day.”
- L2-238** The commenter makes a general statement that the DEIS does not include enough analysis for the Proposed Project’s potential impacts to emergency call volumes to the City’s volunteer system. The commenter also states that a “full time paid fire department adequate in size to protect the values at risk both in terms of on and off site emergencies” should be provided for such a project. Emergency call taking and dispatching is specifically addressed in the **Section 4.9.1** of the DEIS. As part of the mitigation presented in **Section 5.2.9**, the Tribe has committed to negotiate in good faith to make an annual monetary payment to the County to address impacts to emergency dispatching. Mitigation was developed in consultation with local fire protection service providers (**Appendix L** of the DEIS). Refer to the responses to **Comments L2-234** and **L2-237** that addresses the Tribal Fire Plan, provisions to be included within the Fire Plan, and the staffing levels and training for the Tribal Fire Department.
- L2-239** The commenter makes a general statement that a single four-person staffed quint fire apparatus would not be adequate for an above ground level fire or rescue depending upon the height of the hotel and offers no other specifics or supporting data for this statement. Refer to the response to **Comment L2-236** regarding a mutual aid agreement that would enhance the fire response provided to the Tribe. The

combination of the on-site four-person quint and the resources of the AFPD, which would potentially be available through the mutual aid agreement, would be sufficient to provide above ground fire and/or rescue services to patrons at the five-story hotel included within Alternatives A and B.

- L2-240** As stated in **Appendix F** of the DEIS, the second alarm response model presented in the Fire Plan is a common response model used by most communities that staff a single fire station/fire company. As presented within the Fire Plan, Monday through Friday from 8:00 AM to 5:00 PM, the administrative fire fighting personnel would staff a “second due” company and off-duty personnel coupled with the administrative personnel would comprise a “general alarm” company. All members of the Tribal Fire Department would be subject to recall via pagers on a 24-hour basis. Second alarms would be handled by the administrative staffed apparatus during the administrative hours noted above. Outside of these hours, the second alarm would be staffed via call-back personnel. Off-duty personnel would receive a paged message noting a recall for a second or general alarm, and the first four off-duty Fire Fighters (eight shift and three 15 administrative) would then be instructed to respond for the second alarm response.
- L2-241** The commenter makes a general statement that a mutual aid agreement with local fire services would not be adequate unless those entities/other contract agencies also have paid staff readily available. The commenter does not provide any other details or supporting data to support this statement. The Tribe consulted with the AFPD and CDF for projected staffing needs and requirements to adequately address any project-related fire impacts as a result of the Proposed Project (**Appendix L** of the DEIS). The reliance on automatic mutual aid agreements is a common practice for fire, police, and other emergency services. The AFPD station is located approximately one mile from the project site. In accordance with the Fire Plan, the Tribe would pursue a mutual aid agreement with AFPD upon approval of one of the development alternatives. It is expected that the mutual aid agreement would include provisions for necessary equipment, personnel, training, and protocols. A complete list of anticipated provisions is provided in **Appendix F** of the DEIS.
- L2-242** Refer to **Comment L2-241**, regarding consultation with the AFPD and CDF for recommended staffing levels of the on-site fire station.
- L2-243** As presented in **Section 5.2.9 (N)**, the Tribe shall negotiate with the County to make reasonable contributions to the emergency dispatching call center. Specific terms and contributions shall occur during these negotiations, which would include topics such as budget, personnel, equipment, and “reasonable contributions” from the Tribe. The text

within **Section 5.2.9 (N)** of the FEIS has been supplemented to include the recognition of the costs of the AFD's contract with the state for fire dispatching service.

- L2-244** The commenter suggests specific terms for a Memoranda of Understanding (MOU) between the Tribal fire and emergency responders and other local emergency service providers. Refer to the response to **Comment L2-236** regarding anticipated provisions of a mutual aid agreement between the Tribe and surrounding fire districts. The Tribe will consider the terms recommended by the County.
- L2-245** Medical aid calls are addressed in **Sections 4.9, 5.2.9,** and **Appendix F (Fire Plan)** of the DEIS. The Tribe would enter into a contract with a qualified fire-service consulting firm to assist in the development of the on-site Tribal Fire Department that would provide both fire and emergency medical services. The Paramedic and Fire levels would be maintained through annual in-house training programs developed for the Tribal Fire Department. Refer to the response to **Comment L2-236** regarding a mutual aid agreement that would enhance the fire response provided to the Tribe and surrounding fire district. EMS transportation and initial treatment/stabilization through a private ambulance service would be available under the on-site response plan. The Tribe acknowledges the exclusive transport franchise agreement between the County and American Legion Ambulances.
- L2-246** Refer to the response to **Comments L2-236**, which states that a mutual aid agreement between the Tribe and AFD would be developed upon project approval, and provides a summary of the Fire Plan (**Appendix F** of the DEIS).
- L2-247** The commenter states that the FEIS should include an analysis of the impact of increased vehicle accident calls, referencing the sale of alcoholic beverages in the casino. Refer to the response to **Comment L2-236** regarding the mutual aid agreement to assist off-site emergency responders. Refer to **Section 5.2.9 (G)** regarding the commitment by the Tribe to develop a Responsible Alcoholic Beverage Policy, including discussing the policy with the California Highway Patrol (CHP) and the ACSO.
- L2-248** Refer to the response to **Comment L2-236** regarding consultation with the CDF and the anticipated mutual aid agreement between the Tribe and the AFD.
- L2-249** Refer to the response to **Comment L4-226**, which summarizes the existing telecommunication services in the area and recommends that consultation with SBC occur during the construction phase of the project to address/discuss the types and needs of services. Refer to the response to **Comment L2-245** regarding emergency

medical services provided by the Tribe. Although not integral to the review of potential environmental impacts, the Tribe will consider the suggested communication equipment comments for inclusion into the project design.

L2-250 As stated in **Section 2.0** of the DEIS, the “Tribe would adopt the currently held standards of the applicable federal building codes and the California Building Code, including all uniform fire, plumbing, electrical, mechanical, and related codes.” The Proposed Project would also be in compliance with the Federal Americans with Disabilities Act, P.L. 101-336, as amended, 42 U.S.C. §12101, *et seq.* The abovementioned standards would be followed during all development phases. Adoption of these codes would include the provisions outlined by the commenter.

Furthermore, as stated in **Section 2.0** of the Fire Plan (**Appendix F** of the DEIS), the casino, events center, and hotel would be developed using Type I non-combustible, fire resistive construction methods, which provide the highest level of fire resistance recognized by the California Building Code. Refer to the response to **Comment L2-245** regarding the use of a qualified fire-service consulting firm to assist in the development of the on-site Tribal Fire Department

L2-251 The commenter states that mitigation provided in the DEIS includes language that would occur when the project “opens” and requests that these should be changed to when the project enters into the construction phase. The language presented in **Section 5.0** is applicable to the appropriate timeframes dependent upon the specific measures, the impacts to be mitigated, and the phase of the project. Construction could potentially result in the increase of emergency service calls, but not above existing local capacity.

L2-252 Please refer to the responses to **Comments L2-234, L2-241, and L2-245**, regarding the development of the on-site fire department, the provisions of the mutual aid agreement regarding staff and equipment, and consultation with a qualified fire-service consulting firm. Other specifications of the fire protection services incorporated into the project alternatives have been summarized and included within the Fire Plan (**Appendix F** of the DEIS).

L2-253 Refer to **Section 4.1** of the Fire Plan (**Appendix F** of the DEIS), which includes training security guards to meet or exceed the National Fire Protection Associate (NFPA) standard 1081 for incipient Fire Brigades, including the appropriate use of PPE, including SCBA training and fit testing.

- L2-254** As presented in the Fire Plan (**Appendix F** of the DEIS), all fires requiring department response would include a general alarm for off-duty response. This is a response model used by most communities that staff a single fire station/fire company. Refer to the response to **Comments L2-241** regarding the mutual aid agreement. Preliminary response procedures are provided in **Section 4.0** of the Fire Plan. Refer to the response to **Comment L2-245** regarding consultation with the qualified fire-service consulting firm, which would include working with the Tribal Fire Chief to develop standard response protocols.
- L2-255** The commenter states that the use of “dry hydrant systems” should be minimized throughout the facility. The commenter does not provide any details to support this statement. Based on comments received on the DEIS, the Tribe has committed to maximizing recycled water use. This could include the use of recycled water for fire suppression. Pressurized hydrants and wet and dry sprinkler systems are included in the preliminary design as discussed in the Fire Plan (**Appendix F** of the DEIS). The final design and proportion of wet to dry hydrant systems have not been finalized. The description of the fire suppression system included within the Fire Plan is adequate to mitigate anticipated impacts identified within **Section 4.9** of the DEIS.
- L2-256** Based on the comment received, the project description in **Section 2.0** of the FEIS and the Fire Plan have been updated to include adequate fire department connections based on the size and spacing between buildings. The final number of fire department connection will be based on consultation with the Fire Marshall.
- L2-257** The Fire Plan (**Appendix F**) was developed to support the analysis of impacts to the local fire department. The information within the Fire Plan is adequate to mitigate anticipated impacts regarding on-site and off-site fire hazards associated with the implementation of a project alternative. The statement that “structural collapse will not occur” (page 2 of the Fire Plan) has been removed from the Fire Plan.
- L2-258** Comment noted. The Term “Automatic” has been removed from the introduction to the mutual aid agreement discussion in Section 4.4 of the Fire Plan (**Appendix F** of the FEIS).
- L2-259** The commenter states the discussion within the Fire Plan regarding compensation for services rendered is contrary to local operating plans. Based on the comment, this anticipated provision of the mutual aid agreement has been removed from the Fire Plan. Refer to **Appendix F** of the FEIS for the revised Fire Plan.

L2-260 The commenter states that the specified size of the Fire Command Center is too small. The dimensions of the Fire Command Center would be consistent with the International building and fire codes, which require a minimum of 96 square feet with a minimum dimension of 8 feet. The NFPA building code does not provide construction requirements for a Fire Command Center (USFA, 2006).

L2-261 Section 4.4 of the Fire Plan (**Appendix F** of the FEIS) states the following:

“Because the AFD station is located within one mile of the gaming facility, the second apparatus may be available within eight minutes. The exact mutual aid response cannot be defined until a mutual aid agreement is negotiated. The Tribal Council is committed to supplementing the Tribal Fire Department through a mutual aid agreement and sharing the resources of the Tribal Fire Department to further enhance the fire suppression delivery systems of the surrounding communities through a mutual aid agreement.”

L2-262 Refer to the response to **Comment L2-188** regarding the safety provisions included within the project alternatives to reduce crime and impacts to off-site law enforcement services. The comment that the absence of an armed Tribal police force will impact the number of service calls to the ACSO is unsubstantiated and therefore a response cannot be given.

Safety features have been included within the project design, including reduction of the parking lot footprint as shown in **Figures 5-1** through **5-5** in **Section 5.0** of the FEIS and lighting features as shown in **Attachment II** of **Appendix Y**. The exact number of security guards has not been determined.

The commenter provides a general statement that the Proposed Project would increase calls to the ACDA, Probation, Public Defender, and the courts. These impacts are addressed in the responses to the following comments.

L2-263 Refer to the response to **Comment L2-247** regarding the mutual aid agreement to assist off-site emergency responders and the commitment by the Tribe to develop a Responsible Alcoholic Beverage Policy, including discussing the policy with the CHP and the ACSO. Refer to the response to **Comment L2-168** regarding anticipated impacts to the ACSO and mitigation included within **Section 5.2.9** to reduce anticipated impacts, which includes funding for personnel and equipment. Impacts to the CHP are addressed in **Section 4.9** and mitigation is provided for identified

significant impacts in **Section 5.2.9** of the DEIS. Refer to **Appendix L** of the DEIS for the consultation letters.

The mitigation measures identified in **Section 5.0** of the DEIS were developed through consultation with the County and appropriate County agencies (refer to **Appendix L** of the DEIS), and include typical provisions found with MOUs between Tribes and municipalities. The commenter mentions impacts associated with incidents involving tactical response (such as SWAT or the bomb squad). The fiscal analysis in **Section 4.7** of the DEIS and **Appendix R** accounts for the costs of the County providing additional services resulting from the casino. Mitigation is included in **Section 5.2.9** which requires the Tribe to pay fees to mitigate for impacts related to the County providing required law enforcement services to serve the selected alternative.

- L2-264** As sated on page 4.9-7 of the DEIS, the ACSO would have the authority to enforce State criminal law on trust lands as authorized by Public Law 280.
- L2-265** Refer to the response to **Comment L2-168** regarding impacts and corresponding mitigation relating to law enforcement services and **Comment L2-263** regarding the identified mitigation measures.
- L2-266** The analysis within the DEIS assumes that impacts to law enforcement are directly proportional to the anticipated number of patrons that would frequent the selected development. Because of the uncertainty regarding this proportional relationship, the same level of mitigation is recommended in **Section 5.2.9** of the DEIS for all three development alternatives that include a casino.
- L2-267** The FEIS has been updated in **Section 3.9** to expand upon the discussion of the Law Enforcement Services Agreement (Agreement) dated April 28, 2005, between the City and the ACSO as presented by the commenter. The FEIS clarifies that the City provides one full-time-equivalent (FTE) officer and that the funding is provided through a State of California grant, which would be terminated if one of the development alternatives is implemented.
- L2-268** Refer to the response to **Comment L2-168** regarding mitigation to reduce impacts to law enforcement services. The level of detail requested by the commenter is not available at this time. Mitigation measures are commensurate with the anticipated level of impact. Compensation would entail determining full-time-equivalence (FTE) funding for required Sheriff's Deputies. These funds would cover not only employee salaries, but also provides compensation for equipment and administrative operations.

- L2-269** Refer to the response to **Comment L2-02**, which addresses the age of data within the DEIS and the requirement to update the FEIS with the new opening year dates as requested by the commenter. The level of detail requested by the commenter regarding the increase in jailed persons as a result of the implementation of a project alternative cannot be determined at this time. Impacts to law enforcement services have been considered and it is acknowledged that implementation of the project alternatives may have a significant impact on law enforcement services in the County. The Tribe has proposed mitigation in **Section 5.2.9** of the DEIS, revised in the FEIS, that would ensure that law enforcement services would not be adversely impacted by the project.
- L2-270** The description of the closest ACSO station located within the City of Plymouth is taken directly from the ACSO's response letter and is an accurate description. The ACSO was contacted for its input, statistics, and opinion in regards to potential impacts related to the development of the Proposed Project; such correspondence is contained in **Appendix L** of the DEIS.
- L2-271** The commenter states that the FEIS should include an estimate of coroner cases that ACSO would respond to as the result of deaths associated with the casino. This information would be dependant upon numerous variables, such as the general health conditions of patrons visiting the establishment and previous diagnosis of each person. This information is not available and the mitigation within **Section 5.2.9** of the FEIS would require payment of fees that would compensate for required law enforcement services.
- L2-272** Refer to the response to **Comment L2-02**, which states that the NEPA environmental review process does not require supplementing or updating the EIS for redistribution with new opening year dates. However, the BIA has reviewed the data within the DEIS and where necessary, descriptions of the existing setting and technical analysis has been updated.
- L2-273** Refer to the response to **Comment L2-168** regarding on-site security staff working with ACSO. In the case of violent and criminal acts that require immediate attention, security staff would be available to assist in using 911 emergency service to alert ACSO for immediate assistance, as with any other commercial property in the County. The information requested by the commenter is not pertinent to the analysis of the project alternatives impacts on the environment relating to law enforcement services.
- L2-274** Refer to the response to **Comment L2-262** regarding a Tribal police force. The use of a security force will reduce potential criminal acts, but would rely on the ACSO to respond to all service calls. Refer to the response to **Comment L2-168** regarding

mitigation to reduce impacts to the ACSO related to increase in service calls from the implementation of the project alternatives. An on-site ACSO sub-station is not necessary in order to address the law enforcement needs of the project alternatives.

- L2-275** The DEIS states in **Section 4.9** that the Tribal security force would provide security patrols and monitoring of the casino, parking areas, and surrounding grounds. Security staff would report potentially escalating situations to the ACSO. Security personnel would also provide a deterrent, indirectly preventing some criminal activities from occurring or escalating. Security staff will be trained to contact ACSO regarding any observed criminal activity or suspicious behavior.
- L2-276** Refer to the response to **Comment L2-02**, which states that the NEPA environmental review process does not require supplementing or updating the EIS for redistribution with new opening year dates.
- L2-277** **Section 4.9** of the FEIS has been updated to specify that the Jackson Rancheria operates a Tribal police force and does not serve alcohol within the casino. Impacts to law enforcement services associated with Alternative A may be slightly higher or lower than those associated with the Jackson Rancheria casino, though they would still be “similar” as stated in **Section 4.9** of the DEIS. The impact to law enforcement services were identified as significant in the DEIS for all project alternatives. Refer to the response to **Comment L2-270** regarding consultation with ACSO to determine impacts and subsequent mitigation as a result of the implementation of a casino development.
- L2-278** **Section 4.9** of the DEIS includes a summary of current operating statistics reported by ACSO in regards to the Jackson Rancheria’s tribal police force. Specific operations of the Rancheria’s police force are confidential and are not necessary to determine the environmental impacts associated with the project alternatives.
- L2-279** Refer to the response to **Comment L2-270** regarding consultation with ACSO. As stated in **Appendix L**, ACSO estimated 6.5 officers would be required to provide one additional deputy for 24 hours of service, seven days a week. Off-site impacts would be mitigated in part through the impact mitigation fees described in **Section 5.2.9** of the FEIS.
- L2-280** Refer to the response to **Comment L2-268** regarding compensation for impacts to the ACSO.
- L2-281** Refer to the response to **Comment L2-02** regarding updating the EIS. Mitigation measures are listed in **Section 5.2.9** of the DEIS to reduce effects to ACDA.

- L2-282** Refer to the response to **Comment L2-277** regarding impacts to law enforcement compared to the Jackson Rancheria casino. Impacts to ACDA were identified in the DEIS as significant for all project alternatives. Mitigation has been included in **Section 5.2.9** of the DEIS and FEIS to reduce such impacts to less-than-significant levels.
- L2-283** Refer to the responses to **Comments L2-277** and **L2-282** regarding impacts to the ACDA's office, compared to the 2004 reported impacts from the operation of the Jackson Rancheria casino. Refer to the response to **Comment L2-247** regarding the commitment by the Tribe to develop a Responsible Alcoholic Beverage Policy, including discussing the policy with the CHP and the ACSO.
- L2-284** Traffic impacts are addressed in **Section 4.8** and **4.11** of the DEIS and FEIS. Refer to the response to **Comment L2-168** regarding impacts and corresponding mitigation relating to law enforcement services and **Comment L2-263** regarding the identified mitigation measures.
- L2-285** Refer to the response to **Comment L2-277** regarding a comparison of the Proposed Project to the Jackson Rancheria Casino.
- L2-286** Mitigation measures would be implemented for any of the three casino development alternatives. **Section 4.9** of the FEIS has been updated to clarify that less-than-significant impacts would result for Alternative B and C after the implementation of mitigation included in **Section 5.2.9**.
- L2-287** Estimates for staffing levels and shift deployment were provided by the Amador County CHP office. It was anticipated, through consultation with CHP, that the casino and hotel would create additional demands on CHP services (**Section 4.9** of the DEIS). **Section 5.2.9** of the FEIS includes revised mitigation to address impacts to CHP services.
- L2-288** In **Section 3.9**, the DEIS states that ACSO provides general law enforcement services to the City of Plymouth on a contract basis. General law enforcement services include traffic-related services within the City of Plymouth.
- L2-289** Refer to the response to **Comment L2-02** regarding the need to update information in the EIS. Data was collected from the year that consultation with the CHP occurred. The information presented in **Sections 3.9** and **4.9** is still applicable to the project site and vicinity.

- L2-290** Refer to the response to **Comment L2-287** regarding mitigation of potential impacts to CHP services.
- L2-291** The FEIS has been updated in **Section 4.9** to identify potential impacts to other County law enforcement agencies, including the Amador County Public Defenders Office, that may result from the Proposed Project. **Section 5.2.9** of the FEIS has been updated accordingly to provide mitigation to reduce the identified impacts to less-than-significant levels.
- L2-292** Impacts to the County's General Service Administration (GSA) would be mitigated through the funding measures identified in **Section 5.2.9** of the FEIS for the specific law enforcement agencies that would potentially be impacted by the project alternatives.
- L2-293** Refer to the response to **Comment L2-291** regarding impacts to the public defenders office.
- L2-294** As discussed in **Section 4.8** of the DEIS, the proposed casino developments would draw some patrons from other casinos. Because these casinos are currently operational, the patron base for the Proposed Projects would include those patrons. The law enforcement impacts would thereby be included in the existing mitigation provisions of the other local casinos, offsetting impacts to City and County departments. It is not anticipated that the Proposed Project would significantly impact the police departments within the cities of Ione, Jackson, and Sutter Creek.
- L2-295** The FEIS has been updated in **Section 4.9** to identify potential impacts to other County law enforcement agencies, including the Amador County Probation Department. **Section 5.2.9** of the FEIS has been updated accordingly to provide mitigation to reduce the identified impacts to less-than-significant levels.
- L2-296** The FEIS has been updated in **Section 4.9** to identify potential impacts to other County law enforcement agencies, including the Amador County Court System, that may result from the Proposed Project. **Section 5.2.9** of the FEIS has been updated accordingly to provide mitigation to reduce the identified impacts to less-than-significant levels.
- L2-297** The discussion of public services in **Section 3.9** of the DEIS provides a detailed discussion of the operations of the ACSO and the CHP. As the County provides Public Defender, Probation Department, and superior court services on a countywide basis, and the cost of these services are included in the County's budget, the fiscal analysis in **Section 4.7** of the DEIS and **Appendix R** accounts for the impacts to the County of

providing additional services resulting from the casino. Impacts to the Amador County Public Defenders Office, Probation Department, and Superior Court are addressed in **Section 4.9** of the FEIS. Mitigation is included in **Section 5.2.9**, which requires the Tribe to pay fees to mitigate for impacts related to the County providing required law enforcement services to serve the selected alternative. As stated in the response to **Comment L2-294**, it is not anticipated that the Proposed Project would significantly impact the police departments within the cities of Ione, Jackson, and Sutter Creek.

L2-298 The mitigation within **Section 5.2.9** of the FEIS requiring the Tribe provide payment to compensate for impacts associated with the selected project alternative has been updated. Prior to commencement of operations of the selected project alternative, the Tribe would negotiate the impact fees with the appropriate law enforcement agency. Exact funding requirements cannot be determined at this time.

L2-299 The discussion of impacts to law enforcement agencies has been expanded in **Section 4.9** of the FEIS. **Mitigation Measure 5.2.9 (K)** of the FEIS has been updated to require Tribe to pay fees to mitigate for impacts related to the County providing law enforcement services to the selected alternative.

L2-300 Refer to the response to **Comment L2-279** regarding the number of officers required to address impacts from the Proposed Project. Refer to the response to **Comment L2-268** regarding the impact to administrative law enforcement services.

L2-301 Refer to the response to **Comment L2-168** and **L2-269** regarding impacts to law enforcement services.

L2-302 **Section 5.2.9** has been updated to clarify that specific funding amounts will be negotiated with the County of Amador.

L2-303 Refer to the response to **Comment L2-268** regarding compensation for law enforcement staffing. The annual review contingency in Section 5.2.9 of the DEIS has been removed from the FEIS in response to comments.

L2-304 Projected impacts are addressed in **Section 4.9** of the FEIS. Impacts associated with the project alternatives are considered significant, and mitigation is provided in **Section 5.2.9** to reduce identified impacts.

L2-305 Refer to the response to **Comment L2-303** staffing considerations.

L2-306 Refer to the response to **Comment L2-287** regarding impacts to the CHP.

- L2-307** Refer to the response to **Comment L2-238** regarding the Proposed Project's potential impacts to emergency call services.
- L2-308** Refer to the response to **Comment L2-294** regarding impacts to the police departments in the Cities of Ione, Jackson, and Sutter Creek. Refer to the response to **Comment L2-295** regarding the Amador County Probation Department. Refer to the response to **Comment L2-291** regarding the Amador County Public Defender's Office. Refer to the response to **Comment L2-296** regarding the Amador County court system.
- L2-309** As stated in **Section 4.7** of the DEIS, benefits, including health insurance, would generally be provided for employees of the Proposed Project. This would greatly reduce the impacts on County-provided medical services. Refer to the response to **Comment L2-164** regarding problem gambling.
- L2-310** As presented within **Section 4.10** of the DEIS, the majority of the waste generated by the casino would be nonhazardous and would include common items found at most commercial sites in the County. The diesel fuel tanks for the back up generators would be above ground, and would be constructed with double walls and integrated leak detection systems. Furthermore, the fuel storage tanks would be regulated by the Spill Prevention, Control and Countermeasure (SPCC) Regulations (40 CFR Part 112). As part of the SPCC regulations, a Spill, Prevention, Control, and Countermeasure (SPCC) Plan would be prepared that identifies operating procedures to reduce the risk of spill and control and counter measures that would be implemented in case a spill occurs. Although unlikely, in case the self-contained units leak, the SPCC Plan would ensure measures are in place to protect human health and the environment. Compliance with these regulations would result in less-than-significant impacts related to the storage of diesel fuels. Based upon the potential for impacts from hazardous waste/materials on site, it is unlikely that a hazardous materials emergency response team would be required for the types and volumes of common hazardous materials that would be found at the project site.
- L2-311** Once the project site is taken into trust, the local environmental health department would not have jurisdiction to oversee food preparation. As discussed in **Section 2.0** of the DEIS, the Tribe will adopt and comply with standards no less stringent than state public health standards for food and beverage handling. The Tribe is responsible for ensuring these provisions of the project are in compliance. The National Indian Gaming Commission would also provide oversight through the Tribal gaming ordinance (a draft ordinance is provided as **Appendix U** of the FEIS). Section 12 of the Tribal gaming ordinance requires gaming facilities be constructed, maintained, and operated in a manner that adequately protects the environment and the public health

and safety, including food handling. The Tribal gaming ordinance also requires that the Tribe Council adopt standards that assure adequate protection of the environment and the public health and safety.

- L2-312** The noise calculations are based on the traffic conditions provided in the TIA. A doubling in traffic would constitute an increase in the ambient noise level of 3 decibels, which is the threshold of audible sound (FHWA, 2008). Refer to the response to **Comment S4-13** regarding recalculation of trip generation rates. As shown in **Section 4.8** of the FEIS, no audible increase in noise would occur.
- L2-313** As shown in **Section 4.10**, **Section 3.10**, and **Table 4.10-6** of the FEIS, the greatest projected increase in the ambient noise level would be 3 dBA along SR 124 south of SR 16. This increase is calculated at 100 feet from roadway centerline and is based on an existing baseline noise level of 58 dBA (**Section 4.10** of the DEIS). When project traffic is added to the roadway network, the resulting noise level would increase to 61 dBA at 100 feet; thereby, a 3 dBA increase. The commenter is incorrect in the assumption that because noise attenuates at 3 dBA per doubling of distance, this increase would be 6 dBA at 50 or 12 dBA at 25 feet. If the commenter's assumption were correct, the noise level with project traffic would be 67 dBA at 50 feet. However, using these same assumptions, the noise level at 100 feet would be 64 dBA, and not the 61 dBA calculated in **Section 4.10** of the DEIS. The commenter does not consider that at 25 and 50 feet, baseline and vehicle traffic noise levels would proportionately increase, resulting in the same 3 dBA perceptible noise increase experienced at 100 feet. No businesses or residences within 25 and 50 feet of the roadway centerline would experience noise level increases above 3 dBA as shown in **Table 4.10-6**. Additional analysis is not required within the FEIS.
- L2-314** A stand-alone noise study was not prepared; however, noise level estimates were made for the project alternatives by Miller Environmental Consultants, which assisted in the preparation of the DEIS. The data sheets for the noise level estimates have been provided as **Appendix X** of the FEIS.
- L2-315** The Proposed Project involves a federal action; therefore, federal noise threshold are applicable. The threshold of significance as described in **Section 4.10** of the FEIS is based on the U.S. Department of Transportation *1995 Highway Traffic Noise Analysis and Abatement Policy and Guidance*. The commenter is correct; the FEIS does not specifically provide an analysis that demonstrates compatibility with local noise thresholds.

L2-316 The attenuation value in **Section 4.10** of the FEIS has been changed from 3 dBA to 6 dBA to be consistent with **Table 4.10-3** of the FEIS.

L2-317 The values in **Section 4.11** in the FEIS have been changed from 3 dBA to 2 dBA and from 61 dBA to 62 dBA to be consistent with **Tables 4.11-23** and **4.11-28** of the FEIS.

L2-318 and L2-319

The commenter points out that the terms “to the extent feasible” and “normal daylight hours” are ambiguous. **Section 5.2.10** of the FEIS has been revised stating that construction activities shall be limited to the hours of 6 am to 6 pm, Monday through Saturday.

L2- 320 The noise analysis assumed a flat topography with no barriers between the casino property and sensitive receptors to the southwest and northwest. The mitigation measure and noise analysis have been modified and it has been determined that due to the topography of the area, the barriers between the casino property and the nearest residence (trees and commercial buildings), and the attenuation of noise in rural settings (noise attenuates at a greater rate through grassland than it does through paved and developed land), the noise levels at the nearest residence would not exceed a 5 dBA increase. Therefore, no noise berm or wall would be required.

L2-321 and L2-322

Refer to the response to **Comment S7-06** regarding the abandoned mine and the analysis of the waste rock that is located within the project site, but outside of the areas of planned disturbance.

L2-323 Refer to the response to **Comment L2-39** regarding impacts associated with the construction of a storage reservoir. Water samples were collected from intermittent drainages that flow through the project site, two of which are downstream from the historic Pioneer Mine. Refer to **Figure 3.3-3** of the DEIS for the sample locations and **Table 3.3-2** for the results. As indicated by the results, water quality is consistent with basin plan objectives, except for arsenic at sample point 3. However, as discussed in the response to **Comment S7-06**, natural arsenic levels in the region are elevated. The pH of the water samples is neutral and, therefore, the potential for acid rock drainage is minimal.

L2-324 The Phase I Environmental Site Assessment (Phase I ESA) has been updated in accordance with the American Society for Testing and Materials (ASTM) Standard Practice E 1527-05, and BIA guidelines (620 DM Chapter 2), which specify requirements for the innocent landowner defense under the Comprehensive

Environmental Response, Cleanup, and Liability Act (CERCLA) and procedures for proposed real property acquisition. Refer to **Appendix O** of the FEIS for the updated Phase I ESA.

- L2-325** Refer to the response to **Comment S7-06** regarding analysis of the waste rock piles adjacent to the historic Pioneer Mine.
- L2-326** Clarification is provided in **Section 4.10** of the FEIS that the Tribe will comply with NFPA regulations and applicable safe engineering practices for storage of bulk propane on the project site.
- L2-327** **Mitigation Measure 5.2.10 (L)** in the FEIS has been revised to require asbestos containing materials be evaluated in addition to the lead based paint assessment for those structures requiring demolition.

Asbestos hazards are included in the Air Quality (**Section 4.4**) of the FEIS. The Hazardous Materials section (**Section 4.10**) in the FEIS has been corrected to include the proper reference to **Section 4.4** (Air Quality).

- L2-328** As discussed in **Section 2.0** of the DEIS, impacts to visual resources would be minimized through the preservation of existing trees and vegetation, and the planting of complimentary landscaping. Trash enclosures, walls, and fences would be screened with landscaping. The incorporation of these features would break up and soften the massing of the proposed casino building. **Section 2.0** of the FEIS has been updated to include additional discussion regarding landscaping features. Refer to **Figures 5-1** through **5-5** of the FEIS for updated site plans and **Attachments I** and **II** of **Appendix Y** for viewsheds from SR 49 of the revised architectural renditions and the preliminary lighting plan for Alternative A, respectively.

The site already encompasses, and is planned to incorporate, commercial development. Proposed land uses for Parcels #4 through #11, which are located within the jurisdiction of the City of Plymouth, include the main casino building for Alternatives A through C and a commercial development for Alternative D. Both types of development would include associated parking facilities. These land uses would be consistent with the commercial designation of the site within the City of Plymouth General Plan and zoning ordinance. Alternatives A and B would be consistent with the existing development on the project site, which includes a multi-story hotel. Alternatives to the multi-story hotel and size of the facility, as recommended by the commenter, are considered in the DEIS. Refer to **Section 2.2.3** for the description of

the reduced casino alternative and **Section 2.2.4** for the description of the commercial development alternative.

L2-329 As discussed in the response to **Comment L2-328**, impacts to visual resources were taken into consideration during the design of the project alternatives. For example, the Tribe has anticipated that a casino in a rural setting could result in aesthetic impacts. Therefore, the specific project site was selected due to the existing commercial development adjacent to SR 49. Refer to the response to **Comment L2-328** regarding additional provisions included within project design to reduce adverse impacts to visual resources.

L2-330 Refer to **Figures 5-1** through **5-5** of **Section 5.0** of the FEIS for the updated site plans and **Attachment I** for viewsheds from SR 49 and adjacent to the main casino building. As shown in **Attachment I**, the proposed structures would be architecturally designed to be complementary to the surrounding environment. Alternative A would not substantially degrade the visual character of the site and its surroundings.

L2-331 In response to comments received on the DEIS, the discussion of the project alternatives in **Section 2.0** of the FEIS has been supplemented with additional details regarding lighting and signage. Lighting fixtures on the project site would be downcast where applicable to decrease light impacts to neighboring parcels with non-commercial land uses. Refer to **Attachment II** of **Appendix Y** of the FEIS for a preliminary lighting plan for Alternative A. This downcast lighting produced would be directed away from surrounding areas and towards the project site. Signage would be minimal and would be less obtrusive than the existing sign for the Shenandoah Inn, which is the approximate height of a two-story building. As discussed in the response to **Comment F1-19**, the site plan for the Proposed Project developments have been revised to reduce the expanse of surface parking lots (refer to **Figures 5-1** through **5-5** in **Section 5.0** of the FEIS). This would also reduce the extent of outdoor lighting that would be required to ensure a safe parking area.

L2-332 The commenter hypothesizes that there would be increased roadside litter due to the increase in visiting patrons to the Proposed Project. The commenter does not include any statistical information or supporting evidence for this statement and, therefore, a specific response cannot be provided. However, **Mitigation Measure 5.2.10 (P)** has been added to the FEIS stating: “The Tribe shall participate in Caltrans’ Adopt-A-Highway Program to provide litter removal on one or more highway segments in the vicinity of the project site.”

- L2-333** SR 49 is eligible for designation as a State Scenic Highway. As stated in the Amador County General Plan, Scenic Highways Element (SHE), standards for the designation as an official scenic highway require that all actions be taken by local agencies to protect the scenic corridor of the highway. The SHE states that the Amador County Board of Supervisors has passed a resolution stating that portions of Highway 88 can be regulated according to the standards for official scenic highway designation. The SHE then defines a scenic corridor for Highway 88. The SHE does not indicate that SR 49 has been named by the Amador County Board of Supervisors as a candidate for protection and scenic highway designation. The Proposed Project has no effect on this designation status.
- L2-334** In response to comments received regarding the residential structures on Parcels 2 and 12, **Section 2.0** of the FEIS has been clarified to state that the structures on these parcels would be abandoned by residents, but would be used by the Tribe and therefore would not be affected by visual impacts. Refer to the response to **Comment L2-320** regarding sound barriers. The mobile home park would not be visually impacted by the project alternatives. The mobile home park is nearly one-half mile northwest of the project site, and existing trees at the mobile home park provide a visual barrier between the park and the southeastern viewshed towards the project site.

L-03 AMADOR WATER AGENCY

- L3-01** The commenter suggests that the DEIS needs to further evaluate potential impacts associated with Option 1, which consists of connection to the City's water system.

Based on the comments received on the DEIS from the City and the Amador Water Agency (AWA), the Tribe has selected water supply Option 2 as the preferred option. Option 1 would only become viable if a service agreement is entered into between the City and the Tribe. Refer to the response to **Comment F1-02** regarding the inclusion of commercial development consistent with the Proposed Project within the City's Water Supply Assessment (WSA). Providing water to the selected project alternative would be consistent with the agreement noted by the commenter. Capacity would be made available through on-site storage, filling of which could be limited to off-peak hours, and additional supply could be provided by the on-site groundwater wells described for the preferred water supply option (Option 2).

As described in **Section 2.0** of the DEIS, an existing 10-inch diameter service line with a capacity of 2,000 gpm loops around Village Drive, providing services to existing facilities along the roadway (Selby Beck, personal comm., 2007). The selected alternative would connect to this service line, which would provide adequate capacity

for the project alternatives. For example, as described in **Section 4.9** of the DEIS, the water demands of Alternative A with the use of recycled water on-site would account for only 4% of the 10-inch service line's capacity. As shown in **Figures 5-1** through **5-5** in **Section 5.0** of the FEIS, the updated site plans indicate development would occur adjacent to Village Drive, and connection to the 10-inch line would result in minimal disturbance. Refer to the response to **Comment L2-109** regarding identification of special-status species on the project site, including VELB and RLF. AWA's water treatment plant will be sized to meet the 2025 water demands projected in the City's updated General Plan. With the inclusion of commercial development similar to the Proposed Project within the City's WSA, the water demands of the project would be met by the plant.

L3-02 Refer to the response to **Comment L3-01** regarding the preferred water option (Option 2) and the potential for connection to the 10-inch diameter service line along Village Drive if an agreement is reached between the City and the Tribe (Option 1). With existing service provided to the project site via the Village Drive loop and inclusion of commercial development similar to the Proposed Project within the WSA, the City has included the potential demand of the Proposed Project within its storage requirements.

L3-03 The comment is noted; however, the preferred alternative includes Water Supply Option 2, which does not include use of in the AWA's water supply. Refer to the response to **Comment L3-02** regarding implementation of Option 1. Further, compliance with SB 610 is a state requirement not applicable to the proposed casino-hotel. A water and wastewater feasibility study was conducted for the Proposed Project (**Appendix B** of the DEIS), as well as a groundwater well pumping test (**Appendix C** of the DEIS), which provide evidence that sufficient water supply is available to serve the Proposed Project through the use of a combination of sources, including; on-site wells, off-site wells, transported water, and maximized use of recycled water.

Refer to **Section 2.0** of the FEIS, which identifies the development of an on-site groundwater supply system as the preferred option to meet potable water demands of the project alternatives.

L3-04 An engineering analysis was performed to determine projected wastewater flows for the project alternatives and determine feasible methods for disposal, taking into consideration the project site and local municipal systems (**Appendix B** of the DEIS). An average estimated wastewater flow was calculated using the weekday and weekend flows. The average is calculated assuming five days of weekday plus two days of weekend flows. The average wastewater flow is useful in determining the design average day water demand and design wastewater disposal flow.

Facility programs are used to calculate the wastewater flows based on the proposed site layout. The facility program provided for each site alternative describes what type of restaurants are proposed and the respective number of seats, the number of hotel rooms, gaming areas, square footage of facility areas, etc. From these descriptions and quantities, unit wastewater flows (gallons per day per unit) were estimated.

Based on the facility program, the preferred alternative would generate approximately 223,748 gpd of wastewater on a typical weekend day, and 154,569 gpd on an average day. The project includes a 250,000 gallon storage tank for tertiary-treated effluent. As described in the Water and Wastewater Feasibility Study (**Appendix B** of the DEIS), the tank was sized such that it would provide equalization for peak flows, as well as emergency storage, thereby allowing for a more steady flow to be sent to the recycled water distribution system. For a discussion of the estimated water demands, refer to **Section 4.3** of the FEIS.

- L3-05** The commenter states that the DEIS is vague as to the extent to which recycled water would be utilized if Option 1 were pursued. As stated previously, the Tribe has committed to the maximization of recycled water use. Section 2.3 of **Appendix B** of the DEIS identifies the non-potable water demand of each project alternative that could be met with recycled water.

L4 CITY OF PLYMOUTH

- L4-01** Refer to the response to **Comment L2-01** regarding the general comment that the information within the DEIS does not sufficiently identify and address environmental impacts.
- L4-02** The BIA sought comments from the City regarding land use conflicts through the request for comments on the Administrative Draft of the EIS (ADEIS), as the City is a cooperating agency for the NEPA process. After release of the Notice of Intent (NOI) to develop the EIS, published in the Federal Register on November 7, 2003, the BIA formally requested the City act as cooperating agency, which the City accepted. A 30-day comment period was initiated with the publication of the NOI, and a Scoping sessions were held to receive comments. Based on the interest, a supplemental NOI was published announcing an additional 30-day comment period and an additional scoping session was held. Refer to **Section 1.3** of the DEIS for an expanded discussion of the environmental review process, including opportunities for commenting on the Proposed Action and project alternatives.

The BIA received comments from the City on land use conflicts in a letter dated April 20, 2005, as discussed in **Section 4.8** of the ADEIS. The comments provided by the City in that letter were similar to those received on the DEIS. The comments were considered and led to revisions in the DEIS in accordance with 40 CFR § 1503.4.

- L4-03** Refer to the response to **Comment F1-02** for a detailed discussion of the impact of the Proposed Project's groundwater extraction on regional groundwater supplies, and proposed measures to mitigate impacts.
- L4-04** Solid waste impacts are addressed in **Section 4.9** of the DEIS. As discussed in **Section 4.9** of the DEIS, waste generated during Phase I of Alternative A would constitute less than 0.06% of the average daily remaining capacity at the landfill, even under the conservative assumption that no recycling would occur (Goodrich, 2004). Based on the remaining capacity of the landfill, and minimal use of the existing capacity to meet the waste disposal demands, Alternative A would result in a less-than-significant impact to solid waste services and disposal. Mitigation measures listed in **Section 5.2.9** of the DEIS would further reduce the effects to regional solid waste disposal services.
- L4-05** While **Section 3.7** of the DEIS identifies and acknowledges that minority communities exist within the local area that would be affected by the project, the EIA presented as **Appendix R** and the additional evaluation in **Section 4.7** determine that the Proposed Project would not result in any disproportionately high or adverse impacts to these minority communities. As discussed in the economic analysis in **Section 4.7** of the DEIS, implementation of the project alternatives would result in the increase in employment opportunities, which would benefit local minority communities. Therefore, under Executive Order 12898, no mitigation would be required related to minority communities.
- L4-06** As discussed in **Section 4.7** of the DEIS, the construction of new housing may result from the Proposed Project but would not be required due to the proximity of major urban areas to the project site. New employees that would choose to relocate to the project vicinity could choose to rent or buy existing or new housing. It is expected that new housing construction would be limited by the number of employees able to finance a new home, the availability of residential zoned land, and local land use regulations (including water use regulations); consequently, any new housing construction would be compatible with regional planning efforts.
- L4-07** Comment noted. Refer to the response to **Comment L2-07** regarding the format and layout of the DEIS.

- L4-08** Refer to the response to **Comment L2-27** received from the County that also stated an opinion that the DEIS does not provide a reasonable range of alternatives to the Proposed Project.
- L4-09** The size of the proposed hotel is based on the local market. Hotels have a high cost of operation and require enough guests to ensure a profit. The potential for a reduced casino and reduced hotel alternative was reviewed, and then dismissed based on the association between reduced revenue from a smaller casino and high operating costs of a hotel with fewer than 250 rooms. Refer to the response to **Comment L2-27** regarding the appropriate range of alternatives analyzed within the DEIS.
- L4-10** Refer to the responses to **Comments L2-01** through **L2-03** concerning the BIA's response to claims that the DEIS is insufficient or flawed. The commenter generally states that a comprehensive/integrated project description is required. Refer to the response to **Comment L2-29** regarding level of detail included within **Section 2.0** of the DEIS.
- L4-11** Refer to the response to **Comment L2-03** regarding levels of significance, the required level of analysis of varying impacts within the DEIS, and the use of technical studies to substantiate findings within the DEIS.
- L4-12** The commenter states that significant and unavoidable impacts could result from groundwater overdraft, topographical modification related to the wastewater storage facility, traffic, and off-site drainage, as well as climate change. The commenter does not provided specific examples relating to the above mentioned resources. These impacts are addressed in **Section 4.0** of the DEIS and FEIS. Where impacts were considered potentially significant, either provisions were included in the project design or mitigation measures are included in **Section 5.0** of the FEIS to reduce impacts to less-than-significant levels. The analysis indicates that all identified impacts can be mitigated.
- Refer to the response to **Comments L2-91** for additional discussion of the Proposed Project's impacts related to climate change, and the mitigation measures proposed to reduce those impacts to a less-than-significant level.
- L4-13** **Section 4.11** of the DEIS analyzes cumulative air quality impacts. URBEMIS output files are included as **Appendix Q** of the FEIS. The output files were generated by the air quality modeling program, which was designed to account for trips generated by employees and service providers. These trips would arrive at the casino/hotel mainly from the Cities of Plymouth, Ione, Jackson, and to some extent parts of various

surrounding counties, including the greater Sacramento metropolitan area. **Section 4.11** discusses the impacts related to the increased trips by employees, service providers, and patrons. Significant traffic impacts are not always directly related to significant decreases in air quality.

- L4-14** The project site is not located within a scenic vista, nor would the Proposed Project impact distant scenic vistas. Refer to the response to **Comment L2-329** regarding viewsheds from SR-49 of the preliminary architectural renderings of Alternative A, which are included as **Attachment I** of **Appendix Y** of the FEIS. Refer to the response to **Comment L2-331** regarding the preliminary lighting plan for Alternative A, which is included as **Attachment II** of **Appendix Y** of the FEIS, and revisions to the FEIS regarding lighting.
- L4-15** The commenter gives a general statement that numerous mitigation measures mentioned throughout the document are not included in the appropriate sections of the DEIS. Similar to the comment addressed in the response to **Comment L4-11**, the commenter does not give examples and therefore a definitive response cannot be provided [46 Fed. Reg. 18026 (1981)]. Mitigating factors are included as components of the project description within **Section 2.0** of the DEIS and as additional measures within **Section 5.2** of the DEIS identified through analysis of the project alternative environmental impacts. **Section 4.0** has been reviewed and subsequent revisions have been completed in **Section 2.0** and **Section 5.2** of the FEIS to ensure all mitigating factors are identified.
- L4-16** Similar to the comment addressed in the response to **Comment L4-11**, the commenter gives a general statement without examples; therefore, a definitive response cannot be provided [46 Fed. Reg. 18026 (1981)]. However, clarification of traffic mitigation measure assessment is provided below.

Without the ability to implement off-site mitigation measures, the Tribe can only provide funds to the agency with jurisdiction over the existing roadway network. As described in **Section 5.2.9** of the DEIS, when the Tribe is responsible for paying the full costs, the improvements shall be constructed and funded when the need is first realized, as long as the responsible agency desires to move forward. When the Tribe is responsible for paying a proportionate share of the costs, the improvements shall be constructed when the applicable jurisdiction obtains appropriate funding and initiates design work or, in the case of already identified projects, begins specific improvement projects. **Section 5.0** of the FEIS outlines the traffic mitigation measures that the Tribe has committed to funding. Under Caltrans guidelines a fair share contribution to mitigation measures are deemed appropriate to reduce the proportionate impact of the

project. **Section 4.11** of the DEIS contains an analysis of the cumulative impacts traffic.

- L4-17** The commenter suggests the trust lands be confined to the 70.2 acres of the Proposed Project, and if the entire 228-acre site is to be taken into trust, then any development or other uses for the remaining acreage should be described and analyzed in this EIS. The Tribe's application for lands to be taken into trust is a separate process from the environmental review process. The purpose of the EIS is to determine the environmental impacts associated with the trust application, not the provisions of the trust application itself. Additionally, the DEIS clearly states in the project description of each project alternative that no other developments, such as Tribal housing or other commercial facilities, would be constructed on the project site once the land is taken into trust. The WWTP would be designed to provide treatment only for the facilities described under Alternatives A, B, and C.
- L4-18** Comment acknowledged. The Executive Summary of the FEIS has been updated in accordance with 40 CFR § 1502.12 to include recent areas of controversy raised by agencies and the public, and issues that have been resolved.
- L4-19** Refer to the responses to **Comments L2-27** and **L4-09** concerning previous comments regarding the range of reasonable alternatives, including the suggestion that a reduced-intensity casino and hotel should be included as a plausible alternative to the Proposed Project (Alternative A).
- L4-20** Refer to the response to **Comment L2-28** regarding alternatives considered then dismissed from consideration.
- L4-21** Refer to the response to **Comment F1-09** regarding the inclusion of a significance determination within the monitoring program.
- L4-22** The commenter does not provide references to substantiate the claim that the project would result in a significant impact to air quality. **Section 4.4** of the FEIS analyzes air quality impacts using the most current air quality model, URBEMIS 9.2.4, which estimates emission from employee trips, service providers, and patrons that would make direct trips to the project alternatives. Impacts were determined by comparing URBEMIS emission estimates with the federal conformity de minimis levels provided in 40 CFR 93. This analysis determined that the Proposed Project would not exceed de minimis levels and therefore, a less-than-significant impact to air quality would result from the construction and operation of the Proposed Project. As noted in the response

to **Comment L4-13**, significant traffic impacts do not necessarily correspond to significant air quality impacts.

L4-23 The commenter is correct in that current transient occupancy taxes that the city receives from the Shenandoah Inn would be lost under the Proposed Project. However, as discussed in **Section 4.7** of the DEIS, tax revenues lost to the City or County would be offset by compensation provided by the Tribe directly to Amador County, and by new sales tax revenues that would be generated as a result of purchases made by the casino/hotel operation for local goods and services.

L4-24 Refer to the response to **Comment L4-22** regarding the air quality analysis. Significant impacts to the project roadway network do not necessarily correlate to parallel impacts to air quality. Areas where significant impacts to the roadway network would result in the idling of thousands of vehicles would expect to experience a parallel increase in air quality impacts. In the rural setting of the project site, this would not be the case and accounting for idling emissions in the air quality analysis would not alter the results.

L4-25 Refer to the response to **Comments L3-01** regarding impacts associated with the connection to the City's water system. Refer to the response to **Comment F1-02** regarding impacts to regional wells with the implementation of water supply Option 2, development of on-site groundwater wells.

L4-26 Section 4.9 of the DEIS analyzes impacts to public services in the region. The Tribe would develop an on-site system that would operate independently of the City's system and therefore no impacts would occur to the City's system.

L4-27 Refer to the response to **Comment L4-4** regarding solid waste-related impacts of the project alternatives.

L4-28 and L4-29

Refer to the response to **Comment L2-29** regarding level of detail included within **Section 2.0** of the DEIS.

L4-30 Refer to the responses to **Comment L4-28** and **Comment L4-29** regarding the descriptions of the project alternatives within **Section 2.0** of the DEIS that adequately provide the basis for the impact analysis in **Section 4.0**. The level of description for each component of the various project alternatives is directly proportional to the level of impact analysis required in **Section 4.0** of the DEIS. Refer to the response to

- Comment L2-328** regarding the inclusion of additional landscaping details in **Section 2.0** of the FEIS.
- L4-31** This comment is similar to **Comments L4-8** through **Comment L4-10**, **Comment L4-19** and **Comment L4-20**. Refer to the responses to these comments for discussion of the selection and description of the project alternatives. Refer to the response to **Comment L4-20** regarding a discussion of alternatives dismissed from consideration, located in **Section 2.2.6** of the DEIS.
- L4-32** Additional sources of potable water and additional wastewater treatment options were sought by the Tribe. Water supply Option 1 would entail connection to the City’s municipal water system, and was evaluated within the DEIS. Connection to the municipal system was not assessed as a viable option because of the lack of capacity within the City’s wastewater treatment system, with no foreseeable future increase in supply that would meet the needs of the Tribe. As discussed in response to **Comment L2-27**, only those feasible options that are considered reasonable need be reviewed in the DEIS (40 CFR § 1502.14). Connection to existing systems that do not have capacity or means to develop capacity to meet the needs of a project alternative would not be considered feasible.
- L4-33** Refer to the response to **Comment L2-50** regarding the jurisdiction of state and local agencies on trust lands.
- L4-34** Refer to the response to **Comment L2-27** regarding adequacy of the project alternatives.
- L4-35** Please refer to the response to **Comment L4-32** which discusses the limitations associated with municipal connections to meet the project demands.
- L4-36** Refer to the response to **Comment L4-17** regarding the Tribe’s commitment to restrict development on the project site to the components outlined within **Section 2.0** of the DEIS.
- L4-37** **Section 3.10.2** of the DEIS does not indicate that “the structure will be demolished...” as stated by the commenter. No response required. The abandonment of the well has been added to the project description in **Section 2.0** of the FEIS.
- L4-38** Comment noted. **Figure 3.8-4** (**Figure 3.8-2** of the FEIS) accurately and visibly identifies the differing land use designation and zoning of the project parcels. Viewed in black and white, the shaded and dotted areas are easily distinguishable. **Figure 3.8-5**

has been updated (**Figure 3.8-3** in the FEIS) to clearly distinguish between the differing zoning designations.

- L4-39** The commenter is correct. The Tribal Council, governing body for the Tribe, would issue a certificate of occupancy to the casino development upon completion of all compliance provisions.
- L4-40** Request acknowledged. Refer to **Attachment II** of **Appendix Y** of the FEIS for a preliminary lighting plan for Alternative A. The design of the lighting fixtures would be consistent with those identified in the City's *1997 Downtown Revitalization Strategy*. The other development alternatives would incorporate similar lighting design provisions.
- L4-41** Refer to the response to **Comment L4-23** for clarification of the mitigation measure related to transient occupancy tax losses.
- L4-42** Comment noted. Refer to the response to **Comments L3-01** regarding a required service agreement between the Tribe and the City and the inclusion commercial development similar to the Proposed Project within the City's WSA.
- L4-43** Refer to the response to **Comment F1-02** regarding the Tribe's commitment to maximizing recycled water use for the selected alternative, which would minimize the need for trucking to meet the potable water demands for full build-out of Alternative A.
- L4-44** The statement of "no future development" is incorporated as a component of the project description in **Section 2.0** of the DEIS and encompasses the entire 228-acres. Refer to the responses to **Comment F1-29** and **Comment F1-30** regarding oversight of the Proposed Project development. Additionally, significant changes to the project description that occur after the environmental review process can be contested through legal action. The BIA would be responsible to ensure the development of the selected project is consistent with the proposed project alternatives as described in the FEIS and the ROD.
- L4-45** This comment is similar to **Comments L4-08** and **L4-19**. Please refer to the responses to those comments regarding the question of Alternative B being an adequate alternative and the reduction in environmental impacts compared to Alternative A.
- L4-46** Refer to the response to **Comment L4-42**.

- L4-47** Comment noted. The text within **Section 2.2.2** of the DEIS is intended to mirror the text stated under Alternative A, and should be considered identical in content: “No other developments, such as Tribal housing or other commercial facilities, would occur on the project site.”
- L4-48** Comment noted. The text the commenter refers to is intended to mirror the text stated under Alternative A, and should be considered identical in content: “No other developments, such as Tribal housing or other commercial facilities, would occur on the project site.”
- L4-49** Refer to the response to **Comment L4-42** regarding the selection of Water Supply Option 2 as the preferred option.
- L4-50** Comment noted. Refer to the responses to **Comments L4-47** and **L4-48** for clarification of the intent of this text.
- L4-51** Comment noted. Refer to the responses to **Comments L4-47** and **L4-48** for clarification of the intent of this text.
- L4-52** Refer to the response to **Comment L4-42** regarding the selection of Water Supply Option 2 as the preferred option.
- L4-53** Comment noted. Refer to the responses to **Comments L4-47** and **L4-48** for clarification of the intent of this text.
- L4-54** Refer to the response to **Comment F1-02** regarding the Plymouth Pipeline project, which will result in the lifting of the existing moratorium on development within the City.
- L4-55** Refer to the response to **Comment L2-28** regarding the supplemented discussion of the 40-acre site within **Section 2.0** of the FEIS. Impacts to the City were considered during project design and are addressed throughout **Section 4.0** of the DEIS and FEIS.
- L4-56** Refer to the response to **Comment L4-09**, which also requested the inclusion of a project alternative that considered a reduced-size casino and a reduced-size hotel within the DEIS.
- L4-57** Regulations applicable to the Proposed Action and project alternatives are addressed where appropriate throughout the DEIS. For example, the regulatory environment is summarized in the discussion of water quality in **Section 3.3** of the DEIS. Refer to the

response to **Comment L2-07** regarding the format of the DEIS. Refer to the response to **Comment L2-50**, which discusses federal jurisdiction over the site once taken into trust.

L4-58 through L4-65

Refer to the response to **Comment L2-50**, which discusses federal jurisdiction over the site once taken into trust and therefore, State and local regulations (i.e. California Code of Regulations (CCR)) would not apply once the site is taken into trust.

L4-66 Refer to the response to **Comment F1-02** for an expanded discussion of the City of Plymouth's water supply.

L4-67 Refer to the responses to **Comment F1-02** and **Comment F1-32** for an expanded discussion of the overdraft and projected recharge of the aquifer and of the City's future water use and the reduction in pumping that would occur in the project vicinity due to the construction of the Plymouth Pipeline. Refer to the response to **Comment F1-9** for a discussion of groundwater monitoring programs that would be implemented. Refer to **Appendix C** of the FEIS for an expanded discussion of well production in the region.

L4-68 Refer to the responses to **Comment F1-02**, **Comment F1-03**, and **Comment F1-32** regarding groundwater yields within the region and on the project site. Refer to **Appendix C** of the FEIS for an expanded discussion of well production in the region.

L4-69 Airlift yields were not used to assess long-term well yield. Refer to the response to **Comment F1-04** for a discussion of the duration of the pumping tests and methodology used to determine long-term yield values. Refer to **Appendix C** of the FEIS for additional details on the pumping tests that were performed on the Project wells.

L4-70 Refer to the response to **Comment F1-04** for a discussion of the duration of the pumping tests and methodology used to determine long-term yield values. Refer to the response to **Comment F1-02** regarding the overdraft condition of the City's wellfield. Refer to the response to **Comment L2-50** for a discussion of the use and relevancy of determining long-term yield using CCR Title 22 §65554.

L4-71 Refer to the responses to **Comments F1-02** and **Comment F1-32** for a discussion of the overdraft and recharge of the aquifer, including in the vicinity of the City's wells. Refer to the response to **Comment F1-4** for a discussion of the duration of the pumping tests and methodology used to determine long-term yield values. Refer to the

responses to **Comments F1-9** and **Comment F1-10** for a discussion of groundwater monitoring programs.

- L4-72** Groundwater samples were collected from the project wells and the cistern for laboratory analysis to determine water quality. The results were then compared against the primary and secondary Maximum Contaminant Levels (MCLs). The MCLs are limits established by Federal and State agencies. The primary MCL is a value established to be protective of human health. Secondary MCLs indicate levels that could make the water undesirable (i.e. odor, discolorization, taste, etc.), but are not attributable to adverse impacts to human health. As shown in **Table 3.3-5** of the DEIS, none of the samples were reported to contain any of the analytes shown at a concentration greater than their primary MCL; therefore, no threats to human health were identified in any of the water samples.
- L4-73** Refer to the response to **Comment L2-91** regarding the adequacy of climate change analysis within the DEIS and revision within the FEIS based on newly published emissions factors.
- L4-74** The commenter notes a discrepancy on **Page 3.5-15** with regard to the classification of wetland features and other waters; these are not addressed on this page of the DEIS. It is assumed that the commenter is referring to **Table 3.5-2**, **Figure 3.5-2**, and **Sections 3.5.3** and **3.5.4**. As a factual correction, the document has been updated to consistently classify all wetland features throughout the FEIS in accordance with CEQ Regulation 40 CFR 1503.4.
- L4-75** The current acreages are from an initial wetlands delineation prepared for the project hence, the jurisdictional ‘waters of the U.S.’ acreages have not been verified by the ACOE. The verification will require a field visit with ACOE personnel to make the final determination. Refer to the responses to **Comments F1-14**, **Comment F1-15**, and **Comment F1-18** regarding mitigation of impacts to waters of the U.S. Any unavoidable impacts would be adequately mitigated as outlined in **Mitigation Measures 5.2.5 (E)** through **5.2.6 (L)** of the FEIS.
- L4-76** A specific discussion of the history of the Pioneer Mine located within the project site can be found in **Section 3.6.5** of the DEIS.
- L4-77** Refer to **Section 3.6.6** of the DEIS for a brief description of the historic-period cultural resources found within the project site. A more detailed description of these resources can be found in the confidential **Appendix K** of the DEIS. Also refer to the response

to **Comment L2-124** regarding the exclusion of sensitive materials within the public versions of the DEIS.

L4-78 The distinction between sites first recorded by Windmiller and Osanna in 2001 and those identified and evaluated for the first time by ECORP Consulting, Inc. in 2003 can be found in **Section 3.6.6** of the DEIS.

L4-79 Refer to the response to **Comment L2-124** regarding the exclusion of sensitive materials within the public versions of the DEIS.

L4-80 Refer to the response to **Comment L2-124** regarding the exclusion of sensitive materials within the public versions of the DEIS.

L4-81 Refer to the response to **Comment L4-23** for a discussion of the transient occupancy tax revenues provided by the Shenandoah Inn and the mitigation proposed for the loss of these revenues.

L4-82 Potential relevant impacts to schools would be limited to potential new students resulting from direct, indirect, and induced effects of the Proposed Project. Environmental justice impacts to the affected environment are analyzed as discussed in **Section 3.7** of the DEIS. Because potential impacts would be limited to the Amador County Unified School District, no cumulative context exists for potential impacts to schools.

L4-83 Property tax values presented in **Section 3.7** of the DEIS are for the tax year 2005-2006, and provide an expectation of property taxes assessed for the project site. While the amount of property tax revenue would differ when the project site is taken into trust, the Tribe would negotiate in good faith with the County to provide appropriate compensation for lost property tax revenues, as discussed in **Sections 4.7** and **5.2.7**. **Section 4.7** of the DEIS analyzes potential impacts to the Tribe, Amador County (including all incorporated and unincorporated areas), and any identified minority or low-income communities.

L4-84 The correction of elementary school addresses is noted. **Section 3.7** of the DEIS provides background information on existing schools in proximity to the project site that have the potential to be effected by the Proposed Project.

L4-85 Providing information on the land uses of these projections in the DEIS would not provide any new information that would change the conclusions regarding the potential impacts to schools. The information provided in **Sections 3.7** and **4.7** of the DEIS

provides adequate and relevant data to determine the potential impact of the Proposed Project on schools.

- L4-86** Providing more detailed housing data would not provide any new information that would change the conclusions or understanding of potential impacts to housing. The information provided in **Sections 3.7** and **4.7** of the DEIS provides adequate and relevant data to determine the potential impact of the Proposed Project on housing.
- L4-87** Comment noted. As shown in **Table 3.7-8**, Census Tract 3.01 is designated as a minority community because the minority populations constitute 52.2% of the total population in this census tract.
- L4-88** Refer to the response to **Comment L2-76** regarding inclusion of the traffic generated by the project alternatives into the analysis of air quality impacts. **Section 4.8** of the DEIS identifies the average daily trip estimates of the project alternatives. Refer to the response to **Comment S4-02** regarding the revised TIA, which includes updated ADT estimates.
- L4-89** The addition of a wastewater treatment facility in an area of low-density housing is not an inconsistent land use. Residential land uses need public utilities such as WWTPs (WWTPs). When the land is taken into trust, parcel #1 would no longer be under the jurisdiction of Amador County. The land taken into trust would be adjacent to current commercial land uses; therefore, as stated in **Section 4.8** of the DEIS, the land use proposed is consistent with adjacent land uses and would have a less-than-significant impact on regional planning in the project vicinity.
- L4-90** Comment noted. Refer to the response to **Comment L4-89** regarding Amador County jurisdiction over land taken into trust and the compatibility of a WWTP near low-density residential land uses (parcel #3).
- L4-91** Comment noted. Refer to the response to **Comment L4-89** regarding Amador County jurisdiction over land taken into trust and the compatibility of a WWTP near low-density residential land uses (parcel #12).
- L4-92** Once the land is taken into trust, the City would have no jurisdiction over the land use or any element of that use. The analysis provided in the Land Use section of **Section 4.8** of the DEIS covers all applicable City General Plan elements and finds that implementation of the project alternatives would not adversely impact the City's planning goals.

- L4-93** Comment noted. The numbering in **Table 4.8-9** is consistent with the City’s General Plan numbering system. General Plan goals and policies that are not applicable to the project alternatives are not included in **Table 4.8-9** of the DEIS.
- L4-94** **Table 4.8-9** in **Section 4.8** of the FEIS contains the City’s General Plan “Vision Statement.” The FEIS analyzes the Proposed Project’s land use with regard to the most up-to-date General Plan of the City, which includes the “Vision Statement.” Refer to the responses to **Comments L2-330** and **Comment L2-331** regarding the consideration of the rural, historical character of the region within the project design.
- L4-95** Refer to the response to **Comment F1-02** for an expanded discussion of the provision of water for the Proposed Project.
- L4-96** Refer to the response to **Comment F1-02** for an expanded discussion of the City’s future water supply that would be provided by the Plymouth Pipeline, which would provide a sustained water supply to serve the City’s planned growth through 2025. With the implementation of the Plymouth Pipeline, the moratorium on new development would be removed.
- L4-97** Refer to the response to **Comment F1-02** for an expanded discussion of the future water supply for the City of Plymouth.
- L4-98** Refer to the response to **Comment F1-02** regarding the Plymouth pipeline project and the existing overdraft condition of the City’s well field.
- L4-99** Comment noted.
- L4-100** Comment noted. Refer to response to **Comment F1-04** for a discussion of the duration of the pumping tests and methodology used to determine long-term yield values.
- L4-101 through L4-103**
Refer to the response to **Comment L2-50** for a discussion of the regulatory requirements associated with a federal action. Implementation of the Proposed Project would require compliance with federal regulations; therefore, the Tribe would obtain and comply with the provisions of a NPDES permit administered by the USEPA.
- L4-104** The Proposed Project does not include connection to the City’s wastewater system. Therefore, the impacts of the project on the City’s ability to provide wastewater service to those eight parcels does not require analysis. Implementation of a development

alternative would remove the existing demand of the project site from the City's WWTP, resulting in a beneficial impact.

- L4-105** Refer to the response to **Comment L2-269** regarding impacts to the County's jail system.
- L4-106** The commenter suggests that there may be other considerations/reasons for the stated response times listed in **Section 3.9** of the DEIS. The information presented in **Section 3.9** related to local law enforcement environmental setting was taken directly from the Amador County Public Service Letters included as **Appendix L** of the DEIS. The information presented represents a thorough and accurate reflection of existing conditions.
- L4-107** Refer to the response to **Comment L2-267** regarding the LES agreement and revision of the text within **Section 3.9** of the DEIS. The text within **Section 3.9** has been updated to clarify that the ACSO provides traffic-related enforcement services to the City.
- L4-108** Comment noted. Refer to the response to **Comment L2-315** regarding non-federal noise threshold analysis.
- L4-109** There would be no sensitive receptors on any of the parcels comprising the project site. As described in **Section 2.0** of the DEIS, the residences located on parcels 8 and 9 would be demolished, while the residences on parcels 2 and 12 would be used by the tribe and would be unaffected by noise.
- L4-110** The text on page 3.10-9 of the FEIS has been clarified to include a discussion of out of scope items that are not part of a Phase I Environmental Site Assessment; those out of scope items include assessments for the presence of lead-based paints and ACMs. Page 4.10-9 of the FEIS includes clarification that potential impacts from exposure to lead-based paints and ACMs are potentially significant. **Mitigation Measure 5.2.10 (L)** in the FEIS has been clarified to include assessments of ACMs and lead-based paint to be conducted by licensed individuals prior to the demolition of on-site structures.
- L4-111** There are numerous vantage points to choose from to evaluate a viewshed. The DEIS specifies that the viewsheds analyzed for the project are the most frequented vantage points along SR 49, which are summarized in **Section 3.10** and specifically analyzed in **Section 4.10**. The residents of on-site houses would vacate the homes prior to construction of the selected project alternative. No impacts would occur as there would

no longer be any residents with the viewshed perspectives referenced by the commenter.

L4-112 Parcel #12 is grouped with Parcel #2 in **Section 3.10.3** of the DEIS. As discussed there within, roughly one quarter of each parcel is developed with single-family residential homes and associated outbuildings. The remainders of the parcels are covered primarily with annual grasslands and oak woodland habitat. The topography of each parcel has little relief.

L4-113 Refer to the response to **Comment L2-331** regarding the updated discussion of lighting impacts within the FEIS.

L4-114 As discussed in **Section 4.2** of the FEIS, only 78,000 cubic yard of soil requires exportation after cut and fill operations on the project site. For the size of the project development area, this is a relatively low export requirement for site development. As discussed in **Section 4.2** of the DEIS, the main topographic features, such as the moderately sloping hills in the southwest portion of the site and the steeper slopes of the southeast, would be slightly modified; however, the overall topographical character of the project site would be preserved. The northwestern portion of the site was selected for the footprint of the development, as this portion has little relief, slightly sloping down in elevation from the area planned for the WWTP to the area planned for the detention basin.

The commenter mentions the topographic impacts of the earthen dam, which would be implemented if an NPDES permit for surface water discharge cannot be obtained from the USEPA. The damming of the canyon to store treated wastewater was selected to minimize the impacts to the existing topography. The development of an excavated detention basin would have resulted in greater impacts to the topography than using soils excavated from the project footprint to dam the existing canyon.

L4-115 Refer to the response to **Comment F1-03** regarding the selection of wastewater disposal Option 2 as the preferred alternative. Refer to the response to **Comment L2-38** regarding downstream impacts of wastewater disposal Option 1.

L4-116 Refer to the response to **Comment S6-06** regarding the necessity to include all parcels within the trust application.

L4-117 **Appendix P** of the DEIS contains preliminary grading plans showing the excavation amounts and area of disturbance proposed for Alternatives B and C are nearly the same, even though the buildings for Alternative C have a smaller interior square

footage compared to Alternative B. Similar primary development footprints result in excavation amounts of 296,000 cubic yards (cyds) for Alternative B and 297,000 cyds for Alternative C. These excavation amounts are similar because, generally speaking, the area to be disturbed for a commercial development is not directly proportional to the building size. In other words, even though the interior square footages of the various buildings in each alternative are different, the building foundation footprint square footage is similar for Alternatives B and C; consequently, excavation amounts are also similar. Additionally, several of the components proposed for Alternative B require very minimal excavation activities, as shown on the grading plans (**Appendix P**). The Alternative C discussion in **Section 4.2-12** of the FEIS has been clarified to include an explanation why these alternatives have similar excavation amounts.

The retail alternative (Alternative D) would require more fill compared to the other alternatives due to the proposed construction of stable-engineered building pads that would require substantial retaining walls.

- L4-118** Because the site is underlain by dense, hard rock at relatively shallow depths, the risk of seismic-induced seiche hazards on the project site is minimal. Seismic-related impacts were deemed less than significant based on an analysis of seismic data from the California Department of Conservation California Geology Survey, a review of the shaking potential as delineated by the Modified Mercalli Intensity Scale (MMI), and a geotechnical engineering and geological assessment performed by a California Certified Engineering Geologist, as stated in **Section 4.2** of the DEIS. Refer to the response to **Comment L2-07** regarding the format and layout of the DEIS.
- L4-119** Refer to the response to **Comment F1-02** for an expanded discussion of the overdraft and recharge of the aquifer, including in the vicinity of the City's wells, and a discussion of the use of recycled water to meet the water demands of the Proposed Project. Refer to the response to **Comment F1-06** for a discussion of the duration of the pumping tests and methodology used to determine long-term yield values. Refer to the response to **Comment F1-09** for a discussion of the proposed groundwater monitoring programs. Refer to the response to **Comment L4-68** for a discussion regarding the need to evaluate on a regional basis for potential impacts from pumping the Project wells.
- L4-120** The drainage study (**Appendix G** of the DEIS) shows and specifically states that increased runoff resulting from development of the project alternatives can be mitigated by means of on-site detention. For example, as described in the response to **Comment L2-74**, implementation of the Proposed Project would result in a 1 cfs reduction in

post-project outflows, which would result in a less-than-significant impact to downstream water resources.

- L4-121** Comment noted. The text has been revised to clarify that Phase II of Alternative A would result in a slight increase in total impervious surface coverage compared to Phase I. As stated in the DEIS and FEIS, the development of the drainage plan would be finalized during Phase I and would include conveyance and detention provisions to provide for the increased drainage needs of Phase II of Alternative A.
- L4-122** Refer to the response to **Comment L2-50** regarding the federal jurisdiction of trust lands. Consequently, the USEPA would provide oversight for development and operation of leach fields on trust lands to ensure compliance with the Clean Water Act.
- L4-123** Refer to **Mitigation Measure 5.2.10 (K)** of the DEIS, which states that the Tribe shall minimize the use of pesticides and toxic chemicals to the greatest extent feasible in landscaping or use less toxic alternatives. **Section 4.3** of the FEIS has been revised to clarify that mitigation relating to hazardous materials would further reduce impacts to water quality.
- L4-124** Refer to the response to **Comment F1-02** for a discussion of the overdraft and recharge of the aquifer, including in the vicinity of the City's wells. It is estimated that the area is actively recharged on an annual basis at a rate of 11.7 to 16% of annual precipitation. Refer to the response to **Comment F1-06** for a discussion of the duration of the pumping tests and methodology used to determine long-term yield values. Refer to the response to **Comment F1-09** for a discussion of groundwater monitoring programs, and the response to **Comment L2-49** for a discussion regarding rotational pumping. Storage of water and treated wastewater would require on-site storage of disinfectants. The discussion of hazardous materials in **Section 4.10** of the FEIS has been updated to address disinfectant storage. **Section 5.2.10** of the FEIS has been updated to include provisions to minimize the potential for inadvertent release of stored disinfectants into the environment and waterways.
- L4-125** Refer to the response to **Comment L2-50** regarding the federal jurisdiction of trust lands. Consequently, the USEPA would provide oversight for development and operation of the wastewater storage reservoir and leach fields to ensure compliance with the Clean Water Act.
- L4-126** Refer to the response to **Comment L2-52** for a discussion of the required compliance regulations of the Proposed Project for the installation of a dual-plumbed recycled water system.

- L4-127** Refer to the response to **Comment F1-02** for a discussion of the proposed rotational pumping of the wells.
- L4-128** Comment noted. The statement should have used the term “similar” instead of “identical”. The design of the detention basin for Alternatives C and D would be similar in location and design, but would be sized to accommodate for the decrease in impervious surface coverage compared to Alternatives A and B.
- L4-129** Comment noted. Although reduced in intensity, the development of a casino-only development and a commercial center would still result in potentially significant impacts to water quality without mitigation. The lower water demand for both alternatives would result in a reduced wastewater generation rate, but would still require disposal through land application. These impacts are similar to those identified for Alternative A. Refer to the response to **Comment F1-02** regarding the firm well yield of the project wells. Pumping at or below the firm well yields is anticipated to have similar impacts to off-site well.
- L4-130** Refer to the response to **Comment L2-91** regarding the climate change analysis.
- L4-131** Comment noted. The methodology section describes how the analyses are performed and **Section 2.0** of the DEIS provides a project description and various project components such as construction phasing. Construction equipment used for grading, construction, painting, and paving are provided in **Appendix Q** of the FEIS. The specific activities that would occur during the construction period for each alternative have been added to **Section 4.4** of the FEIS.
- L4-132** Refer to the response to **Comment L2-76** regarding update of the AQ analysis.
- L4-133** Construction emissions are influenced by more factors than square footage of the proposed building(s). Construction emissions anticipated for Alternative D are consistent with the grading, fill, and construction activities for any commercial development of comparable size that would use the stable-engineered building pads proposed for this alternative. Construction of Alternative D would result in the emissions of 2.62 tons per year (tpy) for ROG and 4.28 tpy for NO_x, while construction of Alternative B would result in emission of 3.09 tpy for ROG and 7.66 tpy for NO_x.
- L4-134** **Page 4.4-8** of the DEIS clearly states that the emissions estimates referenced by the commenter are for the operation of Phase I and Phase II (full build-out) of Alternative A.

- L4-135** The suggested overlay of **Figures 2-7** and **3.5-1** would make interpretation of the calculated areas of impact extremely difficult. These maps referenced with the tables in **Section 4.5** sufficiently and accurately depict the impacts to the specified habitat types for Alternatives A-D, thus they require no further analysis or amendment.
- L4-136** The suggested overlay of **Figures 2-7** and **3.5-4** would make interpretation of the calculated areas of impact extremely difficult. These maps referenced with the tables in **Section 4.5** sufficiently and accurately depict the impacts to the potential jurisdictional waters of the U.S. for Alternatives A-D, thus they require no further analysis or amendment.
- L4-137** **Section 5.2** of the DEIS and FEIS clearly presents the mitigation measures organized by environmental resource and is consistent with the format of **Sections 3.0** and **4.0**. Refer to the response to **Comment L4-15** regarding the format of the DEIS.
- L4-138** Column three in **Table 4.5-1**, labeled “Percentage of Habitat Affected,” clearly identifies the affected percentage calculated for each specific habitat type on site.
- L4-139** Refer to the response to **Comment F1-14** regarding the updated site plans to mitigate impacts to waters of the U.S. included as **Figures 5-1** through **5-5** in **Section 5.0** of the FEIS.
- L4-140** The DEIS does not contain Section 5.24. Mitigation for impacts to biological resources are presented in **Section 5.2.5** of the DEIS and FEIS, including mitigation to reduce impacts to RLF, VELB, and CTS.
- L4-141** **Section 3.6.6** of the DEIS provides a description of the criteria for evaluation of cultural resources. A complete description of individual evaluations of cultural resources identified within the project site was provided in confidential **Appendix K** of the DEIS. The response to **Comment L2-124** addresses the exclusion of sensitive materials within the public versions of the DEIS.
- L4-142** Refer to the response to **Comment L4-141** for the application of the NRHP criteria for significance and individual and district evaluations. Please also see the response to **Comment L2-124** regarding the exclusion of sensitive materials within the public versions of the DEIS.
- L4-143** For a statement regarding the recorded resources’ eligibility as a district within the project site please refer to the response to **Comment L4-141**.

- L4-144** Page 11 of the *Guidance for Incorporating Environmental Justice Concerns in EPA’s NEPA Compliance Analyses*, states that “customary agency practices for notifying the public of a proposed action and subsequent scoping and public events may be enhanced through better use of local resources...” Thus, public outreach to identified minority and low-income communities is not required, but can aid the NEPA process. However, **Section 4.7** determines that the Proposed Project would not result in any disproportionately adverse impacts to minority communities, and it was determined that further public outreach would not be necessary for the Proposed Project.
- L4-145** **Section 4.7** of the DEIS concludes that new employment would be considered a beneficial impact to minority and low-income communities in proximity to the project site, and all other potential impacts to these communities would be considered less than significant. Specifically, traffic impacts would be limited to intersections/interchanges, localized impacts would be limited to the project site, and air quality impacts would be distributed throughout the region. Potential impacts to the housing supply are discussed in the response to **Comment L4-06**. These impacts would occur throughout the region. **Table 3.7-9** provides a breakdown of the income and poverty status of each census tract considered as a potential minority community. As discussed in **Section 3.7**, the environmental justice analysis was prepared in compliance with the CEQ’s *Environmental Justice Guidance Under the NEPA*.
- L4-146** Refer to the response to **Comment L4-144** for a discussion of low-income populations in proximity to the project site.
- L4-147** Refer to the responses to **Comments L4-05** and **L4-06** for a discussion of potential housing impacts to low-income populations.
- L4-148** Refer to the responses to **Comments L4-144** and **L2-177** for a discussion of low-income populations and analysis methodology.
- L4-149** **Section 4.7** of the DEIS addresses both socioeconomic impacts to the population as a whole and any potentially disproportionately adverse impacts to identified minority and low-income communities.
- L4-150** The commenter does not refer to any specific models used in the DEIS, nor suggest any alternative models. In addition, potential impacts to minority communities have been identified as less than significant, and no further assessment is required.
- L4-151** While the comment is accurate that some information on local communities and environment may only be available from community leaders, local government offices, and the members of the community, potential impacts to minority communities have

been determined less than significant as per **Section 4.7** of the DEIS, and no further information is required from these communities.

- L4-152** The environmental justice analysis has been completed in compliance with the document cited by the commenter, *Guidance for Incorporating Environmental Justice Concerns in EPA's NEPA Compliance Analyses*. Refer to the response to **Comment L4-144** regarding public outreach to minority and low-income communities.
- L4-153** Refer to the response to **Comment L4-06** for a discussion of potential housing impacts to low-income populations.
- L4-154** Full-time equivalent (FTE) positions are used to help calculate overall wages and provide a perspective on employment demands. While it is expected that part-time employees would be required, **Section 4.7** and the response to **Comment L4-06** discuss that only a portion of employees would relocate for positions. Any new housing would be limited by the number of employees able to finance a new home, and rental opportunities would also be available.
- L4-155** Refer to the responses to **Comments L4-06** and **L4-154** for a discussion of employment associated with the Proposed Project.
- L4-156** The projection of new employees residing in the City is an estimate based on the local and regional unemployment markets. The count of 64 employees is representative of the 5% of employment estimated to result from this area. Therefore, exactly 64 employees cannot be guaranteed to result from the City, rather, this quantity is representative of the level of impact expected based on past local and regional labor markets.
- L4-157** The statement in **Section 4.7** of the DEIS that expenditures on goods and services “would be made primarily from vendors located in Amador County and surrounding counties,” is based on results and assumptions from the market study and financial projections for the proposed casino complex, and is considered extremely relevant for the purposes of evaluating economic impacts.
- L4-158** Potential demand for new housing is discussed in the response to **Comment L4-06**. Any further analysis of potential housing supply after implementation of the Proposed Project would require a large number of assumptions and would be speculative.

- L4-159** Potential impacts to traffic, air pollution, and infrastructure are discussed in the appropriate sections of the DEIS. Refer to the response to **Comment L4-06** for additional discussion of housing impacts and the jobs-housing balance.
- L4-160** As discussed in **Section 4.7**, potential impacts to libraries and parks would be less than significant because it is expected that only a limited number of employees would reside in the area or relocate to the area; therefore, it is unlikely that use of these facilities would significantly increase. Patrons would not be likely to frequent these facilities because of the short-term duration of their visits to the Proposed Project facilities.
- L4-161** **Section 4.7** evaluates potential fiscal impacts including the removal of the project parcels as a source of tax revenue, new tax revenues generated for city and county governments by the purchase of local goods and services by the casino development, and compensation provided by the Tribe to the City in lieu of property taxes and transient occupancy tax revenues. Refer to the response to **Comment L4-23** for additional discussion of this issue.
- L4-162** As discussed in **Section 4.7** of the DEIS, it is not expected that an additional casino in Amador County would substantially increase the prevalence of problem gamblers; however, the Tribe has agreed to make an annual contribution to an organization(s) that addresses the issue of problem gambling, in an attempt to provide reasonable and appropriate treatment for any new problem gamblers.
- L4-163** As discussed in **Section 4.7** of the DEIS, the Tribe would provide compensation to local law enforcement service providers so that these agencies have the capacity (i.e. employees or equipment) necessary to address any increase in demand for law enforcement services resulting from the Proposed Project.
- L4-164** Estimates of employment for Alternative D are based on this development entailing those features described in **Section 3.0** of the DEIS. Based on the project description of Alternative D, **Section 4.7** generally describes this alternative as a community shopping center.
- L4-165** Refer to the response to **Comment L4-16** regarding fair share contributions towards traffic impact mitigation. Refer to the response to **Comment S4-03** regarding consultation with local jurisdictions to generate the cumulative environmental setting within the revised TIA.

- L4-166** Refer to the response to **Comment S4-03** regarding the cumulative environment discussed in the revised TIA. Refer to Table 10 of the revised TIA (**Appendix M**) for the planned projects in and around the City.
- L4-167** Refer to the response to **Comment S4-05** regarding the inclusion of the roadway segment between the project site and Main Street within the revised TIA. The proposed signalized access roadways for the project site are spaced greater than 1,000 feet apart and are not considered a safety concern.
- L4-168** Refer to the response to **Comment L1-09** regarding review and incorporation of the Amador County guidelines within the development of the revised TIA (**Appendix M** of the FEIS).
- L4-169** Refer to the response to **Comment L4-165** regarding fair share contributions as appropriate mitigation for project-related impacts.
- L4-170** Construction impacts are specifically addressed in **Section 4.8** of the DEIS. For example, under Alternative A each employee is assumed to drive to and from the project site alone each day and it is assumed that 20% of the workers would leave and return to the site for various purposes during the day. Heavy equipment delivery is based on the number of large construction vehicles expected during the project duration. The import of construction materials is based on the number of trucks required to deliver construction materials to the site, including building materials such as wood, steel, and masonry. Additionally, specific vehicle-related construction impacts are addressed in **Section 4.4** of the DEIS. Impacts are reduced to less-than-significant levels via mitigation described in **Sections 5.2.4** and **5.2.8** of the DEIS.
- L4-171** By analyzing the worst-case peak hour, appropriate mitigation measures can be provided that would also reduce traffic impacts at less congested times. Traffic mitigation is provided in **Section 5.2.8** of the DEIS.
- L4-172** Refer to Tables 1 and 2 of the revised TIA (**Appendix M**) for a summary of the LOS standards for each intersection and roadway segment included in the study roadway network.
- L4-173** Comment noted. The compatibility of the Proposed Project with surrounding uses is analyzed in **Section 4.8** of the DEIS under the land use heading.
- L4-174** As discussed in **Section 2.0** of the FEIS, with the commitment by the Tribe to maximize the use of recycled water, only Phase II of Alternative A would require

trucking of water. It is estimated that approximately five truck trips per day (assuming 2,000-gallon capacity) would be required. Five truck trips would have a minimal impact on the existing roadway network and does not require updating the quantification of LOS impacts, nor impacts to any other issue area.

- L4-175** Comment noted. The FEIS has been updated with the mitigation required from the analysis within the revised TIA (**Appendix M**). **Section 5.2.8** of the FEIS has been revised to provide a summary of the mitigation based on project alternative and roadway intersection or segment.
- L4-176** Refer to the response to **Comment L4-94** regarding inclusion of the City’s “Vision Statement” within the land use impact analysis in **Section 4.8** of the DEIS.
- L4-177** Refer to the response to **Comment L4-94** regarding the General Plan’s “Vision Statement” and design consideration included within the project description of the FEIS.
- L4-178** Comment noted. Refer to the response to **Comment L2-50** regarding federal jurisdiction over the project site once taken into trust.
- L4-179** Comment noted. Refer to the response to **Comment L2-50** regarding federal jurisdiction over the project site once taken into trust. Refer to **Section 2.0** of the DEIS for the infrastructure provisions included within the project description.
- L4-180** Refer to the responses to **Comments L2-330** and **Comment L2-331** regarding the consideration of the rural, historical character of the region within the project design. Refer to the response to **Comment L4-40** regarding design of the lighting fixtures for the project alternatives consistent with the City’s *1997 Downtown Revitalization Strategy*.
- L4-181** Comment noted. Refer to **Section 2.0** and **Appendix B** of the DEIS for the water demands of the project alternatives.
- L4-182** Refer to the response to **Comment L3-01** through **Comment L3-03** for a discussion of the City’s domestic water supply.
- L4-183** If Option 2 is the chosen water supply alternative, water wells would need to be established on the site prior to construction of the Proposed Project. It is correct that no agreement currently exists between the Tribe and the City for water use on the site once the land is in trust. If Option 1 were selected for development, the Tribe would need to

enter into an agreement with the City and/or County to connect to the municipal water supply system. The Tribe has throughout the environmental review process expressed its willingness to enter into such an agreement.

- L4-184** Refer to the response to **Comment L3-01** through **Comment L3-03** for a discussion of the impact of the project on the City's domestic water supply.
- L4-185** Refer to the response to **Comment L3-01** regarding the water supply from the City's municipal system after implementation of the Plymouth Pipeline project.
- L4-186** Refer to the response to **Comment L3-01** regarding the impacts associated with the implementation of water supply Option 1.
- L4-187** Refer to the response to **Comment L3-01** regarding the preferred water supply option (water supply Option 2) and requirements for connection to the City's municipal system under water supply Option 1.
- L4-188** Refer to the response to **Comment F1-02** for a discussion of the connectivity between the project wells and the City's existing wells, as well as a discussion of the future use of the City's wells, which would be reduced with the construction of the Plymouth Pipeline project.
- L4-189** Refer to the response to **Comment F1-02** for a discussion of the groundwater pumping strategy and the projects ability to serve the project water demands using the preferred on-site groundwater well system.
- L4-190** Refer to the revised Pumping Test Report (**Appendix C**) for a discussion of the firm yield of the project wells, and the responses to **Comments F1-02, F1-04** and **F1-05** for a discussion on the recharge of the aquifer, the supply and demand on the surrounding wells, and that the applied safety factors consider the limited recharge situation.
- L4-191** The 8% of potable water demands that would need to be supplied via truck would account for approximately 10,000 gpd, or the equivalent of five water truck trips per day. Generally, water trucks carry approximately 2,000 gallons. As discussed in the FEIS, the Tribe has committed to maximizing the use of recycled water, reducing the water demands of Alternatives A through C and subsequently reducing the demand for water trucking services.
- L4-192** As described above, the Tribe has committed to maximizing the use of recycled water, reducing the water demands of Alternatives A through C, which would consequently

reduce the demand on water maintained in the storage tanks. A diagram of a typical storage tank is provided as Figure 3-10 of **Appendix B** in the DEIS. As discussed in **Section 2.0** of the FEIS, landscaping would soften the hardscape features of the project site, which includes the WWTP and storage facilities.

- L4-193** Comment noted. However, the tanks are currently located in an elevated area on the project site ideal for their stated function. As stated in the FEIS, Option 2 is now the preferred water supply alternative, which would include the use of on-site groundwater wells, maximized use of recycled water, and use of the storage tanks for supplemental supply.
- L4-194** It is unclear what is in conflict in **Table 4.9-4** of the DEIS regarding two one-million gallon domestic water storage tanks that are to be installed as part of Alternative A. **Table 4.9-4** shows the Solid Waste Disposal Estimate at Full Build-out of Alternative B.
- L4-195** This comment is correct, and based on the comments received on the DEIS from the City and the Amador Water Agency, the Tribe has selected Water Supply Option 2 as the preferred option.
- L4-196** Refer to the response to **Comment L4-189** for a discussion of the consideration of peak day use demand in determining the water supply for the Proposed Project.
- L4-197** Refer to the response to **Comment F1-02** regarding the commitment to maximize recycled water and the ability to meet projected water demands through the development of an on-site groundwater system.
- L4-198** Refer to the response to **Comment L2-50** regarding jurisdictional oversight of the operation of a Tribal drinking water system. The Tribe would be required to prove to the USEPA, through baseline sampling and monitoring plan, that the Tribe has the expertise to ensure a safe public drinking water system.
- L4-199** The Tribe has throughout the environmental review process expressed its willingness to enter into an agreement with the City and/or County for wastewater treatment and other services. However, based on the limitations of disposal capacity of the City's municipal wastewater system, connection to serve the project alternatives would result in significant and unavoidable impacts. Therefore, the Tribe has selected to develop an on-site WWTP as described in **Section 2.0** of the DEIS.

- L4-200** Refer to the response to **Comment L2-50** regarding federal jurisdiction over the project site once the land is taken into trust, and therefore the Tribe is not required to seek connection to the City's municipal service systems. Refer to **Section 2.0** of the DEIS regarding the Tribe's decision to pursue development of an on-site WWTP and disposal system.
- L4-201** The Tribe has committed to implementing a maximum recycled water program, which would contribute to the City's effort to conserve water. As described in **Section 2.0** of the DEIS and in the Water and Wastewater Feasibility study (**Appendix B** of the DEIS), land areas and buffer areas have been dedicated for spray fields and discharge of treated effluents.
- L4-202** Comment is noted; however, the project would be designed utilizing standard engineering techniques, which are based on technical engineering studies of the project site including a water supply and wastewater feasibility study (**Appendix B** of the DEIS) and a groundwater well study (**Appendix C** of the DEIS). Further, the Proposed Project would obtain and comply with a NPDES permit and would meet Title 22 tertiary treatment standards.
- L4-203** Refer to the response to **Comment L4-199** for a discussion regarding the use of the City's WWTP.
- L4-204** As described in the Water and Wastewater Feasibility Study (**Appendix B** of the DEIS), membrane bioreactors are simple and the most cost-effective and reliable method of treating wastewater today. Additional treatment and polishing processes can be easily added to the MBR to meet foreseeable effluent quality requirements. Other casinos effectively utilizing MBR technology in the area surrounding the project site include the Thunder Valley Casino, the Cache Creek Casino & Hotel, and the Rolling Hills Casino. Proper maintenance and use of the system would ensure that the system would effectively serve the Proposed Project.
- L4-205** Chemicals used within the wastewater treatment facility would be disposed of according to standard hazardous waste disposal methods established and regulated by the USEPA. The Tribe would dispose of any wastes generated on-site at locations specifically approved by the USEPA.
- L4-206** As described in the Water and Wastewater Feasibility Study (**Appendix B** of the DEIS), the MBR system would include installation of grease separators. Accordingly, it is standard practice to install passive grease interceptors within casino projects.

- L4-207** The EIS is required to assess a range of project alternatives, which it does; however, the EIS is not required to discuss multiple WWTP types, as no other option are feasible as addressed in response to **Comment L4-32**. The wastewater analysis considers two treated effluent disposal options.
- L4-208** The limitations provided by the City's municipal wastewater conveyance and treatment system outweigh the disadvantages associated with the development of an on-site WWTP.
- L4-209** Refer to the response to **Comment L3-04** for a discussion on the sizing of the Proposed Project's wastewater facility and the ability to accommodate the projected wastewater flows, including peak flows.
- L4-210** Refer to the response to **Comment L4-209** for a discussion of the ability of the Proposed Project's wastewater facility to accommodate the projected wastewater flows.
- L4-211** The FEIS text has been changed to 'would' when addressing spray irrigation.
- L4-212** The Water and Wastewater feasibility study (**Appendix B**) states that subsurface disposal should be made at low application rates (not to exceed 0.2 gpd/ft²), and that subsurface disposal should not be done at high elevations (above 1,125 feet) where the soil layer is thinner (AEG, 2004). This assessment is derived from the Soil Mantle and Percolation Test study (**Appendix S**). Refer to the response to **Comment L4-300**, which describes that compliance with the guidance included in the Water and Wastewater Feasibility Study would ensure that no adverse hydrologic impacts would occur associated with the subsurface leachfields and spray irrigation.
- L4-213** As described in **Section 4.3** of the FEIS, the recycled water would meet the criteria of Title 22 for highest quality disinfected tertiary treated recycled water. Furthermore, the project would obtain and comply with a NPDES permit for discharge to surface waters.
- L4-214 and L2-215**
Refer to the response to **Comment L4-209** for a discussion on sizing the Proposed Project's wastewater facility and the ability of the proposed facility to accommodate the projected wastewater flows.
- L4-216** Refer to the response to **Comment L2-65** regarding subsurface disposal of treated effluent on the project site.

- L4-217** Refer to the response to **Comment L2-38** for a discussion on the risk of dam failure and the design criteria that would be implemented to ensure the design is safe to surrounding residents.
- L4-218** As described in the response to **Comment L4-217**, the most feasible and preferred wastewater alternative is to discharge to the intermittent creek pursuant to a NPDES permit and maximize the on-site use of recycled water. However, if a reservoir were to be developed, the stored treated effluent would meet Title 22 standards and would comply with a NPDES permit, minimizing impacts to off-site surface and groundwater.
- L4-219** As described in the geotechnical study (**Appendix E**), if surface water flow is diverted from the reservoir with a culvert and French drain system, the additional contribution of inflow with no liner from subsurface seepage is likely to be very small with respect to the capacity of the reservoir. Additionally, siltation over time would aid in “plugging” of potential drainage paths that could cause off-site seepage. Because the reservoir would retain Title 22 treated effluent, any minor seepages would not cause degradation of off-site water quality.
- L4-220** Comment noted. The results of the percolation tests are reported in **Appendix S** of the DEIS.
- L4-221** Refer to the response to **Comment L2-61** regarding subsurface disposal of treated effluent. The results of the percolation tests were used to identify the areas on the project site where land application would be viable. A majority of the project site was determined not to be viable for land application. Wastewater disposal will be limited to the acceptable areas as identified on Figure 2-1 of the FEIS.
- L4-222** Refer to the responses to **Comments L4-212**, **L4-216**, and **L4-221** for discussions of land application disposal methods and application rates. The wastewater treatment on the project site would meet Title 22 standards, which includes a number of guidelines for production, distribution, and use of recycled water. The project would also comply with the conditions of a NPDES permit, which would ensure the protection of surface water quality.
- L4-223** Refer to **Section 2.0** of the DEIS, which states that during periods of heavy rains, either a storage reservoir would be developed (Option 1) or a NPDES permit obtained for surface water discharge. The on-site soil conditions provides the basis for analyzing two options for wastewater disposal.

- L4-224** **Table 2-7** of the Water and Wastewater Feasibility Study (**Appendix B**) breaks down the typical domestic water uses by type of use. The table shows that each specific use would be capable of reducing its water use by maximizing its use of recycled water. The study also compares the project to similar facilities operating in California, including the Thunder Valley Casino and the Cache Creek Casino & Hotel, which have historically recycled approximately 40% of the wastewater flows for recycled water use. Therefore, it was assumed that 40% of the wastewater flow is recycled and used for such purposes.
- L4-225** As discussed in Section 2.0 of the FEIS, the recycled storage tank would be capable of storing 750,000 gallons of tertiary treated recycled water. Appendix B of the FEIS suggests 250,000 gallons of storage for recycled water. However, the Tribe has committed to using recycled water for fire suppression, which as shown in Table 3-6 of **Appendix B**, is anticipated to be 500,000 gallons.
- L4-226** Comment noted and is correct, at this time the Tribe has not been able to determine an exact goal for recycling. **Section 5.2.9** of the FEIS has been updated to address the Tribe's commitment to recycle materials to the extent possible during construction and operation of the Proposed Project.
- L4-227** **Section 3.9** of the DEIS states that telephone and cellular/wireless coverage is provided by Southern Bell Communications (SBC) for the project area. A telecommunications tower is located on the east side of town and provides coverage to the City. **Section 4.9** addresses potential impacts related to telecommunications and states that consultation with SBC during the construction phase of the Proposed Project is recommended to address/discuss the types of services desired, which would include wireless/mobile coverage.
- L4-228** Refer to the response to **Comments L2-168, L2-273, and L2-274** for a discussion of the training and responsibilities of Tribal security staff.
- L4-229** Refer to the response to **Comment L2-277** regarding the comparison between calls for ACSO service from the existing Jackson Rancheria casino and anticipated impacts of the Project alternatives.
- L4-230 and L4-231**
Refer to the response to **Comment L2-168** regarding the mitigation of impacts to the ACSO.

- L4-232** Comment noted and is correct. The fire station would be required to be adjacent to the casino project and located on Trust land to constitute a Tribal Fire Department. The proximity to AFPD Station 122 does not constitute a significant impact. The close proximity of the two stations would allow for a mutual aid agreement between the Tribal Fire Department and the AFPD.
- L4-233** Comment noted. As presented in the response to **Comments L2-236**, it is expected that the Tribe would enter into a mutual aid agreement with the AFPD to provide mutual aid.
- L4-234** The comment is noted. Refer to the response to **Comment L2-245** regarding the recognition of the exclusive transport franchise agreement between the County and American Legion Ambulances.
- L4-235** Comment noted and is correct. Refer to the responses to **Comments L2-237, L2-243, L2-244, and L2-245**, which summarize the potential fire and safety impacts related to the development of the Proposed Project and the Fire Plan (**Appendix F** of the DEIS).
- L4-236** Comment noted. Refer to the response to **Comment L4-236** for a discussion regarding the potential for a mutual aid agreement between the Tribe and the AFPD.
- L4-237** Refer to the response to **Comment F1-02** regarding trucking to meet potable water demands under the preferred water supply option (Option 2) According to the FHWA (Highway Traffic Noise found at <http://www.fhwa.dot.gov/environment/htnoise.htm>), it would take an additional 20 trucks per hour to increase roadway noise by 3 dB (a just-perceivable increase). The addition of five water truck trips per day to the roadway would not cause a noticeable increase in the ambient noise levels.
- L4-238** **Section 4.10** of the DEIS analyzes noise impacts for each alternative. Under the noise analysis of each alternative there is a heading for mechanical equipment noise effects, which analyzes the noise effects of all mechanical equipment used on-site, including pumps and service facilities.
- L4-239** **Section 4.10.1** of the DEIS provides examples of the type and nature of construction activities, the equipment associated with various activities, and the corresponding noise levels anticipated during each activity. Most, if not all of the examples presented could be expected with development of any of the project alternatives.
- L4-240** Text under each alternative heading in **Section 4.10** of the DEIS identifies construction noise as significant if it were to occur during nighttime hours. **Mitigation Measure**

5.2.10 (A) is recommended as appropriate to reduce potential construction noise impacts to a less-than-significant level.

- L4-241** Refer to the response to **Comment L4-110**. **Mitigation Measure 5.2.10 (L)** in **Section 5.0** of the FEIS has been clarified to include assessments fro ACM and lead based paint to be conducted by licensed individuals if on-site structures are to be demolished.
- L4-242** As stated in **Section 2.2** of the DEIS, the Tribe would adopt and comply with standards no less stringent than Federal workplace and occupational health and safety standards.
- L4-243** Refer to the response to **Comment L2-330** and **Comment L2-331** regarding the supplemental site plans in **Section 5.0** of the FEIS and the viewsheds and lighting plan included as attachments to **Appendix Y** of the FEIS.
- L4-244** Refer to the response to **Comment L2-331** concerning impacts associated with project lighting.
- L4-245** Refer to the response to **Comment L2-05** regarding the assessment of the cumulative environment as described in **Section 4.11** of the DEIS.
- L4-246** **Section 4.11** of the DEIS accurately includes anticipated redevelopment of existing residential and commercial properties within consideration of cumulative impacts of the project alternatives. Refer to the response to **Comment L2-192** regarding the inclusion of planned projects within and surrounding the City for the supplemental traffic and air quality impact analyses presented in the FEIS and the revised TIA.
- L4-247** Refer to the response to **Comment L2-246** regarding the adequacy of the cumulative environmental setting within the DEIS, and the inclusion of an updated planned project list for the revised TIA, which is also applicable to air quality impacts. Refer to **Section 4.8** of the FEIS for the updated analysis of traffic-related impacts and **Section 4.4** of the FEIS for the updated analysis of air quality impacts.
- L4-248** Refer to the response to **Comment L2-05** regarding the cumulative environment as described in **Section 4.11** of the DEIS.
- L4-249** Refer to the response to **Comment L2-05** regarding the description of the Buena Vista project within **Section 4.11** of the DEIS. Refer to the response to **Comment L2-192** regarding the inclusion of planned projects within the revised TIA, which includes the most recent description of the Buena Vista Casino development.

- L4-250** Refer to the response to **Comment L2-05** regarding cumulatively considerable impacts identified within **Section 4.11**, which do not change by updating the existing setting of planned projects. With the development of the Plymouth Pipeline, the aquifer beneath City's well field would recover from overdraft conditions, providing an additional water source to developments within and surrounding the City. As discussed in **Section 3.3** of the DEIS, there are currently no identified maps of the many groundwater basins that exist due to the fractured bedrock within the Plymouth area. As a result, groundwater profiles are difficult to characterize. The existing setting as described in **Section 4.11** of the DEIS assumes development surrounding the project site, except for the areas with active Williamson Act Contracts. These lands to the east and south of the project site greatly restrict development in the area. Because of the difficulty in characterizing groundwater basins in the region, cumulative effects have been considered in the design of the mitigation provided in **Section 5.2.3** of the DEIS and FEIS. Groundwater mitigation includes development of a long term monitoring plan that includes the installation of monitoring wells appropriately placed between the Project wells and the nearest off-site wells, taking into consideration planned future development. Refer to the planned projects list in **Appendix M** of the FEIS.
- L4-251** Refer to the response to **Comment L2-91** regarding an update of the greenhouse gas discussion within the FEIS.
- L4-252** The DEIS states that under the County Housing Element, 1,117 residential units can be supported; however, the DEIS acknowledges that water is a serious concern. Refer to the response to **Comment F1-02** regarding the implementation of the Plymouth Pipeline project to provide adequate water supply to the City to meet year 2025 projected demands. The commenter states that the presumed impacts would fall disproportionately on low-income populations; however, no evidence is presented to support this claim. Impacts to water resources are analyzed in **Section 4.3** of the DEIS, socioeconomic and environmental justice issues are discussed in **Section 4.7**, and indirect impacts are analyzed in **Section 4.12**.
- L4-253** Background data for schools presented in **Section 3.7** of the DEIS corresponds to the analysis of potential impacts and mitigation to schools presented in **Section 4.7**. While more recent data may now be available, the use of this data to estimate potential impacts to schools is not expected to significantly alter the conclusions presented in the DEIS. Specifically, while student enrollment may have changed since the analysis was prepared, it is not expected that there is a substantial difference, and the quantity of the compensation to be provided by the Tribe to the Amador County School District (as presented in **Section 4.7**) would still reduce potential impacts to a less-than-significant level.

- L4-254** Potential environmental justice impacts to minority and low-income communities are considered less than significant, as per the discussion in **Section 4.7** of the DEIS. The commenter overstates the disparities between projected casino salaries and existing incomes; the \$46,000 average income quoted in the comment appears to reflect the average local household income, as presented in **Table 3.7-9** of the DEIS, rather than average individual income. Because the Proposed Project would not result in an incremental impact to minority and/or low-income communities, the potential does not exist for any cumulatively significant environmental justice impacts.
- L4-255** Potential socioeconomic impacts from the Proposed Project would be most pronounced within Amador County; and therefore, this is the scope of the socioeconomic analysis provided in **Section 4.7**. As discussed in **Section 4.11**, the introduction of two additional casinos is not likely to significantly increase County residents' access to casino gambling, because of the availability of existing gambling opportunities in the area.
- L4-256** Cumulative impacts to pathological and problem gambling are analyzed in **Section 4.13** of the DEIS. Refer to the response to **Comment L4-255** regarding the impact of two additional casinos within Amador County. As discussed in **Section 4.11**, while it is not expected that the rate of pathological and problem gambling would significantly increase from introduction of the Proposed Project, the Tribe has nonetheless agreed to make an annual contribution to a local organization(s) that addresses pathological and problem gambling treatment, to provide treatment for any new pathological or problem gamblers.
- L4-257** Comment noted. The text within **Section 4.11** of the FEIS has been revised to clarify that under water supply Option 1, water would be provided by the municipal system to meet all potable water demands of the selected alternative. Refer to the response to **Comment F1-02** regarding the Plymouth Pipeline project. The discussion of the 2000 gpm capacity was in relation to the existing pipeline located along Village Drive and not the total water supply of the City.
- L4-258** Refer to the response to **Comment F1-02** for a discussion of the conditions of groundwater wells in the project vicinity and the effects that the Proposed Project would have if water supply Option 2 is selected.
- L4-259** **Section 4.2** of the DEIS addresses potential impacts to land resources resulting from mass grading activities and operation of the casino facilities. The Tribe would be required to implement erosion control techniques during construction and operation of the casino development. Refer to **Section 5.2.2** of the DEIS regarding compliance with

the USEPA NPDES permitting process to reduce off-site erosion impacts. Additionally, post-construction BMPs are also a component of the overall CWA compliance program. The Buena Vista Casino development, as well as other cumulative development projects, would be required to comply with the Clean Water Act (CWA). As stated in **Section 4.11** of the DEIS, with CWA compliance of the Buena Vista Casino project and other regional developments, cumulative impacts from erosion and sediment are considered less than significant. While connections to the City's water and wastewater services might minimally reduce on-site erosion, other impacts related to connection to these service options would be significant.

L4-260 The Tribe has throughout the environmental review process expressed its willingness to enter into an agreement with the City and/or County for water supply and other services. However, based on the existing conditions of the City's water and wastewater infrastructure, connecting to the project site would result in significant impacts in issue areas other than drainage. In accordance with NEPA, and based on the restrictions placed on municipal services in the region as described in **Section 3.10** of the DEIS, the Tribe has elected to develop on-site water and wastewater systems.

As described in **Sections 2.0** and **4.3** of the DEIS, the Tribe has incorporated surface runoff detention facilities within the project alternatives. This would ensure that discharge from the site does not increase compared to existing conditions. Similarly, the Buena Vista Casino project has identified in their Final Tribal Environmental Impact Report that mitigation to reduce drainage impacts would include a drainage concept plan. Although the implementation of both casinos would result in the conversion of pervious to impervious surfaces, the incorporation of drainage plans would reduce the cumulatively considerable impacts to less-than-significant levels.

L4-261 The TIA for the project alternatives has been revised and is included as **Appendix M** of the FEIS. **Section 4.11** of the FEIS has been updated relative to the results of the cumulative analysis within the revised TIA. The inconsistencies mentioned by the commenter have been eliminated.

L4-262 Comment noted. Refer to the response to **Comment L4-169** regarding the appropriateness and calculations of traffic mitigation fair share percentages, and timing for implementing those improvements.

L4-263 Comment noted. Refer to the response to **Comment L2-91** regarding the expanded Greenhouse Gas analysis presented in the FEIS.

- L4-264** Refer to the response to **Comment F1-02** regarding the alleviation of the overdraft condition of the City's groundwater basin. As discussed in **Section 4.11** of the DEIS, the development of the Proposed Project and the Buena Vista Casino, along with expected regional growth, would not result in significant cumulative effects to the water supply in Amador County.
- L4-265** The mitigation included in **Section 5.2.9** in response to the direct impacts on law enforcement services takes into account the cumulative impacts on the ACSO. As discussed in **Appendix L**, the number of officers needed to serve the project was based on the cumulative demand for officers in the region. With the potential for future cumulative impacts, annual financial compensation provided by the Tribe would account for fluctuations of the Tribe's incremental impacts, ensuring a less-than-significant impact.
- L4-266** Once the land is taken into trust, the Tribe would have jurisdiction over the intensity of on-site development.
- L4-267** Comment noted. Based on the revised TIA, the number of truck trips (only required for Phase II of Alternative A due to the commitment by the Tribe to maximize recycled water use) would be minor compared to the generation of patron trips associated with the project development alternatives. Mitigation has been provided in **Section 5.0** of the FEIS that reduces direct traffic, air quality, and noise impacts; therefore the minor number of truck trips related to water delivery does not require inclusion within the indirect impacts analysis for any of these issue areas. Indirect impacts were analyzed for the project alternatives and are addressed in **Section 4.12** of the DEIS. Other indirect impacts that were considered for inclusion within **Section 4.12** of the DEIS were eliminated because mitigation of the direct impacts associated with the project alternatives would reduce or eliminate any indirect impacts, defined as those impacts distanced from the project alternatives by time and space.
- L4-268** Refer to the response to **Comment L4-16**, which was similar in context and scope. As stated therein, the Tribe does not have jurisdiction to implement and construct the identified mitigation measures. Fair-share contributions have been calculated in accordance with Caltrans methodology and standards.
- L4-269** Roadway improvements to mitigate project impacts would be initiated under a different Lead Agency (Caltrans) and would be subject to CEQA. If the improvements would result in ground disturbance greater than one acre, the Lead Agency would be required to apply for coverage under the State's NPDES General Permit for Construction Activities, which would include the development of a SWPPP. The Tribe would not be

required to incorporate these projects into the USEPA's NPDES Construction General Permit (CGP).

- L4-270** Employment estimates were calculated in the EIA, included as **Appendix R** of the DEIS. Refer to the response to **Comment L2-17** regarding the relevance and accuracy of the EIA.
- L4-271** Refer to the response to **Comment F1-31** regarding the updated discussion of the enforcement provisions of identified mitigation measures within the FEIS. The discussion within **Section 5.0** identifies the party responsible for implementing the mitigation, the oversight authority, and funding source(s) where applicable. A mitigation monitoring schedule would be produced within the Record of Decision and is not a component of the DEIS or FEIS. Performance criterion of implemented mitigation measures are developed and implemented by the corresponding oversight agency.
- L4-272** Comment noted. The term "committed" has been removed from the section header of **Section 5.2** of the FEIS. The purpose of the DEIS and subsequent FEIS is to develop mitigation recommended for inclusion in the ROD. The ROD is the final document that outlines the impacts associated with the selected project alternative, and commits the responsible parties to incorporating the corresponding mitigation measures into the development of the selected alternative.
- L4-273** Refer to the response to **Comment L4-15** regarding the inclusion of mitigation factors within **Section 2.0** of the DEIS in anticipation of potential impacts. Mitigation measures in **Section 5.0** of the DEIS are recommended for implementation in addition to the design provisions included within **Section 2.0**.
- L4-274** The project is not similar to private development projects, but would more closely be compared to a federal project and associated requirements, including federal oversight provisions for mitigating identified impacts. For example, impacts associated with construction on water quality are reduced through compliance with the NPDES permitting system with oversight by the USEPA, Region IX to ensure implementation of the required Storm Water Pollution Prevention Plan (SWPPP).
- L4-275** A list of local community facilities fees is provided that the commenter feels the Tribe should be required to include as mitigation. The DEIS analyzes the impacts to public services in **Section 4.9**. This section includes impacts to municipal water and wastewater, fire, and law enforcement services. Mitigation for these impacts has been provided in **Section 5.0** of the DEIS after consultation with public service agencies in

the region (**Appendix L** of the DEIS). Additional fees suggested by the commenter would not be necessary, as the Proposed Project would result in less-than-significant impacts in these issue areas.

- L4-276** Impacts to public services are addressed in **Sections 3.9** and **4.9** of the DEIS and have been updated in the FEIS. Impacts to facilities within the City were analyzed and mitigation was proposed where significant impacts were identified.
- L4-277** The Tribe has analyzed the runoff and erosion impacts associated with the development alternatives in accordance with NEPA. The drainage study included as **Appendix G** of the DEIS analyzed the potential water quality impacts related to runoff due to development of the project alternatives. The proposed drainage system would reduce the existing runoff and erosion experienced in the areas planned for development. The undeveloped areas would remain consistent with existing conditions as described in **Section 3.3** of the DEIS.
- L4-278** The commenter refers to **Mitigation Measure 5.2.2 (A.15)** in the DEIS; this measure would require site developers to employ construction techniques that use a phased approach in order to limit exposed areas. The phased approach would be adopted by the Tribe and construction superintendent. The Tribe would not be required to provide the grading plans to the City for approval. The Tribe has expressed interest in providing design plans to the local agencies for review, as indicated in the now-voided MSA between the Tribe and the City.
- L4-279** On-site grading would be performed according to approved grading standards that would be reviewed by an independent State of California Certified Registered Engineering Geologist or Civil Engineer. Additionally, a certified Storm Water Pollution Prevention Specialist would be inspecting the site on a regular basis and would have Tribal authority to halt work unless all aspects of the NPDES Construction General Permit are complied with. A stop-work order would be issued if grading activities are creating a risk of sediment runoff and erosion impacts resulting from excessive areas being disturbed without proper stabilization.
- L4-280** Refer to the response to **Comment L4-279** regarding the presence of an on-site inspector during construction of the selected alternative. Refer to the response to **Comment L4-278** regarding the Tribe's willingness to submit final design plans, which could include providing a copy of the SWPPP to the City for review, but not approval. Clarification has been provided in **Section 4.2** of the FEIS and mitigation included in **Mitigation Measure 5.2.2 (A)** to assign a stormwater inspector to ensure compliance with all aspects of the SWPPP.

- L4-281** Refer to Table 1-1 in **Section 1.5** of the DEIS for a summary of anticipated permits, approvals, and consultations required to implement the project alternatives.
- L4-282** BMPs would be chosen and installed based on guidelines within the USEPA's NPDES CGP for erosion and sediment control, as well as procedural controls for non-storm water discharges and waste management. BMPs would be selected and installed according to guidelines within the State of California Stormwater Quality Handbook and/or Caltrans Stormwater Quality Handbook.
- L4-283 and L4-284**
Refer to the response to **Comments L2-38** regarding dam safety. Refer to the response to **Comment L4-238** regarding the Tribes willingness to provide final design plans to local agencies for review.
- L4-285** **Appendix B** of the DEIS includes a detailed section on water conservation measures. These measures have been included in **Section 5.2.3** of the FEIS.
- L4-286** Refer to the response to **Comment L2-50** regarding federal jurisdiction over the project site once taken into trust by the BIA.
- L4-287** Water treatment and groundwater quality issues on the project site are discussed in Section 3.5.1 of **Appendix B** of the DEIS, which addresses the required facilities for water treatment. Table 3-5 of **Appendix B** identifies the water demands with the recommendation of a reverse osmosis treatment system for on-site groundwater as discussed under Water Supply Option 2 of the DEIS. Table 3-4 identifies recommended iron and manganese water treatment plant design criteria. Additionally, **Appendix B** of the DEIS describes that surface water discharges would be issued by the USEPA in the form of a NPDES permit and in accordance with the RWQCB Basin Plan standards. Additionally, the NPDES permit would likely be subject to the requirements of the California Toxics Rule (CTR). The USEPA has recently promulgated the CTR to bring the state in compliance with the CWA for priority toxic pollutants. The USEPA has indicated that any new federally issued NPDES permits for tribal wastewater facilities would also likely require compliance with the CTR.
- L4-288** Preparation of and compliance with a SWPPP, as part of the NPDES permitting process, would account for existing water quality and runoff issues in the project vicinity and would ensure that future runoff associated with the Proposed Project would meet federal water quality standards in compliance with the CWA.

- L4-289** Specific measures that would be included in the SWPPP are described in **Section 5.2.2** of the FEIS. The SWPPP would be developed prior to commencing construction activities and would be required to meet the standards of the CWA, which would ensure that potential drainage issues would be sufficiently mitigated.
- L4-290** As noted in the subheader under **Section 5.2.3** of the DEIS, **Mitigation Measure 5.2.3 (A)** is recommended to reduce impacts to water quality not drainage. Additionally, this mitigation measures incorporates the detailed mitigation measures outlined in **Section 5.2.2**.
- L4-291** Refer to the response to **Comment L4-290** regarding specific measures requested in **Mitigation Measure 5.2.3 (A)**.
- L4-292** It is unclear which mitigation measure the commenter is referencing, as there is no Mitigation Measure C under the Land Resources section of the DEIS (**Section 5.2.2**), nor do any of the previous comments reference a Mitigation Measure C for Land Resources. Consistent with CEQ Regulation 40 CFR 1503.4, no further response is warranted.
- L4-293 and L4-294**
Refer to the response to **Comment F1-02** for a discussion of the overdraft and recharge of the aquifer and to the response to **Comment F1-04** for a discussion of the methodology used to determine long-term yield values. Refer to the response to **Comment F1-09** concerning the development of a long-term monitoring plan. Refer to **Section 5.0** of the FEIS for a list of the mitigation measures.
- L4-295** Refer to the response to **Comment F1-02** regarding the siting and placement of new monitoring wells between the project supply well and off-site wells.
- L4-296** Refer to the responses to **Comments L4-190** and **L4-295** for a discussion of the potential effects of draw-down on local aquifers, and the mitigation measures proposed by the Tribe. Monitoring wells and the development of a long-term monitoring plan identifying impact significant levels, subsidence, and other permanent impacts from use of the Tribal wells would be prevented.
- L4-297** Recommended mitigation measure is noted. The Tribe has committed to including various methods to mitigate impacts to adjacent well users to adequately mitigate anticipated impacts. Refer to **Section 5.2.3** of the FEIS.

- L4-298** Refer to the response to **Comment L4-267** regarding trucked water and the minimal impact related to the five additional truck trips per day for Phase II of Alternative A.
- L4-299** The disposal of Title 22 effluent treated is consistent with both State and Federal mandates for protection of the environment. Effluent quality would be required to ensure compliance with all provisions of the CWA, which is constantly being amended to include updated scientific information.
- L4-300** As described in **Appendix B**, leachfields would be utilized to dispose of treated effluent. Injection wells would not be developed. **Section 2.0** of the FEIS has been revised to clarify that subsurface disposal of treated effluent would occur through the development of leachfields. The USEPA would provide oversight for the placement and operation of the leachfields.
- L4-301** As described in the response to **Comment F1-09** regarding the implementation of a groundwater monitoring program, which would ensure that disposal of treated effluent would not result in violations of the CWA for groundwater resources.
- L4-302** As described in the response to **Comment L2-50**, the Project is under federal jurisdiction and therefore, State regulations (i.e. CCR) do not apply. Treated effluent is not considered hazardous waste and therefore would not result in a violation of the Resource Conservation and Recovery Act. The commenter is correct, leach fields are classified as Class V injection wells under the Underground Injection Control Program of the CWA. The USEPA would provide oversight to the Tribe for compliance with the program.
- L4-303** Refer to the response to **Comment L4-198** for a discussion of the qualifications of the employees at the proposed WWTP.
- L4-304** Refer to the response to **Comment F2-02** for a discussion of the projected water demand and long-term productivity of the project wells, and a discussion regarding the City's reliance on the Plymouth Pipeline for future water supply and the subsequent recharge of the local aquifer. The Tribe has committed to maximizing recycled water use to further reduce the project's reliance on groundwater supplies.
- L4-305** Wastewater generation rates are not addressed in **Section 4.9** of the DEIS because the Tribe would not be connecting to the City's system. In accordance with NEPA, the analysis of public services is to determine whether or not a Proposed Project would result in the need to expand existing facilities, which could in turn result in an

environmental impact. Wastewater generation rates are discussed in **Section 2.0** of the DEIS.

- L4-306** Refer to the response to **Comment F2-02** for a discussion of the projected water demand and long-term productivity of the project wells in relation to the surrounding wells and a discussion regarding the City's implementation of the Plymouth Pipeline project for future water supply.
- L4-307** Refer to the response to **Comment F1-02** for a discussion of the projected water supply. The project also includes two one-million gallon storage tanks and the ability to truck water to the site, which would provide sufficient supply for all peak demand water needs.
- L4-308** There are numerous tribes around the state that operate MBR systems. Furthermore, the USEPA provides funding to train WWTP operators. There are numerous public and private sector resources that can provide training and recruitment to ensure MBR systems are properly operated.
- L4-309** Hazardous materials are addressed in **Section 4.10** of the DEIS. The hazardous materials analysis of the operation of the project alternatives has been updated to include the chemicals typically associated with the operation of a MBR WWTP. As discussed in **Section 5.2.10** of the FEIS, chemicals would be stored according to the requirements of the USEPA to reduce the potential for mishandling, leakage, and spills. These requirements include proper training for Tribal staff and secondary containment in storage areas to minimize leaks and spills if encountered.
- L4-310** As discussed in Section 5.2.2 of **Appendix B** of the DEIS, the Jackson Rancheria is currently sending biosolids from their WWTP to Forward Inc. Landfill located in Stockton, CA.
- L4-311** As discussed in **Appendix B** of the DEIS, the design of the WWTP includes an equalization basin/emergency storage basin to store influent during peak times. This would allow the 200,000 gpd MBR system to operate at maximum efficiency by ensuring influent flows remain below the maximum capacity. As a result of this process, effluent would consistently meet Title 22 standards.
- L4-312** As discussed in **Section 2.0** of the DEIS, treated water to be used for irrigation and toilet flushing would be stored in a 750,000 gallon recycled water tank prior to use. This recycled water tank was sized to provide adequate reserve capacity to meet non-

potable water demands and to allow storage to maintain flow rates at or below the disposal capacities of leach and spray fields.

- L4-313** The impacts to groundwater are addressed in **Section 4.3** of the DEIS. On-site wastewater disposal would require oversight by the USEPA to determine if the Proposed Project would increase contaminants above Basin Plan provisions. In response to comments on the DEIS, a spray field monitoring plan has been included in **Section 5.2.3** of the FEIS to reduce impacts associated with the disposal of treated effluent proposed for Alternatives A, B, C and D.
- L4-314** Refer to the response to **Comment L4-313**, which discusses the Tribe's commitment to reduce impacts associated with on-site wastewater disposal. In accordance with the CWA, the Tribe would be required by the USEPA to ensure co-mingling of treated effluent and surface water is avoided. Treated effluent disposal would be limited to the areas shown in the site plans for the project alternatives in **Section 2.0** of the DEIS. These sites were reviewed for potential impacts to waters of the U.S. as shown in **Figure 3.5-2** of the DEIS. The treated effluent disposal sites were selected to avoid potential impacts to waters of the U.S.
- L4-315** Refer to the response to **Comment L2-38** regarding downstream impacts of the treated wastewater reservoir.
- L4-316** The dam would be designed according to design parameters from a State of California Certified Engineering Geologist and inspected by an independent Engineering Geologist. Percolation of disinfected tertiary treated recycled water through soil layers into the fractured bedrock would not constitute a significant impact in accordance with Title 22.
- L4-317** If soils become saturated and additional effluent were sent to the leach fields, daylighting of recycled water and the potential co-mingling with surface water could occur. This has been accounted for through project design as described in **Section 2.0** of the DEIS. The storage reservoir and surface water discharge options were analyzed in the DEIS to meet the disposal requirements when leach field and spray field use would not be available, such as during times of heavy rains.
- L4-318** Refer to the response to **Comment L4-312** regarding storage of treated water prior to use.
- L4-319** The commenter provides a general statement that the treated effluent storage requirements appear under-designed. The commenter does not give specific examples

and therefore a specific response cannot be provided. The anticipated storage demands are based on the engineering feasibility study provided in **Appendix B** of the DEIS.

L4-320 Refer to the response to **Comment F1-09** regarding implementation of a long-term monitoring plan. Working side-by-side with the USEPA is the most applicable and reasonable mitigation measure possible for the Tribe to implement when addressing unforeseeable impacts. As discussed in CEQ guidelines, “mitigation measures must be developed where it is feasible to do so” [46 Fed. Reg. 18026 (1981)]. The monitoring plan is the most feasible mitigation for this type of potential impact.

L4-321 Refer to the response to **Comment S6-07** regarding the inclusion of commercial development comparable with the Proposed Project within the City’s WSA..

L4-322 While peaking factors can vary, the Tribe has included two million gallons worth of water storage for the casino developments. Based on the engineering study performed for the project alternatives included as **Appendix B** of the DEIS, the storage is adequate to meet special event peaking needs.

L4-323 Refer to the response to **Comment F1-02** for a discussion of the effects of long-term groundwater pumping by the Tribe on surrounding off-site wells. As described in the response to **Comment F1-32**, the capture zones for the proposed wells would be similarly small due to the low recommended yields, and so are not likely to overlap with or impact adjacent water supplies.

L4-324 and L4-325

Refer to the response to **Comment F1-02** for a discussion of the use of trucked water as a supplemental water source for the project. As described, trucked water is proven as an effective supplemental water source. Truck trips related to supplying this water would not result in any indirect impacts to traffic, air quality, or noise, as discussed in the response to **Comment L4-43**.

L4-326 Redundancies in the water supply system, including the ability to alternate between the three proposed groundwater wells, use of two one-million gallon water storage tanks, and provision of water via tanker trucks would provide back-up water supply in the event of an emergency.

L4-327 Wastewater generation rates are not addressed in **Section 4.9** of the DEIS because the Tribe is not connecting to a municipal system. In accordance with NEPA, the analysis of public services is to determine whether or not a Proposed Project would result in the

need to expand off-site facilities, which could in turn result in an environmental impact. Wastewater generation rates are discussed in **Section 2.0** of the DEIS.

- L4-328** As described in the response to **Comment F1-08**, the development and operation of a long-term groundwater monitoring plan is an appropriate practice to determine the impacts (if any) that sustainable pumping would have on the aquifer.
- L4-329** Refer to the response to **Comment F1-09** for a discussion of the long-term groundwater monitoring plan. **Section 5.0** of the FEIS has been updated to state “The determination regarding whether the groundwater user’s pre-project consumptive use is reasonably determined to have been reduced or lost as the result of the Tribe’s groundwater pumping practice shall be made by an engineer retained by the Tribe”.
- L4-330** Refer to the response to **Comment F1-09** for a discussion of the long-term groundwater monitoring plan, including the placement of monitoring wells between the project wells and the project well.
- L4-331** Refer to the response to **Comment F1-09** for a discussion of the long-term groundwater monitoring plan, including the use of monitoring wells to determine impacts associated with operation of the Tribal wells.
- L4-332** Comment noted. **Section 5.0** of the FEIS has been updated with the text recommended by the City.
- L4-333** Allowing each individual well owner to select the appropriate mitigation measure for the Tribe would not further reduce impacts. As stated in **Section 5.0** of the FEIS, the Tribe shall select the mitigation measure that would most efficiently and effectively reduce impacts to off-site well users.
- L4-334** Refer to the response to **Comment L4-198** regarding water treatment plant operators.
- L4-335** The number of water treatment plant employees and staff rotations are not currently known at this time and are not required to analyze the environmental impacts of the project alternatives. A disposal site for the iron and manganese sludge would be determined after initial water quality baseline sampling. Filtration for iron and manganese may not be required.
- L4-336** As described in **Section 4.3** of the FEIS, the wastewater treatment facilities would meet the criteria of Title 22 for highest quality disinfected tertiary recycled water. The Water

and Wastewater Feasibility Study (**Appendix B**) includes measures for facility design, treatment requirements, and requirements that would ensure that groundwater quality would be sufficiently protected. Additionally, the project would implement a groundwater monitoring program and would obtain and comply with a NPDES permit.

- L4-337** Comment noted. The Tribe would be required to recruit staff with the necessary skills and training to operate the MBR plant in order to meet Title 22 criteria for highest quality of disinfected tertiary recycled water, and to ensure compliance with a NPDES permit. The response to **Comment L4-308** discusses the availability and recruitment of qualified personnel.
- L4-338** Chemicals used with the wastewater treatment facility would be disposed of according to standard hazardous waste disposal methods established and regulated by the USEPA. The Tribe would contract with a licensed hazardous waste disposal company.
- L4-339** The biosolids go through a thickening process before they are dried and then disposed of in a landfill or dedicated sludge disposal site regulated by the USEPA. Biosolids produced by the WWTP would be dewatered and trucked off site for disposal at a licensed landfill.
- L4-340** Refer to the response to **Comment L3-04** for a discussion on the sizing of the Proposed Projects wastewater facility and the ability to accommodate the projected wastewater flows, including peak flows.
- L4-341** Refer to the response to **Comment L3-04** for a discussion of the proposed wastewater facility's ability to handle peak flows from the Proposed Project. All components of the facility, including disposal methods, have been sized in accordance with the projected flows.
- L4-342** In response to comments on the DEIS, **Section 5.2.3** of the FEIS has been updated to include a wastewater sampling and monitoring program, which would be required by, and developed in consultation with, the USEPA. Refer to the response to **Comment L2-52** for a discussion of effluent treatment standards.
- L4-343** Refer to the responses to **Comments L4-342** and **L2-52** for a discussion of effluent treatment standards, which would ensure that groundwater would not be contaminated due to discharges from the project site.
- L4-344** Refer to the response to **Comment L2-38** for a discussion of the impacts and feasibility of constructing a reservoir on the site.

L4-345 As described in **Section 2.0** of the FEIS, the use of the reservoir would require that a NPDES permit be obtained from the USEPA. The seasonal storage reservoir would not be used for storage of untreated wastewater. Compliance with a NPDES permit would ensure that the proposed reservoir would not adversely impact groundwater quality.

L4-346 Refer to the response to **Comment L4-317** regarding alternate disposal options of saturated soils.

L4-347 Refer to the response to **Comment L3-04** regarding wastewater generation rates and the response to **Comment L4-317** regarding alternate disposal options.

L4-348 and L4-349

Refer to the response to **Comment L3-04**, describing the methodology for sizing various components of the wastewater treatment and disposal facilities.

Implementation of the groundwater monitoring program would be in consultation with the USEPA. Working side-by-side with the USEPA is the most applicable and reasonable mitigation measure possible for the Tribe to implement when addressing unforeseeable impacts. As discussed in CEQ guidelines, “mitigation measures must be developed where it is feasible to do so” [46 Fed. Reg. 18026 (1981)]. The monitoring plan is the most feasible mitigation for this type of potential impact.

L4-350 Refer to the response to **Comment L3-04** for a discussion of the assumptions that were used to determine wastewater flows.

L4-351 Refer to the response to **Comment L4-202** for a discussion of the project design utilizing standard engineering techniques, which are based on technical engineering studies of the project site including a water supply and wastewater feasibility study (**Appendix B** of the DEIS) and a groundwater well pumping test study (**Appendix C** of the DEIS). The Proposed Project would obtain and comply with a NPDES permit and would meet Title 22 tertiary standards.

L4-352 Refer to the response to **Comment L4-199** for a discussion of the Tribe’s consideration of working with the City for water and wastewater services.

L4-353 The advantages of using an MBR system outweigh the disadvantages associated with the system, which are standard issues that have to be addressed when planning to operate any wastewater treatment system.

L4-354 Refer to the response to **Comment L4-338**.

- L4-355** Refer to the response to **Comment L4-339**.
- L4-356** Refer to the response to **Comment L4-206** for a discussion of the grease traps that would be implemented for the project.
- L4-357** Refer to the response to **Comment L3-04** for a discussion of the assumptions that were used to determine wastewater flows.
- L4-358** Refer to the response to **Comment L4-308** discusses the availability and recruitment of qualified personnel.
- L4-359** Refer to the response to **Comment L2-61** for a discussion of the process the Tribe would follow to ensure that wastewater disposal would be meet groundwater quality criteria under recent USEPA guidelines.
- L4-360** Refer to the response to **Comment L3-04** for a discussion of the assumptions that were used to determine wastewater demands.
- L4-361 and L4-362**
Refer to the response to **Comment L2-52** for a description of the wastewater treatment requirements that the project would comply with to ensure that recycled water use and wastewater discharge would not pose a health risk to the public.
- L4-363** Refer to the response to **Comment L3-04**, which provides a discussion explaining why the proposed 250,000-gallon storage tank would be sufficient for tertiary-treated effluent storage, and how the system would be capable of treating the Proposed Project's generated effluent to tertiary standards.
- L4-364** Refer to the response to **Comment L2-38** for a discussion regarding the conclusion that less-than-significant impacts would result from the construction of the storage reservoir and proposed 75-foot earthen dam. Additional discussion summarized from the geotechnical study is included in **Section 4.2.2** of the FEIS.
- L4-365** Refer to the response to **Comment L3-04** for a discussion of the assumptions that were used to determine wastewater flows.
- L4-366** Refer to the response to **Comments L4-348** and **L4-349** regarding development of the monitoring program to determine impacts to groundwater quality.

- L4-367** This comment is a repeat of **Comment L4-366**. Refer to the response to **Comment L4-366** regarding the monitoring plan.
- L4-368** Under NEPA, a mitigation measure must be both reasonable and achievable; the proposed mitigation measure is both. On-site construction and operation would not be subject to California rules or regulations once the land is taken in to trust. **Mitigation Measures 5.2.4 (B) and (G)**, which restrict construction equipment emissions and operational vehicle idling.
- L4-369** Comment noted. The Tribe cannot compel a third party to carpool. The Tribe can and would encourage carpooling through incentives to employees and construction workers. The commitment to encourage carpooling is included as **Mitigation Measure 5.2.4 (K)** within the FEIS.
- L4-370** Comment noted. Refer to the response to **Comment L4-369** regarding carpooling.
- L4-371** Refer to the responses to **Comments F1-14, F1-15, F1-18, and L2-110** regarding mitigation of identified impacts to biological resources. For clarification, where applicable, the mitigation measures in **Section 5.2.5** have been updated in the FEIS to include the precise timing of implementation.
- L4-372** Refer to the responses to **Comments F1-14, F1-15, and F1-18** regarding mitigation of impacts to waters of the U.S.
- L4-373** Refer to the response to **Comment F1-15** regarding mitigation of impacts to waters of the U.S.
- L4-374** Refer to the responses to **Comments F1-14, F1-15, and F1-18** regarding mitigation for impacts to waters of the U.S.
- L4-375** Refer to the response to **Comment L2-107** regarding the inclusion of VELB mitigation measures as discussed in **Appendix H** have been added to **Section 5.2.5** of the FEIS. Additionally, formal consultation with USFWS would be initiated if construction activities occur within 100 feet of any elderberry shrubs on site.
- L4-376** Refer to the response to **Comment F1-15** regarding impacts to waters of the U.S.
- L4-377** Refer to the response to **Comment F1-15** regarding impacts to waters of the U.S. A qualified biologist shall monitor any created wetlands, as generally stipulated by the 404 permit mitigation monitoring requirements.

- L4-378** The dry season is generally accepted in California to be April 15th through October 15th. **Mitigation Measure 5.2.5 (I)** has been revised to accurately depict the construction window.
- L4-379** The oak tree removal and mitigation replacement ratios adopted by the Tribe are either 2:1 or 3:1 as described in **Section 5.2.5**. Although the Tribe would not be required to adhere to State, County nor local standards once the land is taken into trust, these mitigation ratios have been accepted to prevent degradation of the existing habitat while sustaining the existing vegetative communities on site. All monitoring of plantings shall be conducted by a qualified arborist or biologist. This ratio of replacement adheres to the California Oak Woodlands Conservation Act guidelines, which has been adopted by Amador County and was added to the CEQA statutes as Section 21083.4. Planting an appropriate number of trees, including the maintenance of plantings and replacement of failed plantings would be sufficient for mitigation.
- L4-380** It is unclear what the comment refers to, as there is no Mitigation Measure S in the Biological Resources **Section 5.2.5**. Consistent with CEQ Regulation 40 CFR 1503.4, no further response is warranted.
- L4-381** **Mitigation Measure 5.2.7 (B)** has been clarified to state that the amount of compensation provided by the Tribe shall include the amount of property tax revenues lost as a result of the BIA taking the project site into trust.
- L4-382** While more recent data may now be available in some instances, the use of this data to estimate potential impacts to schools is not expected to be significantly different; therefore, the effects and conclusions discussed in the DEIS are considered relevant and accurate.
- L4-383** Comment noted. If Caltrans were to require encroachment permits for the project driveways, then the Tribe would be required to obtain these permits prior to beginning the project, including full compliance with the CEQA process for State projects.
- L4-384** The assumption that an improvement would not be completed if the Tribe does not pay 100% of the cost is unsubstantiated. Refer to the response to **Comment L4-16** regarding the methodology for calculating the fair share percentages.
- L4-385** The first part of this comment is unclear. Consistent with CEQ Regulation 40 CFR 1503.4, no further response is warranted. The second part of the comment repeats the text of **Comment L4-384**. Refer to the response to **Comment L4-16** regarding the methodology for calculating the fair share percentages.

- L4-386** **Mitigation Measure 5.2.9 (A)** has been revised to include the following language: “The Tribe shall create and maintain an aggressive Waste Management Plan which implements recycling strategies to voluntarily meet State recycling and diversion requirements. The Waste Management Plan shall include the installation of a trash compactor for cardboard and paper products, and the placement of recycling bins throughout the facilities for glass, cans and paper products.”
- L4-387** Refer to the response to **Comment L2-50** regarding federal jurisdiction over the project site once taken into trust.
- L4-388** The analysis presented on **pages 4.9-3 through 4.9-6** of the DEIS relates to potential solid waste impacts to the transfer station: “The estimated waste stream generated during Phase I would account for 6% of the remaining capacity of the transfer station (the WARF). The amount of materials transported to the WARF would not result in exceedance of the permitted capacity of the WARF.”
- L4-389** Refer to the response to **Comment L2-332** regarding littering on State highways and County roadways.
- L4-390** Comment noted. **Section 4.9** the DEIS addresses the potential impacts related to recycling at the transfer station (WARF).
- L4-391** Refer to the response to **Comment L2-332** regarding littering on State highways and County roadways.
- L4-392** Refer to the response to **Comment L4-227**, which states that SBC provides telecommunication services to the City and the project area via a cellular tower located east of the City.
- L4-393** The Responsible Alcoholic Beverage Consumption policy included in **Section 5.2.9** of the DEIS would be comprehensive and enforced upon project approval to avoid potential project-related impacts to law enforcement and surrounding communities.
- L4-394** **Mitigation Measures 5.2.9 (G) and (H)**, which address the parking areas, have been updated in the FEIS to clarify the extent of lighting and use of security personnel.
- L4-395** The language presented in the DEIS includes specific descriptions of the Tribal Security Force, including 24-hour/day, 365 days/year security, in roaming shifts in the casino, parking areas, and surrounding areas. Upon project approval, the specific schedules, shifts, number of personnel in each area would be determined.

L4-396 Educating traffic control staff on the peak hours of the existing roadway network would be unnecessary to reduce impacts to law enforcement personnel. Managers of the traffic control staff, casino, and conference center would determine when traffic control is required due to scheduled events at the casino development.

L4-397 Comment noted. Refer to the response to **Comment L2-168** regarding the mitigation to reduce impacts to the ACSO.

The commenter requests that there be assurances that the Tribe would enter into an agreement with the ACSO. As cited in **Section 5.0** of the DEIS (**pages 5-1 and 5-2**), the Tribe had originally entered into a MSA with the City, which was later voided. All project components including mitigation measures incorporated into the ROD will be enforceable not only by the Tribe, but by the National Indian Gaming Commission's (NIGC's) oversight and enforcement authority to the extent allowable under IGRA as set out in 25 C.F.R Parts 522, 571, 573, 575, 577, and 579. The commitment of the Tribe to the surrounding region is well documented within the DEIS.

L4-398 Comment noted. The comparative information presented in this comment is not referenced or included; therefore, the claim cannot be substantiated. As discussed in **Section 5.2.9** of the DEIS, the Tribe would provide financial compensation to the ACSO and the ACDA and the Tribe shall consult with the City and the County to assess and reasonably address the potential impacts to County law enforcement services.

L4-399 The commenter states that the City should enter into a MOU regarding reimbursement for additional costs required to mitigate impacts to the CHP workload. Refer to the response to **Comment L2-263** regarding compensation for impacts to the CHP.

L4-400 **Mitigation Measure 5.2.9 (J)** has been revised to clarify that payments would be provided to off-set costs associated with enforcement actions generated by the selected project alternative.

L4-401 **Mitigation Measure 5.2.9 (N)** has been revised to clarify that payments would be provided to off-set costs associated with enforcement actions generated by the selected project alternative.

L4-402 and L4-403

The information and analysis presented in **Sections 3.9, 4.9, and 5.2.9** was developed in consultation with the local public service providers. The input of these agencies, presented as **Appendix L** of the DEIS, was critical in developing and analyzing

potential project-related impacts to public services as a result of the Proposed Project and the development alternatives presented in the DEIS. The information presented within **Comments L4-403** is based on outside information gathered from an independent consultant at a casino located between two major urban locations, the Cities of Sacramento and Lincoln. A rural casino would be anticipated to result in fewer service calls, validating the rate used within the DEIS.

- L4-404** Refer to the response to **Comment L2-168** regarding mitigation to reduce impacts to the ACSO.
- L4-405** Refer to the response to **Comment L2-268** regarding funding of FTE officers, which includes compensation for equipment needs.
- L4-406** Refer to the response to **Comments L4-402** and **L4-403** regarding the rate of service calls calculated by the commenter. Emergency calls and dispatching is specifically addressed in the **Section 4.9.1** of the DEIS. As part of the mitigation presented in **Section 5.2.9**, the Tribe has committed to negotiate in good faith to make an annual monetary payment to the County to address impacts to emergency dispatching.
- L4-407** The analysis of potential impacts to local law enforcement agencies is presented in **Section 4.9** of the DEIS. Each local agency was granted the opportunity to include their statistical data, analysis of potential impacts related to the development of the Proposed Project, and the necessary staffing and equipment needs to mitigate potential impacts (**Appendix L** of the DEIS).
- L4-408** Refer to the response to **Comment L2-234** regarding consideration of impacts to fire protection services incorporated into the project alternatives.
- L4-409** Comment noted. Refer to the response to **Comments L4-232** through **L4-236**. The Tribe would develop a Tribal fire station within close proximity to the fire station located within the City. It is expected that the Tribe would enter into a mutual aid agreement with the AFD after project approval, and would supplement the fire protection services in the surrounding vicinity.
- L4-410 through L4-412**
Refer to the response to **Comment L4-409** regarding impacts to fire protection services.
- L4-413** The costs associated with training the Tribal Fire Department to a Fire Fighter Level I and Paramedic status is significant and would be the responsibility of the Tribe. The

Tribal Fire Plan (**Appendix F** of the DEIS) states that the training of Tribal Fire Fighters would continue and be maintained through internal training functions of the Tribal Fire Department. Refer to the response to **Comment L2-236** regarding the potential mutual aid agreement between the Tribe and the AFPD and fire protection provisions included within the project alternatives.

L4-414 Refer to the response to **Comment L2-236** regarding the potential mutual aid agreement between the Tribe and the AFPD and fire protection provisions included within the project alternatives.

L4-415 and L4-416

The commenter provides a general estimation of anticipated service calls for fire and EMS services. The commenter does not relay the location of the casino reviewed by the City to determine the estimated rate of calls. Assuming the casino was the same previously reviewed, refer to the response to **Comment L2-402** and **L4-403** regarding comparison of urban and rural casinos.

L4-417 Refer to the response to **Comment L2-234** regarding the consideration of impact to the AFPD from the implementation of the project alternatives. Refer to the response to **Comment L2-236** regarding the Tribe's commitment to enter into a mutual aid agreement with the AFPD to assist not only the Tribe, but to increase the capacity of the AFPD's service capacity to serve the surrounding community. The mutual aid agreement will be required due to the sovereignty of the Tribe versus the jurisdiction of the AFPD. Refer to the response to **Comment L4-415** and **L4-416** regarding the anticipated call for service generation rate of the project alternatives.

L4-418 The analysis within **Section 4.10** of the DEIS acknowledges that the use of the proposed casino by patrons and employees would result in an increased demand for emergency medical services. Because the costs for emergency medical services are borne by individuals who call for service, coupled with the paramedic training of all Tribal Fire Department members, development of Alternative A would have a less-than-significant effect to emergency and medical services.

L4-419 Refer to the response to **Comment L2-247** regarding consideration to off-site emergency responders.

L4-420 Refer to the response to **Comment L2-234** regarding consideration of potential impacts to local fire protection services that are incorporated into the project description.

- L4-421** The commenter requests that the Tribe develop a Tribal Fire Plan to address fire response without the reliance on mutual aid agreements. Refer to the response to **Comment L2-240**, which describes the Tribal Fire Plan in detail without a mutual aid agreement. Furthermore, refer to the response to **Comment L2-248**, which states that in the event that the Proposed Project is approved and enters into trust status, the CDF has an existing agreement with the BIA to provide wildland fire protection for BIA lands (trust lands).
- L4-422** Comment noted. The development of an onsite Tribal Fire Department not only mitigates potential impacts associated with the operation of the project alternatives, but through the anticipated mutual aid agreement increases the service capabilities of the City.
- L4-423** Once the land is taken into trust, the City would not have jurisdiction to enforce the provisions of its Municipal Code. However, the Tribe has made a commitment to limit construction hours to between 6 am and 6 pm, Monday through Saturday to mitigate noise impacts to nearby sensitive receptors. This commitment is provided in **Mitigation Measure 5.2.10 (A)** in **Section 5.2.10** of the FEIS.
- L4-424 through L4-426**
Section 4.10 of the DEIS identifies the location of the sensitive receptors potentially impacted by the operation of the project alternatives. Earthen berms would be located accordingly to account for sensitive receptors. The potential for construction of noise attenuation walls has been removed from **Mitigation Measure 5.2.10 (B)** in **Section 5.2.10** of the FEIS in response to this comment.
- L4-427** Refer to the response to **Comment L2-50** regarding federal jurisdiction over the project site once taken into trust. During operation of the project, hazardous materials impacts would be addressed through the implementation of **Mitigation Measure 5.2.10 (F)** of the DEIS. Standard Operating Procedures (SOPs) listed in **Mitigation Measure 5.2.10 (F)** are intended to ensure the use, storage, and handling of hazardous materials would not pose a threat to human health or the environment. These SOPs would be implemented during both temporary construction and project operation. The SOPs are no less stringent than SOPs for a similar facility under local jurisdiction. The commenter is also referred to the response to **Comment L4-242** regarding the preparation of a SPCC to be implemented in accordance with Federal OSHA guidelines as part of the Tribe's overall compliance program. The USEPA would provide regulatory oversight over Tribal lands in accordance with Federal hazardous materials regulations.

- L4-428** Compliance with environmental mitigation commitments would be ensured by exercise of the EPA’s permitting and enforcement authority and the Tribe’s authority to enforce Tribal environmental laws and regulations, and the NIGC’s oversight and enforcement authority over the Tribal gaming ordinance to the extent allowable under IGRA (refer to **Section 5.1** of the FEIS). **Mitigation Measures 5.2.10 (H) and (K)** of the FEIS provide further clarification regarding methods and exercise standards to be applied.
- L4-429** **Mitigation Measure 5.2.10 (I)** of the FEIS has been clarified to read “A copy of the hazardous waste minimization program and a full inventory of flammable and hazardous materials will be provided to the Amador County Fire Department.”
- L4-430** **Mitigation Measure 5.2.10 (L)** of the FEIS has been clarified to include an assessment for lead based paint and asbestos containing materials prior to demolition of the existing on-site residences. The assessments would be performed by a licensed inspector. If lead based paint or asbestos containing materials are found, the materials would be removed from the site according to local, state, and federal requirements for removal of lead based paint and asbestos containing materials.
- L4-431** Refer to the responses to **Comments L2-331 and L4-40** regarding the expanded discussion of visual resources in the FEIS.

L05 EL DORADO COUNTY DEPARTMENT OF TRANSPORTATION

- L5-01** The commenter states that the project should be required to mitigate all impacts. In accordance with NEPA guidelines, mitigation has been recommended for all potentially significant impacts when feasible to do so [46 Fed. Reg. 18026 (1981)].

The commenter further states that the impacts to El Dorado County’s traffic circulation and air quality were not adequately analyzed and recommends additional intersections that should be included in a revised traffic study. As shown in Figure 4-1 of the TIA in **Appendix M** of the DEIS, 26% of the traffic generated by the project is anticipated to traverse through El Dorado County. The roadway segment of SR-49 north of the project site and the intersection of Pleasant Valley Road and SR-49 were included in the roadway study network. The DEIS adequately characterized the potential impacts anticipated from the 26% of project traffic that would traverse from/to El Dorado County. Air quality impacts to El Dorado County were also adequately addressed in **Section 4.4** of the DEIS. In accordance with the Clean Air Act, project emissions were estimated using an acceptable air emissions model prepared by the State of California and compared with de minimis emissions standards for Criteria Air Pollutants for

which the air basin is designated as non-attainment. The project site is located within the Mountain Counties Air Basin (MCAB), which includes El Dorado County. Based on the conformity review of the project emissions, impacts to the MCAB were identified as less than significant.

Refer to the response to **Comment S4-02** regarding the development of the revised TIA. Based on the anticipated trip distribution of the traffic generated by the project alternatives, the following recommended intersections determined to be potentially affected by the project were included in the revised TIA:

- Latrobe Road / South Shingle Road
- Latrobe Road / White Rock Road
- Pleasant Valley Road / Forni Road
- Pleasant Valley Road / Missouri Flat Road
- Missouri Flat Road / Forni Road
- Missouri Flat Road / Motherlode Road
- Missouri Flat Interchange / US-50

L5-02 Comment noted. It is unclear what errors the commenter is referring to in the traffic study. Refer to the response to **Comment S4-02** regarding revision of the TIA. The air quality modeling in the FEIS was performed using the last EPA and CARB approved air quality model, URBEMIS 9.2.4, 2007. Model outputs are provided in **Appendix Q**. **Section 4.4** and **Section 4.11** has been updated to reflect the use of URBEMIS 9.2.4, 2007. The Proposed Project is a federal project and as such is not subject to the State Ambient Air Quality Standards. The cumulative air quality analysis has been updated and is provided in **Section 4.11** of the FEIS. The air quality analysis in the FEIS adequately assess existing and cumulative with project conditions. The revised TIS is provided in **Appendix M** of the FEIS.

L5-03 The analysis requested by the commenter was performed and additional mitigation proposed. Mitigation identified within the revised TIA is summarized in **Section 5.2.9** of the FEIS. Refer to **Appendix M** of the FEIS for the full discussion of mitigation within the revised TIA. For identified impacts, roadway improvements are recommended as mitigation. Because the impacts are off site and under the jurisdiction of local and state agencies, the Tribe's proportionate share of the costs associated with the roadway improvement are provided. The proportionate share calculations were based on formulas presented in the Caltrans Guide for the Preparation of Traffic Impact Studies, December 2002.

PRIVATE AND COMMERCIAL ENTITIES (P)

COMMENT LETTERS AND RESPONSES

Comment Letter P1

To: Amy Dutschke, Acting Regional Director, Pacific Regional Office,
Bureau of Indian Affairs.
2800 Cottage Way
Sacramento, California, 95825

Re: DEIS Comments, Ione Casino Project

Dear Ms. Dutschke,

My name is Tom Rayzor. I moved to Amador County and started my employment with the Amador County Sheriff's Office about ten and one half years ago. For the last six years I have been assigned to the Investigations Division as a Property Crimes Detective. This position has given me a unique view of the impact the Jackson Rancheria Casino has had on the residents of our county and the county agencies, and that impact is enormous.

P1-1

During my time in investigations, I have worked on endless casino related cases including robberies, vehicle burglaries, residential burglaries, commercial burglaries, vehicle thefts, mail thefts, petty thefts, grand thefts, check counterfeiting, check forgeries, identity theft, unauthorized credit card use and much more. The one casino we currently have in Amador County generates an enormous amount of crime and impacts the various county agencies greatly. The amount of money the Jackson Rancheria Casino pays to the county is pennies on the dollar.

P1-2

Patrons of the Jackson Rancheria Casino commit crimes at the casino itself but often it's done going to the casino or going home from the casino. They will lose all of their money at the casino, then find a residence, business or multiple vehicles to burglarize and use whatever they get (credit cards, money, checks, etc.) all the way home. Just ask the neighbors that live near the casino. Most have reluctantly decided to get a Post Office box because their mail is stolen so frequently. Ask about the casino patrons that park in their driveways or on the neighboring side streets at all hours to do drugs. They can't leave anything of value in their yards because it is immediately stolen. Ask them about the knock on the door at all hours of the night with someone trying to sell their grandfather's shotgun from the truck of a car to get enough money to get home. Ask about the female casino patron that knocked on a neighbor's door to ask if they would baby sit her children while she went to gamble.

P1-3

It now appears as if another casino is going to be built soon in the Jackson Valley. That "Tribe", one woman and her three or four children, and of course with the backing of an out of state gambling corporation, are going to build a very large casino complex on what was once an Indian burial site. Amador County has been in negotiations with the Tribe to "mitigate" its impact on county agencies. We have been told that this casino is inevitable.

P1-4

The Jackson Rancheria Casino has its own Tribal Police Department which employs officers numbering close to what the Amador County Sheriff's Office has to cover the

P1-5

entire county. We currently have about fifty from the Sheriff on down. But the Tribal Police Department is not a State recognized agency so when something goes down at the casino, the Sheriff's Office must send deputies there to interview suspects and victims, do an investigation, review surveillance video and take proper legal action (arrests, transporting suspects, searches, storing vehicles, etc.). The deputies must then write and submit a crime report. It is very time consuming and often takes half or more of the deputies assigned to patrol the entire county, usually three or four, off the streets for hours. The proposed casino in Jackson Valley will not have their own Tribal Police force and will be the responsibility of the Amador County Sheriff's Office. I know that they are negotiating for some additional deputies but it will undoubtedly have a great impact on the Sheriff's Office and all the other county agencies down the line.

P1-5
cont.

Now we have the Lone tribe, and of course with another out of state gambling corporation, wanting to build a third casino in Plymouth. I just don't believe that the original intent of the people when they voted to allow Indian gaming included purchasing non-tribal land with the sole purpose of erecting a casino to make obscene amounts of money at the expense of the residents. There are about 38,000 residents in Amador County and the Sheriff's Office currently is about fifty strong. Each casino brings tens of thousands more into the county daily. And quite frankly, many that come to the casinos are of questionable character as evidenced by the crime related to the Jackson Rancheria Casino. A third casino is going to have tremendous negative impacts on both the residents and law enforcement.

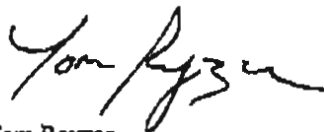
P1-6

Let's talk about that word so often used when new casinos are proposed, "mitigate". The casinos talk about *mitigating* (paying money) for their negative impact on the areas where they want to operate. No one talks about *mitigating* the victims; the thousands of Amador County residents that will become victims of crime due to the casino being their neighbor. I believe the casinos should also *mitigate* (pay money to) the victims of crime done by their patrons; dollar for dollar. No one ever talks about the victims.

P1-7

When I came to Amador County, I planned on spending the last of my working years here, retiring here and then live out the rest of my life here. It is a wonderful, beautiful rural place where I chose to live. But if a second and then a third casino is built, unfortunately I will probably be forced to move elsewhere. With three casinos in small, rural Amador County, you may as well be living in downtown Reno. It makes me so sad to think that greed and money are going to ruin this beautiful, historic place.

P1-8



Tom Rayzor
15177 Muller Road
Plymouth, California 95669

Comment Letter P2

To: John Rydzik BIAPRO

From: D.W. Cranford II

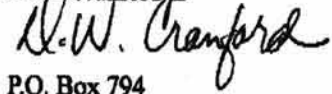
Subject: Section K Ione Band DEIS

Mr. Rydzik, during our phone conversation on May 8th you agreed to respond in writing with why Appendix K is not included in the DEIS for the Ione Band pursuant to receipt of a letter from me. I am requesting that letter which explains why Appendix K is not included in the DEIS. My understanding from our conversation is that there may be sites of importance to the Franklin led Ione Band on the property.

I hope to receive your written reply to this request prior to the public hearing on May 21st.

Thank You

D.W. Cranford II



P.O. Box 794
Plymouth, CA 95669

P2-1



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
Pacific Regional Office
2800 Cottage Way
Sacramento, California 95825

Comment Letter P2 (a)

MAY 16 2008

Mr. D.W. Cranford II
P.O. Box 794
Plymouth, CA 95669

Dear Mr. Cranford:

In response to your recent request concerning the omission of Appendix K to the Lone Fee-to-Trust Draft Environmental Impact Statement (DEIS), it is the policy of the Bureau of Indian Affairs, Pacific Region (BIA) in the case of all National Environmental Policy Act (NEPA) documents to bind the cultural resources appendix under separate cover. The intent of this policy is to ensure the protection of sensitive cultural resources locations and in doing so, reduce the risk of looting or other damages that may be incurred upon these non-renewable resources should their description and location be included in the public record.

P2(a) - 1

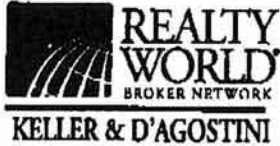
If you have any further questions or should require additional information concerning this policy, please contact Dan Hall, Regional Archeologist at (916) 978-6041, or John Rydzik, Chief, Division of Environmental, Cultural Resources Management and Safety (DECRMS), at (916) 978-6042.

Sincerely,

Sgd. Dale Risling, Sr.

Regional Director

Author: H. Dan Hall, Regional Archeologist
Date: 05/16/08
Filename: MyDocuments\NEPA\Response2CranfordCHRON



Comment Letter P3

May 21, 2008

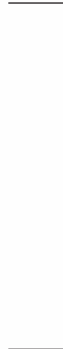
To Whom It May Concern:

I, Leedy D'Agostini, City of Plymouth Business Owner, would like to make a statement concerning the Ione Band of Miwok Indians and their proposed project. I know that the Tribe has worked hard, followed all steps of the law and jumped over hurdles that seem insurmountable to those of us who have followed their endeavor.



P3-1

I am an active business owner here in Plymouth and I feel that we have waited long enough in turmoil over this issue. My main concern is that Plymouth will be able to acquire the water it needs to grow and prosper. We have had a building moratorium due to water shortages for approximately 20 years. It seems as though the Tribe is open to working with the City of Plymouth to fund a large part of a proposed pipeline to serve Plymouth. We have been in limbo too long for more hurdles and more lawsuits to get in the way. It has been several years of community fighting with outsiders making most of the noise.



P3-2

I am hoping that this issue will go forward more swiftly than in the past. Thank you for allowing the Community to voice opinions.

Respectfully yours,

Leedy D'Agostini, Broker-Owner
Realty World-Keller & D'Agostini

Comment Letter P4

May 30, 2008
Mrs Alex Snyder - Marilyn Ebers

With much disappointment I heard that Mr Lungen's staff had sent a letter to B.T.A requesting them to extend the time for E.T.S commentary without checking or considering what this would do to our community.

Our mayor John Colburn did not have the consent from our city council to ask Mr. Lungen's assistance in asking for an extension. I hope you will review our signatures and come to understand how all this writing has laid waste to our communities unity.

We are very concerned that in this case Mr. Lungen will be viewed as partial to no casino as to he did not take the time to find out who was behind this request for an extension.

I was in Mr. Lungen's today dropping off signatures and sequented a copy of Mr. Lungen's letter to B.T.A. I was not made available. Could you please fax a copy to (209) 945-5541 by this afternoon.

Maria E. James - (209) 304 3142
Barbara & Deborah

BUREAU OF INDIAN AFFAIRS

TO WHOM IT MAY CONCERN

REQUEST FROM CITIZENS FOR CONGRESSMAN LUNGREN NOT TO ASK B.I.A

TO EXTEND TIME FOR E.I.S. COMMENTARY

THANK YOU..

Honorable Congressman Lungren

We, the citizens of Plymouth and those whom work here want to express our feelings concerning the time it has taken to decide if a casino is coming to Plymouth. By extending the time for the E.I.S. commentary you would also extend the time this community is in limbo. It is time for the healing to begin. This is not a letter in support of a casino, just for the issue to be settled.

Thank you,

Barbara Nicholson	Harry Hunt
K. Olson	Mike Peterson
Gail Shorbrugh	H. Hershwood
Eleanor Faddis	Kathy Brightwell
Chris Nichols	Bessie King
Michael	Julia Hitchcock
M. Thomas	Joanne Kerner
Peggy Johnson	Roy L. Kerner
J.P.	Ernest R. Halstead
Thane Holland	
Steve Halstead	Carol Spear
Charles Wight	Leresa Stevens

May 17, 2008
Plymouth, California

Honorable Congressman Lungren

We, the citizens of Plymouth and those whom work here want to express our feelings concerning the time it has taken to decide if a casino is coming to Plymouth. By extending the time for the E.I.S. commentary you would also extend the time this community is in limbo. It is time for the healing to begin. This is not a letter in support of a casino, just for the issue to be settled.

Thank you,

Gay Colburn

Richard Sillett

Ron [unclear]

Velma [unclear]

Debra [unclear]

Mari Waters

Wai Kolliste

Dianne Walton

[unclear]

Max [unclear]

May 17, 2008
Plymouth, California

Honorable Congressman Lungren

We, the citizens of Plymouth and those whom work here want to express our feelings concerning the time it has taken to decide if a casino is coming to Plymouth. By extending the time for the E.I.S. commentary you would also extend the time this community is in limbo. It is time for the healing to begin. This is not a letter in support of a casino, just for the issue to be settled.

Thank you,

De Ann
Tanya Croft
Karen Martin
Amela Drummond
Christina
Maria Luiza
Tim P. Kull
Wiley A. Helmer Johnson
Raymond A. Estey
William Reid
Joyce E. Estey
Michael Mat
Rebecca
Laura Horng
Ed
Marilyn Seratta
Leedy D. Rustin
Jocle Potter
Alfred
Esther Agulaa Ruiz
Joyce Sherwin
Bill Adams
Betty Saffrey
Jeanne L. Meyer
Georgia Ann Croft
Christy L. Dyer
Clay Johnson - Reynolds
John Reynolds

May 17, 2008
Plymouth, California

Honorable Congressman Lungren

We, the citizens of Plymouth and those whom work here want to express our feelings concerning the time it has taken to decide if a casino is coming to Plymouth. By extending the time for the E.I.S. commentary you would also extend the time this community is in limbo. It is time for the healing to begin. This is not a letter in support of a casino, just for the issue to be settled.

Thank you,

Carol J. Breyer Roy Luhn Lay Paul & Kimberly Harrison
 Ronald Lee Boyer
 Mary McCormick Puthand
 Walt McCormick De Leo
 Carol Kunk Neil Silver
 Charles Gansburg Terrell Hine
 Jeb B Lynn Silva
 Tracy Cray
 David Cray
 Lynne
 Greg King
 Richard DeW

May 17, 2008
Plymouth, California

Honorable Congressman Lungren

We, the citizens of Plymouth and those whom work here want to express our feelings concerning the time it has taken to decide if a casino is coming to Plymouth. By extending the time for the E.I.S. commentary you would also extend the time this community is in limbo. It is time for the healing to begin. This is not a letter in support of a casino, just for the issue to be settled.

Thank you, *Paul Ward*

Paul Ward

Tony Lopez

Bernie Lopez

Frank...

Tom...

Tara...

...

...

May 17, 2008
Plymouth, California

Honorable Congressman Lungren

We, the citizens of Plymouth and those whom work here want to express our feelings concerning the time it has taken to decide if a casino is coming to Plymouth. By extending the time for the E.I.S. commentary you would also extend the time this community is in limbo. It is time for the healing to begin. This is not a letter in support of a casino, just for the issue to be settled.

Thank you, *Van Bray Betty Sappun*

Cheryl Wimmer-Carlson

Melinda Gray

Alba Dye

Walter D. Dyer

Lucinda Miller

[Signature]

Mike Fuentes

Deborah Smith

Jennifer M. Ford

[Signature]

Ronald E. Scott

Rose Richard Ella Emerson

May 17, 2008
Plymouth, California

William D. Gibson
Alice Gibson
P.O. Box 2612
Big River CA 92242-2612
(760) 665-2107
bagibson@npgcable.com

Comment Letter P5

May 22, 2008

Amy Dutschke, Acting Regional Director
Pacific Regional Office
Bureau of Indian Affairs
2800 Cottage Way
Sacramento, CA. 92825

Subject: Off Reservation 228.04-acre trust acquisition and construction of casino project
City of Plymouth - Amador County

Dear Ms. Dutschke:

This letter is written in opposition to the above-captioned project.

Because young families living in neighboring counties are so busy trying to make a living to *support themselves* they have little time to stay on top of issues such as this. Therefore, on their behalf we must be observant of the detrimental activities taking place nearby. Our children and grandchildren live in Alameda County.

We voted Yes - in favor of tribal self-determination - NOT in favor of a tribal casino at every freeway off-ramp in California with the attendant negative elements related to such activity.

We extend our appreciation for submitting our letter on behalf of all future generations living within the City of Plymouth, Amador County, and surrounding counties.

Yours very truly,

BILL/ALICE GIBSON

Cc: Arnold Schwarzenegger, Governor
Jerry Brown, Attorney General
Cheryl Schmit, Stand Up for California

P5-1

WRITTEN COMMENT CARD

BUREAU OF INDIAN AFFAIRS - PUBLIC HEARING
IONE BAND OF MIWOK INDIANS - FEE-TO-TRUST
LAND TRANSFER AND CASINO PROJECT
AMADOR COUNTY FAIRGROUNDS - PLYMOUTH, CA
6 pm to 9 pm, May 21, 2008

IF YOU WOULD LIKE TO SUBMIT A WRITTEN STATEMENT, PLEASE COMPLETE THE FOLLOWING INFORMATION AND COMMENT IN THE SPACE PROVIDED BELOW AND GIVE TO ATTENDENT. COMMENTS MAY ALSO BE SUBMITTED BY MAIL TO THE ADDRESS LISTED BELOW.

(Please write legibly)

Name: WILLIAM BRAUN Organization: _____

Address: 5432 OLD SACRAMENTO RD.

Comment: HOW MANY MORE TRIBES ARE PROPOSING A CASINO IN AMADOR COUNTY?

P6-1

Please give to attendant, drop in Written Comment Box, or mail to: Dale Morris, Regional Director, Pacific Regional Office, Bureau of Indian Affairs, 2800 Cottage Way, Sacramento, California 95825. Please include your name, return address, and the caption: "DEIS Comments, Ione Band of Miwok Indians' Casino Project".

WRITTEN COMMENT CARD

BUREAU OF INDIAN AFFAIRS - PUBLIC HEARING
IONE BAND OF MIWOK INDIANS - FEE-TO-TRUST
LAND TRANSFER AND CASINO PROJECT
AMADOR COUNTY FAIRGROUNDS - PLYMOUTH, CA
6 pm to 9 pm, May 21, 2008

IF YOU WOULD LIKE TO SUBMIT A WRITTEN STATEMENT, PLEASE COMPLETE THE FOLLOWING INFORMATION AND COMMENT IN THE SPACE PROVIDED BELOW AND GIVE TO ATTENDENT. COMMENTS MAY ALSO BE SUBMITTED BY MAIL TO THE ADDRESS LISTED BELOW.

(Please write legibly)

Name: KATHERINE VENTURELLI Organization: 32 year County Resident

Address: P.O. Box 4 - FIDDLE TOWN, CA. 95629

Comment: 85% of Amador County voters have voted for no more
Casinos in the county. Fire and police support is not enough -
incomplete in your study. Transportation study is incomplete
Having 3 Casinos in Amador County will greatly hurt -
have a negative impact upon the County infrastructure.
WATER Issues - out dated study of facts.
Please Re-consider -
I could not get your Draft EIS! 00-

P7-1

Please give to attendant, drop in Written Comment Box, or mail to: Dale Morris, Regional Director, Pacific Regional Office, Bureau of Indian Affairs, 2800 Cottage Way, Sacramento, California 95825. Please include your name, return address, and the caption: "DEIS Comments, Ione Band of Miwok Indians' Casino Project".

WRITTEN COMMENT CARD

BUREAU OF INDIAN AFFAIRS - PUBLIC HEARING
IONE BAND OF MIWOK INDIANS - FEE-TO-TRUST
LAND TRANSFER AND CASINO PROJECT
AMADOR COUNTY FAIRGROUNDS - PLYMOUTH, CA
6 pm to 9 pm, May 21, 2008

IF YOU WOULD LIKE TO SUBMIT A WRITTEN STATEMENT, PLEASE COMPLETE THE FOLLOWING INFORMATION AND COMMENT IN THE SPACE PROVIDED BELOW AND GIVE TO ATTENDENT. COMMENTS MAY ALSO BE SUBMITTED BY MAIL TO THE ADDRESS LISTED BELOW.

(Please write legibly)

Name: Jan Toberer Organization: _____

Address: 3804 Bridgport School Rd, Fiddletown

Comment: Talk about a stacked deck - Why are all the out of area Indians speaking yet were castigated if we don't live within the City limits? Accusations of racism are totally out of line, most of us have Indian blood of some type, I am of Cherokee descent! The problem here is LOCATION, LOCATION, LOCATION - Why do you want to desecrate this town with a casino - Take it away from this potentially wonderful town that is improving. Buy a World

Please give to attendant, drop in Written Comment Box, or mail to: Dale Morris, Regional Director, Pacific Regional Office, Bureau of Indian Affairs, 2800 Cottage Way, Sacramento, California 95825. Please include your name, return address, and the caption: "DEIS Comments, Ione Band of Miwok Indians' Casino Project".

(OVER)

that is far away - By that, I mean where there is better access to the casino and won't destroy what is essentially a farming/ranching atmosphere - CASINOS ARE UGLY and not congruent with the ideals of the surrounding community - The Casinos are not the only answer for jobs - If people want to remain here then they need to either build a business here or get a job in Jackson or Placerville areas or get a better education so they can get a job that is superior to casino employment. Heck there is telecommuting as well. My family does it. Like I said: Location is wrong for this type of business. I agree with the difficulty mentioned by several individuals about trying to decide the detail in the plan.

P8-1

P8-2

P8-3

P8-4

Foothill Conservancy Comments on Draft Tribal EIS for Plymouth Gaming Facility June 3, 2008 page 1 of 4

Comment Letter P9



P.O. Box 1295 Pine Grove, California 95665

US Department of Interior
Bureau of Indian Affairs
Pacific Region Office

Re: Tribal DEIS, Plymouth Gaming and Entertainment Facility

June 3, 2008

To Bureau of Indian Affairs

The Foothill Conservancy is a nonprofit organization concerned with conservation and quality of life issues in Amador and Calaveras Counties. This letter constitutes our comments on the draft tribal environmental impact statement for the proposed Plymouth Gaming and Entertainment Facility located in Plymouth and Amador County, California.

Overview

The DEIS shows this project to have significant and unavoidable impacts on the natural and human environment, including impacts to aesthetics (night lighting), air quality (from emissions from both stationary and mobile sources), quality of life, traffic, noise, and public safety.

The combination of the high number of significant unavoidable impacts and the fundamental land use conflict show this project to be an out-of-scale, inappropriately located, growth-inducing, environmentally damaging proposal with potential to dramatically reduce local residents' quality of life.

Location and Site Design

Although near and even partially located within the incorporated community of Plymouth this proposed gaming facility is too far removed from major urban areas. The distance and lack of public transportation will require a majority of visitors to drive at least 100 miles round trip. The distant drive will lead to an increase in localized pollution, traffic congestion and global greenhouse emissions. Alternative site locations, outside of Amador County, in urban areas were not fully explored and should have been. Building and operating a facility in another centralized

P9-1

P9-2

Foothill Conservancy Comments on Draft Tribal EIS for Plymouth Gaming Facility June 3, 2008 page 2 of 4

area still would meet the stated purpose and need of the Tribe and would have greatly reduced environmental impacts.

P9-2
cont.

The proposed site design does limit the destruction of oak trees. However, the placement of the spray fields and the wastewater treatment plant in the open fields (the SW portion of the site plan) and not in the oak forest will reduce the loss of additional oaks. The location of the casino will be the "gateway" to Plymouth and should be designed in a scale and style that will fit within the historical culture of the community and surrounding areas. Finally the parking lots should be designed using the latest in "new urban" and LID design techniques. It is in the best interest of the Tribe to reduce the overall ecological footprint which will reduce the environmental impact and cost of the project.

P9-3

Biological resources

General comments

Mitigations that currently read "if possible," "extent feasible," "where possible," "to the maximum extent feasible," etc, should be strengthened to *require* avoidance and destruction of native oaks, riparian woodland, elderberries, and other biological resources. This includes mitigation measures for loss of riparian woodland, native oaks, nest trees, streamside buffers, and aquatic resources and jurisdictional wetlands.

P9-4

The project lacks a number of timely and extensive biological surveys on the property. The applicant should have had all the necessary surveys completed and incorporated as part of the DEIS. It is impossible to know the full extent of possible biological impacts without complete data being available. (For example the Tiger Salamander survey was not complete at the time of publication of the DEIS) All required surveys including protected amphibians, reptiles, and birds should be completed in advance during the appropriate season or seasons. The project applicant is required to fulfill the necessary surveys by qualified biologists to ensure the DEIS adequately addresses biological impacts.

P9-5

Further, preconstruction biological surveys can be developed and used to in the education of construction crews and protecting species immediately prior to construction activities, but they should not be viewed or considered as a substitute for extensive biological surveys in the project area.

Oak woodland and individual trees

The developer has not produced a thorough and complete oak survey to include all oak sizes and species ranging in size from a minimum 4" diameter at breast height (dbh) and larger throughout the complete project site. This survey should be completed to allow for a full evaluation of oak tree and woodland impacts prior to project approval. Tree values should also be identified based on wildlife values. Although impacts are discussed, impacts to specimen (12"-23.9" dbh) and heritage trees ($\geq 24"$ dbh) are not.

P9-6

To strengthen the proposed oak mitigation, we recommend the following:

- Replace cavity trees removed during project development by immediately modifying existing trees located in the protected open space area. Replacement ratios for cavity trees should include a 15:1 ratio of creation tree per cavity tree harvested. Tree cavities can be

Foothill Conservancy Comments on Draft Tribal EIS for Plymouth Gaming Facility June 3, 2008 page 3 of 4

created in healthy live trees with little damage to the tree. Cavity creation trees should have from 1-3 cavities per tree. Tree cavity creation activities should be performed by a licensed arborist or qualified biologist/botanist.

- Use harvested trees for wildlife habitat creation within the open space areas. Habitat creation should include cavities and dens sites, brush piles, raptor perches, large downed wood, aquatic habitat and sunning sites in the permanent wetlands, and under-story replacement shrubs native to the area.
- Use acorns collected on the site for any replanting and broadcast acorns as well. Collect acorns from large trees on the site (to provide genetic integrity) and broadcast them within the open space and wildlife corridor areas at a ratio of 20 healthy acorns per removed tree.
- Increase individual tree replacement ratio to 5:1 ratio for smaller trees and 10:1 ratio for larger trees.
- Include 10 to 15 years of open space and oak woodland monitoring to ensure success of replacement strategies. The monitoring schedule should include years 1, 2, 3, 4, 5, 7, 9, 11, 13, and 15. Evaluation of mitigation success should take place during year 5 with adjustments incorporated into additional maintenance activities to insure compliance with project mitigation. The developer must provide sufficient funds for monitoring and adaptive management program for on-site mitigation activities.
- Develop and distribute a fact sheet describing the value and care of native oaks for all contractors and employees.

P9-6 cont.

Water

The DEIS should include study of the growth-inducing impacts of a possible pipeline for water supply as well as the potential environmental impacts of pipeline construction, especially those on biological resources. The DEIS also needs to look at the growth-inducing impacts of sizing the water treatment plant so far beyond the project's anticipated needs.

P9-7

Air quality

Damage to air quality is considered significant and unavoidable. The Rancheria could require its vendors to use only clean-burning diesel trucks and to follow the state's idling regulations when on Tribal land. The TEIR should specify real mitigations the Rancheria will fund and implement to reduce pollution by ozone and its precursors, and PM-10, including trip reduction measures for employees and customers.

P9-8

Wastewater and water resources

The wastewater mitigation needs to be more detailed. Where will the 75' tall earthen dam be located on the site? The site plan and further detail of the wastewater pond is not in sufficient detail to be understood. What will be the potential downstream environmental consequences of the dam and what of a possible impact of a dam collapse? The project proponent should

P9-9

Foothill Conservancy Comments on Draft Tribal EIS for Plymouth Gaming Facility June 3, 2008 page 4 of 4

coordinate with existing local agencies and governments to develop a regional solution to wastewater disposal.

P9-9
cont.

While it is good to monitor surrounding wells if the facility uses groundwater and to reduce use if the Rancheria's operations contribute to aquifer overdraft, there is no mitigation that requires project water use to be reduced or that describes, in real terms, how overdrafts would be mitigated. There is no definition of what a "significant" impact to the surrounding water table would be. Monitoring is pointless unless there is a threshold or trigger that automatically initiates mitigations to help alleviate the overdraft of the water table. The word "may" needs to be changed to "shall" otherwise there is no guarantee that any action will be taken to alleviate the overdraft of ground water.

P9-10

The analysis of offsite impacts to water resources, including wetlands and creeks, cannot be deferred until a later time as there is no evidence the impacts can be mitigated at all. Therefore, impacts to those resources should be considered significant and unavoidable unless a full analysis shows otherwise.

P9-11

Loss of agricultural resources and open-space land; growth-inducing impacts and cumulative impacts

The project may cause local landowners to want to develop more densely. This has potential to permanently alter the character of the surrounding rural-agricultural area.

P9-12

There are no proposed mitigations for loss of open-space, agricultural land or for growth inducing impacts from the project. A thorough analysis of these cumulative impacts must be included in the DEIS for full disclosure of the project's environmental impacts.

P9-13

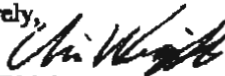
Conclusion

The DEIS does not adequately analyze all of the impacts or fully mitigate for those identified from the project. The DEIS should be withdrawn and revised to include more complete analysis of the potential for growth inducing and cumulative impacts to the community and environment. In addition, mitigations language and plans must be replaced with defined, measurable mitigations that meet the test of state and federal law.

P9-14

Thank you for this opportunity to comment.

Sincerely,



Chris Wright

Executive Director
Foothill Conservancy
209-295-4900

Comment Letter P10

Reg Dir	<i>[Signature]</i> ✓
Dep Reg Dir	<i>[Signature]</i>
Reg Adm Offc	<i>[Signature]</i>
Issue	<i>[Signature]</i>
Response Required	<i>NO</i>
Date	
Time	
6/18/08	

Ms. Amy Dutschke
 Acting Regional Director
 Pacific Regional Office
 Bureau of Indian Affairs
 2800 Cottage Way
 Sacramento, Ca 92825

Attached please find my comments relative to the Ione Band of Miwok's DEIS. In general the DEIS is incomplete, incorrect and much of the data presented is grossly out of date. Clearly the BIA is attempting a fraud on the citizens of the Plymouth area, Amador County and the State of California.

The DEIS must be redrafted to reflect the current situation in and around the Plymouth area.

My comments relate to section 4.10 Other Values. At this time I will leave comments on other sections to individuals better informed than I.

Should you have questions for me on this matter my address and phone number are given below.

Walter W Dimmers

Walter w. Dimmers
 18000 Burke Dr.
 Plymouth, Ca 95669

✓ Copy to
 Dale Risling
 Deputy Regional Director

209-245-5338

P10-1

Comment Letter P10

Comments, questions and concern relative to Section 4.10 of the Draft Environmental Impact Statement (DEIS) covering the Lone Band of Miwok Indians proposed casino project located in Plymouth California.

Section 4.10, Other Values, is both inadequate and incomplete. The data presented is old and out of date. The absence of complete project design information as well as current noise studies renders any significant analysis impossible.

P10-2

Noise

The noise measurements presented were made in early 2004. Why have current measurements not been made? Current traffic studies made by Cal Trans and the City of Plymouth have not been utilized? Why?

P10-3

Noise measurements were made in January and at low traffic periods. Why? The results in no way represent current conditions in and around Plymouth.

P10-4

When will studies and noise measurements be made which reflect current conditions?

P10-5

Noise abatement walls and berms are mentioned in section 4.10 . What will be the height and construction of these sound attenuation devices? What is the projected result?

P10-6

Sound will escape in all directions from the proposed site but no attenuation was presented for the east side of the project site. Why? In the rural atmosphere of the proposed site noise is transmitted over much longer distances than in an urban environment. Traffic noise is clearly heard on a continuous basis by residents located approximately one mile east of the proposed site. Will the project meet the requirements of the Uniform Building Code, Chapter 35; California Noise Insulation Standards, Cal Admin Code, Title 25 ?

P10-7

Existing ambient noise levels and the anticipated noise increase associated with the proposed project must be determined. Amador County General Plan Noise Element calls for a maximum acceptable increase in noise levels of 3dB(A). Does the proposed project meet this standard.

P10-8

Table 4.10.6 covers projected noise increases from traffic is several locations but does not cover that portion of Highway 49 for the junction of Highways 49 and 16 to the junction of Highway 49 and Shenandoah road. This omission pertains to the roadway that passes in front of the proposed site and through the City of Plymouth. This is the most important highway segment and the segment which will generate the most traffic noise. Why has this highway segment been omitted from the projections?

P10-9

Comment Letter P10

Hazardous materials

Who will be responsible for identifying on site hazardous materials during the construction phase and during operations? Who will develop standard operating procedures (SOP) for handling hazardous materials during construction and during operations? Who will be responsible for compliance with SOP?



P10-10

Lighting

Light pollution has not been included in the list of potential environmental impacts . Why? What are the details of exterior lighting (parking lot, exterior walk ways, walls, portico, highway, landmark etc.) design for the project?



P10-11

According to the International Dark-Sky Association Light pollution represents a waste of a magnitude that almost no home owner would allow inside their homes... Our tolerance of wasted light means most lighting fixtures are oversized by a third in wattage.... 30 to 50 percent of construction and operation costs are wasted.



P10-12

Since no design information was presented, rational comments cannot be made. Ultimate design must be compliant with accepted standards for wattage, light shade, pole height , fixture design and type etc, etc. Offsite bleeding of light must be held to an absolute minimum and neon lighting should not be used. Ultimately light levels should be downsized to no more than the Illuminating Engineering Society recommended levels.



P10-13

Vernal pools

How will vernal pools be identified and protected?



P10-14

Electromagnetic radiation

The DEIS omits any mention of the environmental impacts from electromagnetic fields power lines, internal wiring, electrical occupations, operation of appliances, and gambling machines. In light of current evidence this area of environmental impact must be evaluated. (See the national Institute of Environmental health.)



P10-15

Walter W. Dimmers
18000 Burke Dr.
Plymouth, Ca 95669

209-245-5338

Comment Letter P11

✓ By Reg Dir 15 10
 ✓ By Adm Officer
 Route DECEMS
 Response Required? NO
 6/18/88


Ms. Amy Dutschke
 Acting Regional Director
 Pacific Regional Office
 Bureau of Indian Affairs
 2800 Cottage Way
 Sacramento, Ca 92825

Attached please find my comments relative to the Lone Band of Miwok's DEIS. In general the DEIS is incomplete, incorrect and much of the data presented is grossly out of date. Clearly the BIA is attempting a fraud on the citizens of the Plymouth area, Amador County and the State of California.

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My comments relate to section 4.10 Other Values. At this time I will leave comments on other sections to individuals better informed than I.

Should you have questions for me on this matter my address and phone number are given below.


 Walter w. Dimmers
 18000 Burke Dr.
 Plymouth, Ca 95669

Copy to
 Dale Risling
 Deputy Regional Director

209-245-5338

P11-01

SECTION 4.10 OTHER VALUES

Section 4.10, Other Values, is both inadequate and incomplete. The data presented is old and out of date. The absence of complete project design information as well as current noise studies renders impossible any analysis of significance.

P11-02

Noise

The noise measurements presented were made in early 2004. Why have current measurements not been made? Current traffic studies made by Cal Trans and the City of Plymouth have not been utilized? Why? Stale data cannot be used in an impact analysis to support an agency conclusion. (*Lands Council v. Powell* (2004, 9th Cir) 395 F.3d 1019, 1035.)

P11-03

Noise measurements were made in January and at low traffic periods. Why? The results in no way represent current conditions in and around Plymouth.

P11-04

When will studies and noise measurements be made which reflect current conditions?

Noise abatement walls and berms are mentioned in section 4.10. What will be the height and construction of these sound attenuation devices? What is the projected result? With regard to the mitigation component of a project, NEPA requires that the agency discuss the expected efficacy of the mitigation, and provide factual support for this effectiveness. (*South Utah Wilderness Alliance v. Norton* (2003) 277 F.Supp2d 1169.)

P11-05

Sound will escape in all directions from the proposed site but no attenuation was presented for the east side of the project site. Why? In the rural atmosphere of the proposed site noise is transmitted over much longer distances than in an urban environment. Traffic noise is clearly heard on a continuous basis by residents located approximately one mile east of the proposed site. Will the project meet the requirements of the Uniform Building Code, Chapter 35; California Noise Insulation Standards, Cal Admin Code, Title 25 ?

P11-06

Existing ambient noise levels and the anticipated noise increase associated with the proposed project must be determined. Amador County General Plan Noise Element calls for a maximum acceptable increase in noise levels of 3dB (A). Does the proposed project meet this standard?

P11-07

Table 4.10.6 covers projected noise increases from traffic is several locations but does not cover that portion of Highway 49 for the junction of Highways 49 and 16 to the junction of Highway 49 and Shenandoah road. This omission pertains to the roadway that passes in front of the proposed site and through the City of Plymouth. This is the most important highway segment and the segment which will generate the most traffic noise. Why has this highway segment been omitted from the projections?

P11-08

Hazardous materials

Who will be responsible for identifying on site hazardous materials during the construction phase and during operations? Who will develop standard operating procedures (SOP) for handling hazardous materials during construction and during operations? Who will be responsible for compliance with SOP?

P11-09

Lighting

Light pollution has not been included in the list of potential environmental impacts. Why? What are the details of exterior lighting (parking lot, exterior walk ways, walls, portico, highway, landmark etc.) design for the project?

P11-10

According to the International Dark-Sky Association, light pollution represents a waste of a magnitude that almost no home owner would allow inside their homes... Our tolerance of wasted light means most lighting fixtures are oversized by a third in wattage.... 30 to 50 percent of construction and operation costs are wasted.

P11-11

Since no design information was presented, rational comments cannot be made. The ultimate design must be compliant with accepted standards for wattage, light shade, pole height, fixture design and type etc, etc. Offsite bleeding of light must be held to an absolute minimum and neon lighting should not be used. Ultimately light levels should be downsized to no more than the Illuminating Engineering Society recommended levels. Please provide mitigation specifications in the Final EIS.

P11-12

Vernal pools

How will vernal pools be identified and protected?

P11-13

Electromagnetic radiation

The DEIS omits any mention of the environmental impacts from electromagnetic fields power lines, internal wiring, electrical occupations, operation of appliances, and gambling machines. In light of current evidence this area of environmental impact must be evaluated. (See the national Institute of Environmental health.)

P11-14

DEIS COMMENTS JUNE BAND OF MIWOK
INDIAN'S CASINO PROJECT

17 JUN '08

DELRMS
NO

All references in Black ink are from Appendix M

My questions pertaining to the EIS are in Blue.

The EIS said "Summary. Pg 1: There are no published trip generation rates for casinos by the transportation industry standard the Institute of Transportation Engineers (ITE). The generation rates used within were developed by Analytical Environmental Services (AES) through survey of eight existing casino in the region."

- Why were the names and location of those casinos plus their roadway infrastructure not listed in appendix M? (they may have been listed in traffic study appendices A through AC but those documents were not provided.)
- Is the Tribe aware that the claim of no published generation rates is blatantly false? (there was a study published in the ITE journal *ITE Date: 5/1992 vol. 62, no. 5, titled, Trip generation rates for Las Vegas area hotel-casinos* By Kenneth Ackeret and Robert Hosea.)
- Why didn't the tribe develop data on the relationship between traffic counts and casino size, hotel rooms, and employees? (The study clearly demonstrated a relationship between traffic counts and casino size, hotel rooms, and employees. The developed equation which correlated the traffic counts at 21 adjacent strip casinos may not be applicable to a single destination casino in a rural location but it does validate the use of casino square footage as a valid predictor. Study attached)
- Why didn't the Tribe use the SANDAG method to develop traffic Counts? (The SANDAG method is a well known industry standard based on the square footage of the gaming facility. This methodology has been validated in studies from the San Diego Association of Governments (SANDAG) from data derived from that areas 12 Indian Gaming facilities. That generation rate is 100 trips per 1000sq. ft and 8 trips per hotel room.)
- Why was the SANDAG method valid for the Buena Vista Casino but not The lone casino? (The SANDAG method was used in the Bucna Vista traffic EIS and is in fact mentioned in Section 6 pg. 187 of Appendix M.)
- How can the Tribe discount the SANDAG method when it was validated by the Jackson Rancheria traffic data? (The SANDAG method also predicted the actual traffic counts for the Jackson Rancheria within a hundred trips (data attached) and would seem to be the preferred methodology for this project.)
- How does the Tribe explain the discrepancies in Traffic ADT's using their methodology when compared to the relevant Industry standard methodology? (The following table illustrates the EIS under projection (tables 4-1 through 4-7) of expected traffic counts when compared to the SANDAG methodology.)
- Is the Tribe deliberately underestimating the Traffic impact of this casino project in order to evade mitigation requirements?

Alternative	Casino size	Hotel size	AES Casino	AES Hotel	AES total	SANDAG Casino	SANDAG Hotel	SANDAG Total	under-estimate
A phase 1	120,000	none	8,149	0	8,149	12,000	0	12,000	-3,851
A phase 2	120,000	250 room	8,149	745	8,894	12,000	2,000	14,000	-5,106
B	100,750	250 room	6,875	745	7,620	10,075	2,000	12,075	-4,455
C	79,250	none	5,408	0	5,408	7,925	0	7,925	-2,517
D	123250 shop	none	5,292	0	5,292	n/a	n/a	n/a	n/a

Quote from Section 2. Pg. 15: "For this casino project, the highest project trips would occur during the weekday evening (PM) commute peak period. According to the 24-hour volume counts, the weekend peak period for a casino occurs on Saturdays also between the evening hours of 4-6 PM. These time periods are considered the peak periods because the project is expected to have the greatest impact on the local roadway network during these time periods."

- Why did the tribe fail to account for special events at the Amador County Fair and the Wineries in the Shenandoah Valley? (The Amador County Transportation Commission maintains data for peak month ADT's

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- which account for special event winery traffic and Amador County Fair ground events which on occasion can even exceed peak PM periods) P12-11
Cont.
- Why didn't the EIS account for peak monthly ADT's? (Amador County Transportation Commission peak monthly ADT's range between .4% (SR49 S SR16) and 25% (SR88 W SR124) higher with an average increase of 11% (RTP data)) P12-12
- Is the Tribe unaware of the traffic problems associated with Amador County Fair and Winery special events? (Data which does not account for peak month ADT's seriously understates the negative potential impact of Casino traffic and has the potential of severely impacting special events at the Amador County Fair and Amador County Wineries.) P12-13
- Is the Tribe willing to mitigate the Amador County Fair for lost revenue for events that are dropped because of the negative effects of increased traffic? P12-14
- Is the Tribe willing to mitigate the wineries for lost revenue due to a decline in attendance at events that are negatively effected increased traffic? P12-15
- Will the Tribe mitigate local businesses that make a significant amount of revenue based on attendance at these events? P12-16

Section 2, Pg.22: Level of service (LOS) and average daily traffic (ADT) are published for 5 locations and based on June 2004 data.

- SR 49 N. of Shenandoah Rd
 - SR 49 S of SR16
 - SR16 W of Old Sac Rd.
 - SR124 S of SR16
 - SR88 W of SR124
- P12-17

- Why is there no explanation for the discrepancy between machine counts generated Daily traffic Volumes and the ADT's listed in the EIS Tables? (Automated machine counts were conducted for the road segments in question and displayed in figure 2-3 as Existing daily traffic Volumes but the ADT's listed are lower by 15%, 45%, 43%, 47%, and 43% respectively.) P12-18
- What methodology was used by the Tribe to reduce the daily Traffic volume counts to the published ADT's? (According to phone conversations with Caltrans, reductions of this magnitude only make sense for extreme recreational areas like high sierra's which are scasonally affected, not for road counts in the foothill area) P12-19
- Why was there no explanation given to justify this questionable reduction which resulted in improved LOS's in 3 of the 5 segments analyzed? (EIS states the calculations were in the Appendices not provided.) P12-20
- Why does the EIS not include data for traffic counts and ADT's for Latrobe road? (Latrobe Road is a more direct and more frequently used route from SR50 to Plymouth than is SR49.) P12-21
- Did Latrobe's poorer material condition relative to SR49 influence its omission? P12-22
- Why were traffic counts omitted from other intersecting roads and sources? (Data also omits traffic generated within Plymouth (S of Shenandoah Road and N of SR16 / SR49 intersection) and the traffic entering SR16/SR49 from Fiddletown Road. There is a large volume of both Shenandoah Valley and Up-county traffic whose only realistic access to SR16 is from Fiddletown Road.) P12-23
- Was it the Tribe's intent to generate lower ADT's by omitting traffic from local Plymouth residences, Fiddletown Road traffic, and Latrobe Road traffic? P12-24
- Why is the data arbitrarily reduced by 3% for traffic that initially set out for the lone casino but decided to go to the Jackson Rancheria instead? P12-25
- Other than lowering ADT's how can the change in destination from the lone Casino to the Jackson Rancheria be justified? P12-26
- Why didn't the Tribe include an increase in traffic from a change in destination from the Jackson Rancheria to the lone Casino? P12-27

Section 3, Pg.29/30: ...annual growth rate based on Caltrans historical data... traffic count data or historical data was as listed in the State's website for state routes. The ADT roadway segment volumes for 2006 EPEP (No Project) Condition were calculated by applying a 2.2 percent annual growth rate to existing ADT roadway volumes.
 Note EPAP=Existing Plus Approved Projects

P12-28

- Why doesn't the Tribe's EIS use the actual traffic growth rates for the road segments in question instead of using 2.2% as an average? (Data received from Joe Avis (916-654-3072) research Manager Caltrans indicates that assigning a 2.2% growth rate for ADT's to be significantly understated:
 - o Caltrans growth rate for SR 49 south of SR 16 is 3.9% for 2004-2006.
 - o Caltrans growth rate for SR 49 North of SR 16 is 3.08% for 2004-2006.
 - o Caltrans growth rate for SR 88 west of SR 124 is 2.83% for 2004-2006.)
- Where are the calculations justifying the 2.2% growth rate? (Valid ADT's can only be generated by using current growth data for each segment.)

P12-29

P12-30

Section 4, Pg.50: Trip distribution patterns to and from the project site were obtained from a zip code based origin and destination study for similar casinos in Northern California.

P12-31

- What was the methodology and the specific road infrastructure that justified using the distribution patterns in the EIS? (The only valid trip distribution pattern should be based on the Jackson Rancheria due to the unique Amador County road network and the relative geographic position of the large population centers.)
- Why were the location of the cited similar casinos not stipulated in appendix M?
- IS the Data listed in the mitigation tables realistic or purposely underestimated? (Data listed in tables 4-8, 4-13, 4-18, 4-23, and 4-33 are significantly lower than what the more realistic SANDAG methodology would have produced.)

P12-32

P12-33

P12-34

Appendix M, Section 4 contains the intersection LOS's and the proposed mitigation fixes with their attendant LOS's for a predicted "no project" condition and five different project variations. This data is collated in chart form for both weekday and Saturday PM peak hour. For ease of discussion the attached chart (intersection matrix.xls) is a compilation of the data for worst movement weekday PM peak hour in charts 4-9, 4-11, 4-14, and 4-16

Matrix of data compiled from Charts 4-9,4-11, 4-14, & 4-16.
 Weekday PM peak hour - worst movement

#	Intersection	2004 no proj	signal	2006 no proj	2006 Ph I	2006 mitigation	2009 no proj	2009 Ph II
1	SR49 / Miller Road	A		A	A		A	A
2	SR 49 / Main Street	C		C	D	A - RTP & Light.	D	E
3	SR 49 / Popular Street	B		B	B		B	B
4	SR 49 / Empire Street	C		C	D	A - RTP & Light.	D	D
5	SR 49 / SR 16	D	Y-06	D	F	B - Caltrans Lt (done)	E	F
6	SR 16 / SR 124	B		B	C		C	C
7	SR 16 / Latrobe Road (Amador)	C		C	D	C - add lanes	C	D
8	SR 104 (Preston Ave) / SR 124	E		F	F	A - Signal Lt.	F	F
9	SR 104 (Main Street) / SR 124	C		C	D	A - Signal Lt.	C	E
10	SR 88 / SR 124	B		B	B		B	B
11	SR 88 / SR 12 (East)	D		E	F	B - Caltrans plan light	F	F

P12-35

12	SR 88 / SR 12 (West)	F		F	F	C - Caltrans plan light	F	F
13	SR 88 / Kettleman Lane	C	Y	C	C		C	C
14	SR 49 / Pleasant Valley Road	C		C	D		D	D
15	SR 16 / Ione Road	C		C	C		C	C
16	SR 16 / Murieta Pkwy South	B	Y	B	B		B	B
17	SR 16 / Murieta Parkway	C	Y	B	B		B	C
18	SR 16 / Stone House Road	E		E	F	D - add lanes	F	F
19	SR 16 / Latrobe Road (Sac)	D		D	E		E	F
20	SR 16 / Dilliard Road	B	Y	B	B		B	B
21	SR 16 / Sloughhouse Road	C		C	C		C	C
22	SR 16 / Grant Line Road	E	Y	E	F	E - add lanes	F	F
23	SR 16 / Sunrise Blvd	C	Y	C	D		D	D
24	SR 16 / Excelsior Road	F		F	F	B - Sac plan (done)	F	F
25	SR 16 / Bradshaw Road	C	Y	C	C		D	E

P12-35 cont.

- Why were the following intersections omitted from the Tables?
 SR 16 / Kiefer Blvd (serious congestion today because of K1-6 school at intersection) *major concern
 SR 16 / Old Sacramento Rd. (alternate route out of Plymouth to SR 16 via Main Street)
 SR 16 / Carbondale Rd. (access to Willow Springs development)
 SR 16 / Greilich, Willow Creek, Welsh Pond, Forest Home, Long Gate, Michigan Bar Meiss, and other smaller roads some of which provide access to small developments.
 SR 88 / Buena Vista Rd. & Jackson Valley Road (access to Buena Vista)
- Was the disregarding of major intersections on the studied arterials intentional?
- Why is no mitigation offered for two intersections listed in tables 4-9 and 4-14 for both the 2006 and 2009 EPAP Conditions have LOS degradation from level C to D in 2006 and a level D in 2009 (SR 49 / Pleasant Valley Road & SR 16 / Sunrise Blvd.)?
- How can the EIS claim mitigation for a SR 16 / Stone House rd. & SR 16 / Grant Line Rd. by referencing a 1993 Sacramento Co. general plan dated 1993 with no actual improvements actually being scheduled? (the Sac. general plan actually suggest widening SR 16 to 4 lanes)
- Why are no details given for the mitigation of intersections SR 49 / Main Street and SR 49 / Empire Street other than the referenc to the regional traffic Plan?
- Why is there no mitigation of SR 104 (Preston) / SR 124 on listed on pages 83 & 94? (charts show signal)
- Why are most mitigation efforts applied to intersections with no mention of the degradation to arterial movement that will ensue from signalizing the mitigated intersections when large increases in ADT's projected?
- Was this FIS provided to Sacramento, San Joaquin, and El Dorado Counties for their input on traffic flow?

P12-36

P12-37

P12-38

P12-39

P12-40

P12-41

P12-42

P12-43

CONCLUSION:

Was the EIS Traffic Study actually a carefully prepared retro-analysis? (The Appendix M Traffic Study appears to have evolved by a process of retro-analysis where the money allocated for mitigation was determined in advance and the data was then processed to achieve the desired result. How else to explain the undercount of casino trips, the discrepancy between traffic volume and ADT's, the omission of significant arterial roads and intersections and the reliance of unscheduled general plan improvements for mitigation?)

P12-44

Appendix M is seriously flawed both in data collection and analysis. It seriously understates the potential traffic impacts for this proposed project and is essentially worthless as a tool for determining mitigation. Essentially, the Traffic Analysis needs to be redone using current data which includes all effected roads and intersections and a valid methodology (SANDAG) that does not significantly underestimate the potential traffic growth from this project.

P12-45

Some Final Questions:

The Draft EIS claims that the Ione Band of Miwok Indians is a restored landless Tribe. Aside from the fact that the restored status is in dispute, how do you explain the fact that Amador County Assessor's records show forty acres near Ione as being owned by the Ione Band of Miwoks? Is the tribe landless or not? Under what justification is a DEIS being submitted for a land into Trust application for a landless tribe that in fact owns land? Why doesn't the DEIS deal with the Tribe's land base in Ione? Is the objection of the Tribal members living on the 40 acres who are opposed to a casino project the reason that the tribe is pretending to be landless?

P12-46

RICHARD D. MINNIS

Richard D. Minnis

P.O. BOX 880

PLYMOUTH, CA 95669

Comment Letter P13

June 18, 2008

To: Dale Morris, Regional Director
Pacific Regional Office,
Bureau of Indian Affairs
2800 Cottage Way
Sacramento, CA 95825

From: Jennifer Minnis, DVM, PhD
P.O. Box 880
Plymouth, CA 95669

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DEIS COMMENTS

Franklin led lone Band Miwok Indians' Proposed Plymouth, CA Casino Project

Please provide detailed and comprehensive answers in writing to me concerning each of the following questions and concerns:

1. PROJECT WETLANDS

- 1.1 Are there drainage ways streams, rivers, or coastlines on or near the project site?
- 1.2 Are there ponds, marshes, bogs, swamps or other wetlands on or near the site?
- 1.3 Is the project located within a wetland designated on a National Wetlands Inventory map of the Department of Interior (DOI)?
- 1.4 Does the project comply with Executive Order (E.O.) 11990, Protection of Wetlands, which discourages federal funding of new construction or filling in wetlands and compliance is required with the wetlands decision-making process (§ 55.20 of 24 CFR Part 55). The applicant should use Part 55 published in the Federal Register on January 1, 1990 for wetland procedures).

P13-1

P13-2

P13-3

P13-4

P13-5

2. FLOOD MANAGEMENT

- 2.1 Is the project located within a floodplain designated on a current FEMA flood map? (24 CFR Part 55).
- 2.2 Is the proposed building footprint located in a Special Flood Hazard Area identified on a current Flood Insurance Rate Map (FIRM)?
- 2.3 Do proposed construction plans accommodate and comply with Uniform Building Code requirements of facilities constructed within Special Flood Hazard Areas?

P13-6

P13-7

P13-8

Comment Letter P13

3. HISTORIC PRESERVATION

- 3.1 Has the State Historic Preservation Office (SHPO) been notified of the project and requested to provide comments?
- 3.2 Is the property listed on or eligible for listing on the National Register of Historic Places?
- 3.3 Is the property located within or directly adjacent to an historic district?
- 3.4 Does the property's area of potential effects include an historic district or property?

- P13-9
- P13-10
- P13-11
- P13-12

4. NOISE ABATEMENT

- 4.1 Does the project comply with 24 CFR 51, Subpart B that requires a Noise Assessment for proposed new construction?
- 4.2 Has a noise contours map been developed for the proposed project and does it show Day-night average sound level (abbreviated as DNL)?
- 4.3 What procedures or guidelines will be developed that allows community members or adjacent property owners to formally complain about inordinate or unanticipated noise?

- P13-13
- P13-14
- P13-15

5. PROJECT RELATED HAZARDOUS MATERIALS

- 5.1 Is the site listed on an EPA Superfund National Priorities or CERCLA, or equivalent State list?
- 5.2 If the site is not currently listed on sites described in 5.1 above, should it be? If not, why not?
- 5.3 Does the project proposal include a full inventory and assessment of all hazardous materials associated with the project?
- 5.4 Does the applicant propose to handle or sell explosives (fireworks) or propose to store fire-prone materials such as liquid propane, gasoline, or other storage tanks above or below ground?
- 5.5 Does the proposed project comply with public all safety requirements for fire safety, in accordance with state and federal law?
- 5.6 Has the applicant developed a public safety evacuation and rescue plan for customers, and does the plan accommodate projected customers based upon high or low attendance that is associated with hours of operations, weekdays, holidays, and special events?

- P13-16
- P13-17
- P13-18
- P13-19
- P13-20
- P13-21

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- 5.7 Is the site located within 3,000 feet of a toxic or solid waste landfill site? P13-22
- 5.8 Were underground storage tanks ever located on the site? If so, provide documentation that all underground storage tanks have been identified, located and appropriately removed by qualified professionals, using current techniques in compliance with 40 CFR Part 280. P13-23
- 5.9 Are there any unresolved hazardous materials issues at the proposed site that could the state, county or a municipality to be determined to be potential responsible party? P13-24

7. WATER

- 7.1 Will the proposed project affect a sole source or other aquifer? P13-25
- 7.2 What is the total anticipated impervious surface coverage estimated for the proposed project? P13-26
- 7.3 What percentage of the project site is proposed for impervious surface, and how does this surface impact existing elements addressed in Section 1 above? P13-27
- 7.4 Is the site currently served by an adequate and acceptable water supply? P13-28
- 7.5 What mitigations are proposed for water supplies of the proposed project that will not affect or will ameliorate water supplies of adjacent residential neighborhoods businesses, and other land uses currently receiving adequate water? P13-29
- 7.6 How will the applicant assure the local government and surrounding community that costs associated with increased water supply needs of the project will be fully accommodated by the applicant, and not a burden imposed upon local governments, local water districts or providers, or local property owners? P13-30

8. SEWER, SANITATION AND WASTE DISPOSAL

- 8.1 Are there current sanitary sewers and waste water disposal systems serving the site? P13-31
- 8.2. How will current sanitary sewers and waste water disposal systems be impacted by the proposed project, and at what cost? P13-32
- 8.3 What additional sanitary sewer and wastewater disposal systems are required and how will expansions of such infrastructure impact existing, connecting infrastructure in terms of capacity and annual cost? P13-33
- 8.4 If the project water supply is non-municipal, has an acceptable "system" been designed, and approved by appropriate state and local authorities and agencies? P13-34

10. UNIQUE NATURAL FEATURES AND AREAS

10.1 Is the site near natural features (i.e., bluffs or cliffs) or near public or private scenic areas? If so, what site and construction adjustments have been determined to protect scenic viewsheds or other public entitlements?

P13-35

10.2 Are other natural resources visible on site or in the vicinity? Will any such resources be adversely affected or will they adversely affect the project?

P13-36

11. SITE SUITABILITY

11.1 What are the previous uses of this site and what residual impacts affect the project or are affected by the project?

P13-37

11.2 Is there paved access to the project site?

P13-38

11.3 Are there unusual conditions on the site?

P13-39

11.4 Is there any indication of currently distressed vegetation?

P13-40

11.5 Are there waste materials or containers on site?

P13-41

11.6 Are there pools of liquid or soil staining, chemical spills, abandoned machinery, cars, refrigerators, etc.?

P13-42

11.7 Are there existing or abandoned transformers, fill/vent pipes, pipelines, drainage structures?

P13-43

11.8 Is the project compatible with surround areas in terms of:

P13-44

- 10.8.1 Land use
- 10.8.2 Height, bulk, mass
- 10.8.3 Building type (low/high-rise)
- 10.8.4 Building density

11.9 Will the project influence or be unduly influenced by:

P13-45

- 10.9.1 Building deterioration
- 10.9.2 Postponed maintenance
- 10.9.3 Obsolete public facilities
- 10.9.4 Transition of land uses
- 10.9.5 Incompatible land uses
- 10.9.6 Inadequate off-street parking

12. AIR QUALITY

12.1 Are there proposed air pollution generators associated with the proposed project, such as those listed below, and if so, how will the applicant mitigate each of the following:

P13-46

- 12.1.1 Incinerators

Comment Letter P13

12.1.2 Power generators

12.1.3 Large parking facilities (1,000 or more cars)

12.1.4 Heavily traveled highways, adjacent and onsite road systems.

12.1.5 Will the project affect or be affected by nuisance odors? What mitigations are proposed?

P13-46
cont.

13. SOIL CONDITION, QUALITY, STABILITY, EROSION AND DRAINAGE

13.1 Describe the site elevations and any accommodations required for significant slopes.

P13-47

13.2 Is there evidence of slope erosion or unstable slope conditions on or near the site?

P13-48

13.3 Is there any visible evidence of soil problems (foundations cracking or settling, basement flooding, etc.) in the vicinity of the project site?

P13-49

13.4 Have soil reports or studies or borings been made for the project site or the area? If so, what are the findings of soil studies accomplished?

P13-50

13.5 Is there indication of cross-lot runoff, swales, drainage flows on the property?

P13-51

13.6 Are there visual indications of filled ground? What assurances has the applicant developed to ensure soil stability for construction footprint and impervious surfaces?

P13-52

13.7 Are there active rills and gullies on the project site?

P13-53

13.8 Have structural borings or dynamic soil analysis been requested in association with geological studies?

P13-54

14. NUISANCE AND HAZARDS

14.1 Will the project be affected by seismic faults, or fractures?

P13-55

14.2 Will the project be affected by wind/sandstorm concerns?

P13-56

14.3 Will the project be impacted by poisonous plants, insects or animals onsite?

P13-57

14.4 Are there unprotected water bodies on site?

P13-58

14.5 Are there other hazardous terrain features?

P13-59

15. ROAD,S TRAFFIC AND TRANSPORTATION

Comment Letter P13

- 15.1 Has a traffic study been developed for the proposed project that is specific to this site and this project, and not just generic to the proposed industry? P13-60
- 15.2. Has a traffic study accommodated existing traffic counts experienced at the project site, and then projected appropriate increased traffic counts based upon days of the week, hours of the day or night, and special events? P13-61
- 15.3 Has a traffic study calculated existing road maintenance requires with anticipated road maintenance or road expansion needs to accommodate the project? What are project costs associated with this subject? P13-62
- 15.4 What is the projected weekly, daily and hourly traffic count for the site, and how does this translate to an annual traffic increase that impacts adjacent properties and neighborhoods? P13-63
- 15.5 What mitigations are proposed to accommodate traffic generated by the proposed project with existing traffic counts and flows at and adjacent to the project site? P13-64
- 15.6 Will the project affect or be affected by hazardous streets? P13-65
15. 7 Will the project affect or be affected by dangerous intersections. P13-66
- 15.8 What mitigations (i.e. traffic signals, traffic security personnel, shuttle services) are proposed to ameliorate significant traffic increase and activity associated with the proposed project? What is this cost and how will it be accommodated without affecting costs of adjacent local governments? P13-67
- 15.9 Are there established biking and pedestrian pathways at or near the vicinity of the project site, and if so, what mitigations does the applicant propose to ensure the safety and non-interference of use of these public pathways? P13-68
- 15.10 How will the project impact existing public transportation facilities of the community? P13-69
- 15.11 How will the applicant ensure that increased capacity needs of public transportation will be accommodated at the sole expense of the applicant and not the adjacent local governments? P13-70
- 15.12 Will private transportation systems be required and/or implemented in association with the project? P13-71
- 15.13 How will any proposed private transportation systems impact and/or coordinate with public transportation systems currently in operation? P13-72
- 16. CHILDREN, SCHOOLS, PARKS, AND RECREATION**
- 16.1 What is the proximity of public schools to the project site? P13-73

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16.2 Are there usual and customary children's play areas within the vicinity of the project site? P13-74

16.3 Do public school buses travel the road systems associated with the project site, and if so, how will traffic mitigations proposed by the applicant ensure safe and timely schedules for public school transportation needs? P13-75

16.4 Are there usual and customary recreational areas in the vicinity of the project site that are currently utilized by the adjacent community, and if so, how will the users of these recreation areas be affected by the project? P13-76

16.5 Will the proposed project increase a need for onsite or offsite daycare facilities for children, and how will the applicant accommodate such need, inclusive of safety of children to and from day care facilities? P13-77

17. LIGHT AND GLARE

17.1 How will the applicant assess project site light and glare to adjacent properties? P13-78

17.2 What mitigations will ensure that onsite and offsite light and glare will comport with adjacent local government light, glare and signage requirements? P13-79

17.3 What procedures are proposed for adjacent neighbors who wish to legitimately complain of excessive light or glare? P13-80

18. COMMERCIAL AND/OR RETAIL ANCILLARY USES

18.1 Please identify each and every commercial use proposed upon project completion, and projected over the next ten (10) years at the project site. P13-81

18.2 Please identify an anticipated customer and weekly/daily/hourly traffic count associated with each commercial or ancillary use planned in the near-term and long-term use of the project site. P13-82

18.3 Please project estimates of revenue associated with each gambling, commercial or retail site and equate that to an equivalent sales tax loss of disposable income to adjacent local communities. P13-83

19. HOUSING & OVERNIGHT TOURIST ACCOMMODATIONS

19.1 Has the applicant studied the current housing stock and occupancy rates of adjacent communities? If so, how will a project workforce impact: P13-84

19.1.1 Local community housing needs, projected over the next ten years.

19.1.2 Local housing sales and rental rates, projected over the next ten years.

19.1.3 Local housing over-crowding and code enforcement conditions that might

impact adjacent communities, projected over the next ten years.

P13-84
cont.

19.2 How will the applicant contribute to a stable and affordable housing stock supply consistent with the applicant's proposed workforce housing needs?

P13-85

19.3 How will the project impact existing hotels, motels, RV facilities and other overnight tourism lodging facilities?

P13-86

19.4 If the applicant proposed to construct hotel or motel facilities at or adjacent to the proposed project, please calculate the estimated impact of business to existing tourist facilities, and the projected hotel occupancy tax loss to adjacent local governments, over the next ten years.

P13-87

20. LOCAL ECONOMIC IMPACTS

20.1 What nationally accepted professional or scholarly data is the applicant using to evaluate the impact of an Indian gambling casino upon the foreseeable disposable income loss to adjacent commercial, retail, restaurant, recreational and lodging facilities, over the next ten years?

P13-88

20.2 Please describe whether or how the applicant proposes to hire a local workforce, and how this potential transition of workers from current employment to future employment with the applicant might impact the local workforce?

P13-89

20.3 Does the applicant anticipate hiring a workforce from outside of the immediate community? If so, from what sources will the applicant recruit its workforce?

P13-90

21. LAW ENFORCEMENT, CRIME AND PUBLIC SAFETY

21.1 How will activity at the proposed site impact resources of local, county and state law enforcement resources, over a projected ten-year period?

P13-91

21.2 What law enforcement and public safety plans have been developed for the proposed project that will be commensurate with area law enforcement and public safety needs projected over a ten year period?

P13-92

21.3 What cost mitigations is the applicant proposing to offset impacted and increased law enforcement personnel needs of agencies serving the proposed project?

P13-93

Comment Letter P13

21.4 What nationally accepted professional or scholarly data is the applicant using to evaluate the impact of hard (i.e., robbery, vandalism, assault) and soft (white-collar larceny, embezzlement, fraud) crime traditionally associated with the gambling industry entrenching into a community previously unaffected by gambling?

P13-94

21.5 What mitigations in terms of personnel, monitoring systems, training and counseling programs is the applicant proposing to minimize the impact of anticipated crime associated with the gambling industry.

P13-95

Comment Letter P14

Carrie and Steve Johnen
18832 State Highway 49
Plymouth, CA 95669

Reg Dir	_____	✓
Dep. Reg Dir	_____	
Asst. Dir.	_____	
Assoc. Dir.	_____	
Response to Comment	_____	NO
Date	_____	
Name	_____	
Tele	_____	

June 23, 2008

Dale Morris
Regional Director
Pacific Regional Office
Bureau of Indian Affairs
2800 Cottage Way
Sacramento, CA 95825

Dear Sir:

We are writing in response to the Draft Environmental Impact Study: Ione Band of Miwok Casino Project. We are residents and homeowners in the City of Plymouth for 16 years. I am a resident of Amador County since 1976. We have watched Plymouth improve its status over these years. We believe a casino inappropriate for this location for several reasons.

P14-1

First, the location is sitting at the entry to our small town. From what we have gleaned from the various meetings, there would be a large, Nevada style casino very visible from the highway. The parking lot alone would permanently blacken several acres. That would be the image left in visitors' minds leaving Plymouth, not the quaint town we aspire to become. Also, this type of damage to the environment is contrary to the historical stewardship of the land provided by Native Americans.

P14-2

Secondly, the only documented ties the IONE band has to Plymouth is a building purchased in the past couple of years. "According to Ione Band Chairman Matthew Franklin, the purchase was finalized approximately Jan. 21." (Ledger Dispatch, February 13, 2007) In addition, according to a Ledger Dispatch article on returning found burial artifacts to their rightful repose "It was a drizzly Saturday in May when several members of the Ione Band of Miwok Indians made it to the Camellia Memorial Lawn in Sacramento.... The Ione tribe has no burial grounds of its own, according to Franklin." (Ledger Dispatch, June 6, 2008) [Emphasis mine] Burial grounds are one of the most sacred places in culture as it is where lives on Earth are closed and celebrated. One would think there would be documented and protected burial grounds in the Plymouth region for the band to claim historical residency, as is the case of the other two bands in the county. Sixteen years in the town, thirty in the county, and four plus of this casino bid and I have yet to hear about such a place.

P14-3

Third, in the case of the other two federally recognized bands in Amador County, the names are associated with the area from which they historically reside. Jackson Rancheria is in the Jackson area and members of the tribe attend schools in Jackson. The Buena Vista Band has 40 acres in the Buena Vista area. Why is this band associated with Ione (offices on Main Street, Ione!) trying to PURCHASE land in Plymouth area for their casino?

P14-4

Fourth, this is a grassland area with very limited water resources available. For many years, the city has had a moratorium on building. In the late '70's, the fairgrounds even sprayed the grass green, as there was no water to water the grass. Even with the pending pipeline coming, the massive demand for water that a casino would tax resources, leaving residents dry. The alternative of a well would tap the water table and dry it up for residents. A drop of "virgin" water can only be consumed once and they need to be reserved for the residents of this town.

P14-5

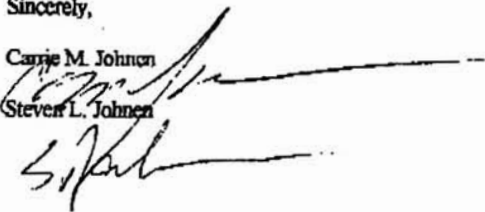
Finally, there are much better locations available on Highway 16, Highway 88 between Buena Vista Road and the county line, and Highway 104. We even pointed out to Chairman Franklin the 3,000 acres that was available at the intersection of Liberty Road and Highway 88, making easy access from Modesto, Stockton, and Sacramento when this process first began. This project must not happen in the city of Plymouth (or the rest of the county) and disrupt the quiet lives of the people who bought here first.

P14-6

Sincerely,

Carrie M. Johnen

Steven L. Johnen



Jone

June 6, 2008

Secretary Dirk Kempthorne
Department of the Interior
1849 C Street, NW
Washington, DC 20240

Dear Sir,

The foundations of our great nation are under attack and are continuing to deteriorate at an increasingly rapid rate. This cancerous progression has arrived to a state where:

- (1) citizens are not treated equally or fairly; often disregarded and frequently ignored.
- (2) citizens cannot trust elected officials to perform entrusted responsibilities honestly or even within the framework of the boundaries established by law
- (3) government officials have replaced the word 'responsibility' with 'authority' and/or 'power', which are readily used to laud their positions over the public they serve.

With these strong introductory statements I'm confident you wonder why I have singled you out to receive this letter. The reason is centered on recent events which occurred within the Department of the Interior and in particular the Bureau of Indian Affairs within your organization. Please let me provide a brief sketch as to what has happened that I would hope would cause your concern (and possible corrective action).

P15-1

I, along with several others in our community have been fighting to stop development of any more casinos in our county; one proposed is less than a mile from my home. We have been successful in slowing progress but unsuccessful in removing the threat of their relentless effort to establish "self reliance" (which we believe is hard to justify since most citizens are provided the same benefits which are also fully extended to native Americans).

We live in Amador County, a very small rural area in the Sierra Foothills in California. Two new casinos (the Plymouth casino and the Buena Vista casino) are proposed to be added to our county's one casino that is already operating (the Jackson Rancheria). All are to benefit Miwok Indian tribes and are within a 5 mile radial circle. Our fight to stop the Plymouth casino is going into its 6th year. Several years ago (2006) a referendum was placed on the Amador County ballot by our Board of Supervisors and 84% of the voters representing 30,000 people agreed that no more casinos should be added in our county. It has become obvious that the BIA has a predetermined agenda to implement both the Plymouth and Buena Vista casinos and is not to be deterred by the

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JUN 1 2008
BUREAU OF INDIAN AFFAIRS
OFFICE OF INDIAN ADMINISTRATION

will of the people or any other logical argument.

P15-1
cont.

The second attempt to develop an EIS for the Plymouth casino is in the final stages of public review of the draft document. The DEIS review was initiated by notice in the Federal Register which stated that the tribe owned the 228+ acre proposed property to be put into trust. Ownership of the property by the tribe cannot be verified by the county recorder; not one of the 12 parcels of the proposed casino land is owned by the tribe. It is my understanding that ownership of the proposed property is required by law to put the land into trust and false reporting in the Federal Register by a governmental agency is inexcusable and would seem to be the basis for legal action.

P15-2

The public hearing of the DEIS review comments was scheduled for 6 PM, 21 May '08. The BIA announced that copies of the DEIS could be obtained for \$175/copy to those interested. A CD would be made available on request at no cost and available on the internet. Those of us who had a chance to review the DEIS (that took 4 years to prepare by several governmental subcontractors) found that cross-referencing with missing support data (to be supplied "later" or "by request") made CD or internet review nearly impossible. At the DEIS review hearing all were told that we would have 3 minutes to submit our comments after written request to do so. The 21 May DEIS review meeting was not announced in the local newspaper or any other known media. There was an 8" x 11" typed notice on the post and a tree in front of the meeting place at the county fairgrounds. In the 1 1/2 hours devoted to the meeting all speakers were restricted to 3 minutes using an electronic device to carefully monitor the "valuable" input. Unfortunately, most of the speakers were various Miwok tribal members who had no DEIS comments, just their support of the proposed 'project.' Those of us with relevant comments were told the government "cared very much" but the limit of 3 minutes was electronically announced and strictly enforced. This was even enforced when the Mayor of Plymouth presented his comments (which were significant and covered several topics). There were 9 citizens who had a chance to review the DEIS who spoke (including myself) while the rest of the time was devoted to comments from supporters who expressed the desirability of the proposed casino project: comments unrelated to the DEIS .

P15-3

With a significant number of employees from the BIA present and a stenographer recording the words of wisdom presented I could see nothing gained by the audience or the BIA. A complete waste of time and clearly another government desire to patronize the citizens they 'represent' and the project they (the BIA) are determined to implement.

P15-4

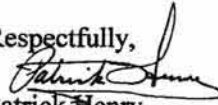
The Ione Band of Miwok Indians attempting to place a casino on 228+ acres in Plymouth and Amador County claim to be (1) landless, (2) a restored tribe and (3) have historic ties to the proposed property (all of which have been claimed to be true by the BIA and can be proven to NOT be true in a court of law). Unfortunately, legality can only be determined in court which must be paid for by the same taxpayers who have also paid for the cost of the relentless pursuit by the BIA to force this casino into existence.

P15-5

Has discriminatory legislation in opposition to the will of the people become the American way our founding fathers who gave their lives to establish? I'm confident this is not the case. It is also very interesting that the restored tribe seeking to place land in trust to develop another casino has new members of the tribe that are employees of the Sacramento BIA office.

Our small rural county of 30,000 residents cannot afford to provide the infrastructure needed to support operation of three Indian casinos. Could you please exercise your authority and responsibility to protect the rights of the American citizen thereby avoiding confrontation in court to verify the claims made herein. If you desire, we will be happy to present to you additional data to substantiate all claims made in this correspondence.

Respectfully,



Patrick Henry
18210 Burke Drive
Plymouth, CA 95669

panda@volcano.net

209-245- 6637

P15-5
cont.

Dr. Elida A. Malick
P. O. Box 264
Fiddletown, California 95629
June 27, 2008

Amy Dutschke, Acting Regional Director
Pacific Regional Office
Bureau of Indian Affairs
2800 Cottage Way
Sacramento, California 95825

Comment Letter P16

DEIS Comments, Ione Casino Project

3.0 DESCRIPTION OF AFFECTED ENVIRONMENT 3.7 SOCIOECONOMIC CONDITIONS/ENVIRONMENTAL JUSTICE (PAGES 3.7-1 THROUGH 3.7-12)

Tables of data are incomplete and insufficiently analyzed and based on biased and unverifiable source material, there are numerous exaggerated statements made as if they are statements of fact with no available supporting documentation to reference, false statements are pervasive throughout the text, material has been plagiarized from other sources, critical studies and supporting references are missing altogether as are complete appendices. Furthermore, nowhere in this section is there a discussion of how the "proposed" project will affect and impact any of the considered topics.

P16-1

3.7 Socioeconomic Conditions and Environmental Justice
"Topics include: Population, Housing, Employment, Property Taxes, Community Infrastructure, and Environment Justice."

Comments:

1. What other issues should be considered in this section?

P16-2

3.7.1 Socioeconomic Characteristics of the Ione Band of Miwok Indians
Population

"The Ione Band of Miwok Indians has 652 members."

Comment:

1. Explain the increase in membership from approximately 85 members to the current number.

P16-3

2. Provide documentation to support that the over 550 individuals newly added to the tribe qualify as legitimate tribal members according to tribal charter and enrollment criterion.

P16-4

3. Document the City or town of primary residence of the 652 tribal members.

P16-5

“Based on an economic survey distributed to members of the Tribe (32-percent of which responded...”

Comments:

1. *What type of survey was conducted and was this survey of a standard recognized in the data collection industry as being accurate?*

P16-6

2. *Who conducted this survey and was this institution a recognized entity with legitimate standing in the industry and no record of complaint against the business entity?*

P16-7

3. *What measures were put in place to ensure accuracy of the data collected and to guard against individuals falsifying data in order to skew the results?*

P16-8

“It has been estimated that about 81-percent of all members have incomes below the national median income level.”

Comments:

1. *Demonstrate the data that supports this estimate.*

P16-9

2. *Who has made this estimate and is that entity a legitimate source for producing this data?*

P16-10

Table 3.7-1 Socioeconomic Profile of the Ione Band of Miwok Indians

Comments:

1. *Employment and Income is notated with a superscript B indicating the source as the GVA, 2004. Define this acronym and document this source. It is now 2008; produce more timely data to support these descriptions of Employment and Income.*

P16-11

2. *Source “A-Ione Band of Miwok Indians, 2005” cannot be correlated to any statement in the text. Describe what information is being sourced to the tribe itself and provide independent and unbiased documentation to support the data received.*

P16-12

3. *The report states that 32-percent of tribal members responded to an economic survey. Thirty-two percent of adult respondents would yield 85.12 persons of adult age providing employment information. Of that number, 47.66 persons are reported as employed. Of that, 38.60 persons receive incomes below the national median income. Of this number there is no identification of what percentage is of retirement age or disable and unable to work (AKA Not Available for Work). The table is therefore incomplete. It is possible that this 5% of the tribal enrollment falls into one of these categories thereby making the data provided artificially appear to support a large number of unemployed. Provide the data that fully describes tribal age, income, employment status, etc.*

P16-13

4. *Explain the discrepancy between the data provided in the table that is based on tribal information, and the report of the 2003 American Indian Population and Labor Force Report put out by the U. S. Department of the Interior in 2003 (the year the casino project was made public) that indicates that of the 171 tribal members Available for Work, all 171 persons were employed. Also explain the apparent discrepancy between the Table data indicating that 81% of those employed are below the National Median Income an the 2003 DOI report indicating 27% below Poverty Guidelines.*

P16-14

5. *Describe and explain all income received by tribal members via any and all social assistance programs as well as other funding sources e.g. special distribution funds, etc.*

P16-15

Tribal Government

Comment:

1. Are there any challenges to tribal membership and formation of a tribal council with the current members?

P16-16

2. Document and verify tribal membership.

P16-17

3. Explain and verify the statement, "...however no land is currently held in trust by the BIA." since the BIA is not authorized to hold land in trust.

P16-18

Tribal Attitudes, Expectations, Lifestyle and Culture

"Both the Tribal government and individual Tribal members participate in area political and social activities."

P16-19

Comments:

1. Document and provide proof to support this statement.

2. Document primary residence addresses for all tribal members and notating those new to the tribe since 2003.

P16-20

"Tribal Children attend school located primarily in Amador and Sacramento Counties..."

Comments:

1. Document and demonstrate the number of tribal children attending school in Amador vs. Sacramento County. Document child enrollment in Amador County schools.

P16-21

2. Document child enrollment in Amador County schools for new tribal members (since 2003).

P16-22

3. What is the significance of children attending schools in Sacramento County?

P16-23

"...and various Tribal members of age are employed by local businesses."

Comments:

1. Documents by some verifiable method, i.e. tax records or other, the exact number of Tribal members employed by local business and if these Tribal members are new to the Tribe since 2003.

P16-24

3.7.2 Socioeconomic Characteristics of the Amador County Region

General Comment on Section:

1. The majority of estimates are based on numbers obtained from the California Department of Finance. Are there better and more accurate sources, perhaps in-County, from which to gather numerical data on which to base estimates?

P16-25

2. For the City Plymouth in particular, are analysis models affected by or fail by virtue of small population size?

P16-26

Population

"According to the City of Plymouth General Plan (amended 2001), the population is anticipated to grow to 1,880 persons in 2020, an increase of 80-percent compared to existing condition, (City of Plymouth, 2001)."

P16-27

Comment:

1.Document that portion of the City of Plymouth General Plan that was amended in 2001.

P16-27
cont.

Housing

“...it is estimated that approximately 689 units² are vacant in Amador County.”
(Footnote indicates that this figure does not include seasonal, recreation, or occasional use residences.)

P16-28

Comment:

1.Provide data corrected to show the number of residences that are seasonal, recreation, or occasional use residences.

“In 2000, the median value of owner-occupied housing units in the county was \$153,700 and the median contract rent was \$568 per month.”

P16-29

Comments:

1.Provide sources for this data.

2.This data is over 8 years old. Provide the most recent data possible.

P16-30

“The General Plan’s Housing Element estimates that nearly 20 percent of homeowners were overpaying for housing (paying more than 30-percent of gross income for rent or mortgage) and that nearly 40-percent of renters were overpaying for housing (Amador County, 2005).

P16-31

Comment:

1.Explain the significance of this statement relative to the DEIS.

The number of housing units in Plymouth grew by 27.3-percent from 1990 to 2000 (US Census 1990 and 2000). In 2000, the vacancy rate was 14.2-percent, with approximately half of the vacant units (7.4-percent of total units) being identified as seasonal, recreational, or occasional use residences (Table 3.7-3).”

P16-32

Comments:

1.Provide current data.

2.Has this accuracy of this data been verified with City or County sources?

P16-33

“Based on the ratio of seasonal, recreation, and occasional use vacant units to total units shown in the 2000 Census and recent total vacancy rates, it is estimated that approximately 35 units³ are vacant in Plymouth (US Census 2000; CDOF, 2004c). (Footnote indicates that the figure does not include seasonal, recreation, or occasional use residences.)

P16-34

Comments:

1.The figure of 35 vacant units in Plymouth appears to be seriously flawed based on real time personal experience of looking for a rental and then later owning a rental unit during this 2000 - 2004 period. Provide a detailed description of this analysis and estimation and recalculate the data using data from consistent years.

2. Provide data reflecting the current situation in Plymouth.

P16-35

“The General Plan’s Housing Element identifies that approximately 139 rental units existed in the City of Plymouth in 2000 (Amador County, 2005). “

Comments:

1. How many rental units were reported to exist in the City of Plymouth by the City of Plymouth?

P16-36

2. How many rental units are reported to exist in the City of Plymouth, by the City of Plymouth, today?

P16-37

“Based on this ratio, and the total number of housing units presented in Table 3.7-3, it is estimated that by 2004 there were approximately 175 rental units in the City of Plymouth.”

Comments:

1. This data again appears to be seriously overestimated. Provide a detailed description of the methodology used to calculate the 175, 2004-rental unit number.

P16-38

2. Provide accurate data reflecting the number of rental units in the City of Plymouth today.

P16-39

3. What is the significance of repeated calculation of inaccurate rental units numbers for random past years?

P16-40

Employment

General Comments:

1. Who and what method is used to arrive at estimates in this section? Provide detailed description of method of calculation.

P16-41

2. Do numbers of those employed include self-employed e.g. farm and agriculture?

P16-42

3. Data listed on Table 3.7-4 for the Unincorporated County shows “figures estimated from City and County figures”. Demonstrate method of calculation and where the City and County figures come from.

P16-43

Property Taxes

Comments:

1. Table 3.7-5 Major Employers and Manufacturers in Amador County does not reflect or report employment in the Agricultural industry.

P16-44

2. Jackson Rancheria Casino Hotel is erroneously listed as “ misc. amusement”. Correction should be made to identify this source as “Casino Gambling”.

P16-45

3. Likewise, Jackson Rancheria Casino Hotel listed under property taxes section is misleading in that this “major employer” does not contribute to the County property tax base.

P16-46

4. The Ione Band of Miwok has title to lands contiguous to the proposed fee-to-trust parcels (APN 008-070-043-000, 008-070-044-000, 008-070-045-000, 008-070-046-000, 008-070-047-000 Ione Band of Miwok Indians). It is fully expected that these parcels will be added to the application for a combined trust acquisition. There has been no denial of this plan by the Tribe and indeed is a tactic ascribed to by many tribes that have sought land in trust. There are no figures reflecting property taxes collected by Amador County for these additional parcels.

P16-47

Community Infrastructure
Schools

Comments:

1. List of schools close to the proposed casino site did not include the Amador County Court School – list needs to include this school and proximity to site.
2. Table 3.7-6 a projected excess of classrooms for Plymouth elementary of 2. Provide a detailed description of analysis in light of the fact that Plymouth elementary is currently at maximum capacity and there are over 1200 new residential units planned for the City of Plymouth.

P16-48

P16-49

“Future plans may also include a new elementary school in the Sutter Creek area and a new high school that would serve all county students in grades 9-12 (Carey, 2004).

Comments:

1. With burgeoning development in Amador County, data from 2004 is obsolete. Likewise, statements of what “may” be included in plans from 2004 do not constitute data of sufficient substance to have meaning. Provide current data reflecting the impact of today’s development plans for the County.
2. Is the ACUS’s updated facilities master plan completed and available to include in this DEIS?

P16-50

P16-51

“The main source of funding for K-12 schools comes from the state and derives from local property tax, business, corporate, and personal income taxes, and some special taxes.”

Comments:

1. How has the Governor’s recent budget and massive slashes in California’s school budget impacted Amador County and funds available for school facilities?
2. How will this project contribute to local property tax, business, corporate, and personal income taxes?
3. What is the impact to Amador County and Plymouth resulting from the loss of these funding sources from the project in question?

P16-52

P16-53

P16-54

“Based on these percentages and the current property tax rate of \$35,820 for the proposed project area, approximately \$13,400 would be distributed to the school district, \$4,755 would be distributed to ERAF, and \$643 would be distributed to the County Office of Education.”

Comments:

1. On what basis does the DEIS claim that these tax revenues would be distributed to the school district?

P16-55

Libraries:

Comment:

1. The Plymouth Branch of the Amador County Public Library is located on Main Street, on of the main thoroughfares to the project site. How will this project affect access and safety in accessing the Plymouth Branch Library?

P16-56

Parks and Recreation:

Comments:

1. Colburn Ball Field, located at the edge of the Amador County Fairgrounds, is less than one-half mile from the proposed project site. How will this project affect access and safety in accessing the Ball Field?

P16-57

3.7.3 Environmental Justice

Ethnic Composition

“The largest minority in this census tract are Hispanic or Latinos and Blacks which each represent approximately 22 percent of the population.”

P16-58

Comment:

1. Since there is only 1 known family of African American heritage living in the City of Plymouth, provide documentation and detailed review of analysis demonstrating that Blacks constitute 22 percent of the population.

2. Report current population figures for the City of Plymouth.

3. Report population figures for the City of Plymouth in 2003.

4. Report Native American population figures for the City of Plymouth in 2003 and 2008.

P16-59

P16-60

P16-61

4.0 ENVIRONMENTAL CONSEQUENCES

4.7 SOCIOECONOMIC CONDITIONS AND ENVIRONMENTAL JUSTICE

(PAGES 4.7-1 THROUGH 4.7- 11/24)

4.7.1 Methodology

“...this analysis is based in part on an Economic Impact Analysis prepared by GVA Marquette Advisors(Appendix R9.”

Comments:

1. Appendix R, letter from GVA Marquette Advisors to Mr. Mark Williams of Ikon Group, LLC, dated August 18, 2004 Re: Ione Band of Miwok Indians Economic Impact of a Proposed Casino.

P16-62

a) This letter states “the revisions consist of an inclusion of the impact expected to result from the Municipal Services Agreement...”

Comments:

1. The Municipal Services Agreement was vacated by the California Third District Court of Appeal on April 17, 2007 and no longer exists. Any data based

on this agreement or developed to include the effects of this agreement are inaccurate, misrepresentative, and obsolete.

P16-62
cont.

b) *“Our analysis of the direct impact was based upon information obtained from direct interviews with representatives of the Lone Band of Miwok Indians and Ikon Group, LLC...”*

“No effort has been made to obtain independent verification of the source data, which has been assumed to be accurate.”

Comment:

1. This is clearly a case of the wolf watching the proverbial hen house. With “no effort be[ing] made to obtain independent verification of the source data, and the project is being proposed over the strenuous objections of the majority of citizens of Amador County and the City of Plymouth as well as a multitude of local and state agencies including the County of Amador and State of California, what assurances are available to the public that the source data is in fact accurate and truthful?”

P16-63

2. Why was no independent verification of the source data sought?

4.7.2 Alternative A – Preferred Casino and Hotel

Economic Impact

Phase I

Operation

Employment

“The proposed casino would also provide benefits for workers, including health insurance, workers compensation and other benefits.”

P16-64

Comments:

1. Tribal governments are not required to adhere to State and Federal worker protection requirements. How will the provisions in the above statement be legally enforceable?

“...it is estimated the 60-percent or 763 of those employed would be residents of Amador County.”

Comments:

1. The existing Jackson Rancheria derives most of its labor pool from outside of Amador County. Likewise, there are a number of new developments including regional shopping centers and conference centers that will and are opening new employment opportunities in Amador County. Where is the data on which the 60-percent number is based? How is this estimate derived?

P16-65

Expenditures on Goods and Services

“It is expected that these purchases would be made primarily from existing vendors located in Amador County and surrounding counties...” “This is considered a beneficial impact.”

P16-66

Comments:

1. “Expected” indicates a level of uncertainty. If these purchases are not made from local vendors then would that represent another negative impact on the City and County?

2. What is the potential magnitude of that negative impact?

P16-67

Phase II
Operation
Employment

"...it is estimated that only five-percent or 68 of those employed would be residents of Plymouth."

P16-68

Comments:

1. Table 3.7-4, Regional Labor Force Estimates, indicates that there is a 0% unemployment rate in the City of Plymouth. Clarify the inconsistency between these two statements.

Community Infrastructure

Phase I

Schools

"Payment of school impact fees to the District totally \$107,610, as indicated in Section 5.2.7, would provide Amador County Public Schools with the resources to mitigate effects that may occur as a result of Alternative A. This would reduce impacts to a less-than-significant level."

P16-69

Comment:

1. Provide data demonstrating what this payment will provide for the children in the ACUSC in terms of number of classroom, number of teachers salaries paid, or other essential services.

2. Explain in detail the assertion that impacts to the school system will be reduced to a less than significant level and demonstrate what the impact will be at this less than significant level.

P16-70

3. Who determines what a less than significant level is?

P16-71

4. On what basis is this one time payment of \$107,610 considered sufficient to reduce impacts on the schools to a less than significant level.

P16-72

Phase II

Schools

"Based on the development of a 166,500 square foot hotel and 30,000 square foot event and convention center in Phase II of Alternative A, the calculated school impact fees from this development would be \$66,810. Similar to Phase I, payment of school impact fees to the District would reduce impacts to a less than significant level similar."

P16-73

Comments:

1. Similar to Phase I, explain in detail the assertion that impacts to the school system will be reduced to a less than significant level and demonstrate what the impact will be at this less than significant level.

2. Who determines what a less than significant level is?

P16-74

3. On what basis is this one time payment of \$107,610 considered sufficient to reduce impacts on the schools to a less than significant level.



P16-75

Fiscal Effects
Phases I & II

“Potential adverse fiscal effects would result from an increased demand for public services and loss of property taxes.” “Public services that could be affected include law enforcement and fire protection and emergency medical services.”



P16-76

Comments:

1. Are these the only public services that could be affected? What other public services could be affected?

2. What is the estimated magnitude of the potential adverse fiscal effects? What is the worst case scenario determined from other communities that have been impacted by this type of development?



P16-77

3. There are no numbers provided in either of the references sections (4.9 or 5.2.9) to examine mitigation to be provided for these public services. Section 5.2.9 states in paragraphs K and L that it shall “negotiate the exact amount of compensation” for these services and in paragraph N that it shall “negotiate in good faith”. Provide data that will be used to conduct the negotiations for these services.



P16-78

“Potential fiscal benefit would result from increased revenues generated from sales taxes.”

Comments:

1. Since Tribal governments are exempt from collecting sales taxes and likewise from distributing any money’s collected as “taxes” to the County and City governments, how is the above potential benefit to be realized and enforced?



P16-79

“The fee-to-trust transfer of the 12 project parcels would remove them from the County’s assessed property rolls.”

Comments”

1. As recorded in the Amador County Assessors office, the Tribe owes 5 parcels of land contiguous to the project parcels. It is fully expected and reasonable to expect that, like other tribes has done, the Tribe will exercise the ability to have these parcels taken into trust as well. Why are these parcels omitted from this DEIS?



P16-80

2. Not all parcels are located in the County of Amador; some are located in the City of Plymouth. Please make the necessary corrections that reflect the correct location of the parcels.



P16-81

“The Tribe would provide compensation to Amador County to mitigate impacts of the lost tax revenues, as discusses in Section 5.2.7”

Comments:

Section 5.2.7 only makes a vague reference to this aspect of mitigation in the following paragraph B, “ The Tribe shall negotiate in good faith with the City of Plymouth and Amador County regarding monetary compensation of the impact of the Tribe’s intended use of its trust lands. Monetary compensation shall be in the form of either a one-time payment or annual payments, as determined appropriate during good faith negotiations. The exact amount of compensation shall be negotiated. The amount of payment shall be subject to annual review”

P16-82

1. Correcting the above statement to include the parcels that are within the boundaries of the City of Plymouth, what compensation will be provided to the City of Plymouth to mitigate impacts of lost tax revenues?

2. What measures will be in place to enforce the payment of that compensation?

P16-83

3. Does this statement refer to mitigation of impacts of lost tax revenue?

4. Who will conduct the annual review?

P16-84

“The net effect of fiscal impacts is considered less than significant”.

Comments:

1. Clarify if it is the net effect of the negative fiscal impacts or the positive fiscal impacts that are considered less than significant.

P16-85

Social Impacts

Phases I & II

Pathological and Problem Gambling

“The APA has established ten criteria for diagnosis of a pathological and problem gambler, which include....illegal acts...”

P16-86

Comments:

1. What types of illegal acts are documented as being committed by casino patrons, both pathological and recreational gamblers?

2. What are the social and fiscal impacts to local jurisdictions that are forced to host these casino venues?

P16-87

“An additional casino in Amador County under Alternative A is not expected to substantially increase the prevalence of problem gamblers.”

Comments:

1. While it may be true that another casino may not increase the prevalence of problem gamblers, demonstrate what the effect of two new or more new casinos may do. In the case of Amador County it is a real possibility that the Buena Vista Casino may be approved and constructed as well thereby creating two new venues for gambling.

P16-88

2. While it may be true that another casino may not increase the prevalence of problem gamblers, demonstrate that another venue will not exacerbate the severity of the problem gambler issue that already exists in Amador County due to the existing Jackson Rancheria casino.

P16-89

“Nonetheless, the Tribe has agreed to make an annual contribution of \$10,000 to an organization or organization to address problem gambling issues, as address in Section 5.2.7”

Comments:

1. Section 5.2.7 states the following in paragraph A, “The Tribe shall pay an annual contribution of \$10,000 to an organization or organizations mutually agreed upon by the Tribe and the BIA to address problem gambling issues.”

- a. How is the \$10,000 figure derived and what substantiates that it will provide sufficient mitigation to Amador County to address the issue of problem gamblers?
- b. Why are the organization(s) to be benefited by the Tribes contribution selected by the BIA to the apparent exclusion of Amador County?
- c. Are these organizations(s) specific to Amador County as the impacted County and if not why not.

P16-90

“This is considered a less than significant impact.”

Comments:

1. In order to determine if the effect of the casino will constitute a less than significant impact relative to problem gamblers we need to understand what the impact of the current casino is on Amador County. What is the current status of the problem gambler issue in Amador County, how are these numbers derives and what is the source of the data?

P16-91

2. What is the expected impact of the new casino on the current status of the problem gambler situation in Amador County and how are these numbers derived?

P16-92

3. How exactly will the Tribal contribution to some as of yet undefined and unnamed organization(s) alleviate the problem gambling issue to a less than significant level?

P16-93

Crime

“Both of these arguments are based more on anecdotal evidence than empirical evidence”

Comments:

1. Since the introduction of Tribal Class III casino gambling in California, there has been ample data, not just anecdotal evidence, to support the contention that crime does indeed increase in communities that host Tribal gambling halls. In Amador County alone, 27 percent of the cases handled by the District Attorney’s office are attributed to the Jackson Rancheria Hotel and Casino.

P16-94

Provide evidence supporting the above statement that there is nothing more than anecdotal evidence on which to base arguments for decreased or increases in crime due to casinos.

“Whenever large volumes of people are introduced into a community, the volume of crime is also expected to increase. This olds true for the introduction of any large-scale-development.”

Comments:

1. Provide documentation that reflects similar effects on local communities from the introduction of Class III gambling establishments compared to the introduction of residential development.

P16-95

“Taken as a whole, the literature on the relationship between casino gambling and crime suggests that communities with casinos are as safe as communities without casinos.”

P16-96

Comments:

1. Considering that Amador County has itself experienced a significant increase in crime in the area of the casino, provide specific case studies demonstrating the contention that non-casino communities are as safe as casino communities.

“Increased tax revenues resulting from Alternative A would fund expansion of law enforcement services required to accommodate planned growth.”

P16-97

Comments:

1. Since Tribal entities are exempt from participating in the federal and state taxation system, explain how tax revenues resulting from Alternative A would fund expansion of law enforcement serviced.

2. Since Tribal entities are exempt from County and City general plan policies and implementation procedures as well as zoning regulations and other development regulations, they fall completely outside of the parameters of planned growth. Explain the above statement in this context and how Counties and City’s are expected to accommodate, in terms of law enforcement services, growth on Tribal land that is completely unplanned and uncontrolled.

P16-98

Effects On The Ione Band Of Miwok Indians
Phases I & II

“Second, Tribal members will have access to new jobs created by the casino and hotel.”

Comment:

1. Since Tribal members will receive casino money whether they work or not, does access to new jobs mean that tribal members will actually seek employment?

P16-99

2. If Tribal members do not fill casino jobs, how is this benefit achieved?

P16-100

“Employment generated by the project would reduce government assistance payments to tribal members.”

Comments:

1. Document data that demonstrates reduction in government assistance payments to tribal members from casino operating tribes.

P16-101

2. Document that Ione Band of Miwok members will no longer seek government assistance payments of any kind once they commence operation of a tribal casino.

P16-102

Tribal Attitudes, Expectation, Lifestyle and Culture

“Alternative A would also fulfill stated Tribal goals for economic development and self-sufficiency.”

Comments:

1. Since economic development of the Tribe has to date included a project that will profoundly and most likely negatively affect the local community, and since the Tribe has purchased other lands in the immediate vicinity of the proposed project lands that are not discussed in the DEIS, what are the Tribal goals for economic development that could potentially further affect the local jurisdiction in any way?

P16-103

Environmental Justice
Phases I & II

“One minority community was identified in census tract 3.01.”

Comment:

1. Section 3.7-8 discusses Census tract 3.01 as having 22 percent Black minority population. This is not an accurate reflection of the population of the City of Plymouth. Provide data demonstrating the minority make up of the City of Plymouth.

P16-104

“Census tract 3.01 is located west of the project site and the City of Plymouth and is characterized by open spaces with scattered residential and commercial developments.”

Comment:

1. Provide easily identifiable landmarks such as parcel numbers or other labels in standard use to delineate this census tract.

2. Why are locations outside of the City of Plymouth being used to calculate minority parentages?

P16-105

“Regional impacts, such as air quality impacts, would be distributed throughout the region.”

Comments:

1. What would the local impact to air quality be?

“Alternative A would benefit all communities within proximity of the project site by creating employment opportunities that would be primarily filled by the local labor market.”

Comments:

1. Table 3.7-4 provides data indicating that Plymouth has 0 percent unemployment. How does this affect the statement that employment opportunities will primarily be filled by the local labor market.

2. Section 4.7.2, page 4, paragraph three; states that an estimated 60 percent of those employed by the proposed project will be residents of Amador County. Provide data and methodology to support that estimate.

3. What percentage of the Jackson Rancheria employees are residents of Amador County?

P16-107

P16-108

P16-109

P16-110

“These communities would not be disproportionately adversely impacted. A less than significant effect would result.”

Comment:

1. Provide data and/or examples to support this statement.

2. How is a less than significant effect determined and what exactly does this statement mean?

P16-111

P16-112

Section 3.7, the section on Socioeconomic Conditions and Environmental Justice, states the following, “*Altogether, tribal attitudes and expectations promote increasing participation in and benefit from the regional economy, with continuation of the long*

P16-113

tradition of comfortable coexistence and cooperation with their non-Indian neighbors."
It is fully understood that this Franklin-led Ione band expects to benefit from the regional economy. However, the neo-Ione band members that number over 500 since the début of the planned casino are complete strangers to Amador County and the Plymouth area, making the implications of the word "tradition" an utter sham and, in the face of 85% of Amador County and 73% of the City of Plymouth that have said "no more casinos", and especially not in Plymouth, there is a clear disconnect on what cooperation with the non-tribal community means.

P16-113
cont.

Dueward W. Cranford II
P.O. Box 794
Plymouth, California 95669

DEIS Comments, Ione Band of Miwok Indians' Casino Project

To: Dale Risling, Deputy Regional Director &
Amy Dutschke, Acting Regional Director & Reportedly a Member of the Ione Band of Miwok
Pacific Regional Office, BIA
2800 Cottage Way
Sacramento, Ca. 92825

From: Dueward W. Cranford II, Citizen Amador County

Subject: **DEIS Comments, Ione Band of Miwok Indians', Casino Project**

General observations and comments concerning the DEIS

Directors, to have submitted this Draft Environmental Impact Study for public comment speaks to an apparent willingness of the Bureau of Indian Affairs Pacific Regional Office (BIA PRO), the Bureau of Indian Affairs (BIA), the Department of the Interior (DOI) and the Solicitor's Office to facilitate a highly questionable action perpetrated by the Matt Franklin led Ione Band (MFIB). The lack of integrity and absence of ethics exhibited by a few zealous individuals at these agencies is apparent in the outdated, inaccurate, false and misleading content of this DEIS as well as the false and misleading content of the Federal Register Notice that appeared on April 18, 2008 announcing the availability of the DEIS for public comment.

P17-1

Since 2003 the MFIB, with the apparent cooperation of some individuals at the BIA PRO, the BIA, the DOI, and the Solicitor's Office, has misrepresented the history of the Ione Band, invented a non existent termination of the Ione Band's Federal recognition, misrepresented Ada Deer's reaffirmation of the Federal recognition of the Ione Band as a restoration, misrepresented the Ione Bands' lack of tribal land, misrepresented the leadership and membership of the Ione Band, misrepresented the Ione Band as a restored tribe, misrepresented the fee ownership of the 228.04 acres by the Ione Band and misrepresented the eligibility of the 228.04 acres for Class II / III gaming under the Indian Gaming Regulatory Act (IGRA). Unfortunately, these misrepresentations continue despite a well documented Ione Band history that does not support the landless, restored claims made by the MFIB or the claim that the MFIB is the historic Ione Band of Miwok. The repeated efforts by citizens, citizen groups, Amador County and the State of California to inform the BIA, BIA PRO, DOI, and Solicitor's Office of the well documented history of the Ione Band have to date fallen on deaf ears. It appears that some individuals at the BIA PRO, BIA, DOI, and Solicitor's Office are intent on siting a casino in Plymouth without regard to history, without regard to documented facts, without regard to the enormous negative impacts such a casino would have on the small city of Plymouth, without regard to the overwhelming opposition from the community that will be most negatively affected, and most importantly without regard to the regulations and laws that govern acquiring land eligible for Indian gaming.

P17-2

The latest example of the misrepresentations afforded the public by the BIA PRO, BIA, and DOI appeared in the Federal Register Notice of April 18, 2008 approved by former Secretary of Indian Affairs, Carl J. Artman and contains a false statement in the first sentence of the supplementary information. That statement is included below as copied from the HTML version of the notice available on line from the Federal Register website.

P17-3

SUPPLEMENTARY INFORMATION: The Tribe has requested that the BIA take into Federal trust 228.04 acres of land currently held in fee by the Tribe,

Despite repeated requests to former Secretary Artman and other BIA and DOI officials no documents to support the statement that the land is currently held in fee by the Tribe have been provided. It is my contention that this statement cannot be supported with documents and is patently false. At the Public hearing held in Plymouth, California on May 21, 2008 the BIA Official moderating the hearing informed the approximately 150 attendees before the hearing began that this statement was not accurate and that the parcels were in the "acquisition pipeline". To my knowledge no further action has been taken to inform the public at large as to the fact that the Notice is "not accurate" or in more straightforward language false. This is not the first time the MFIB, the BIA PRO, BIA, DOI, and Solicitor's Office has presented the public with "not accurate" information about the Ione Band and the MFIB's attempts to take land into trust and build a casino in Plymouth. If the Federal Register Notice contains such an obvious and unsupported false statement about the ownership of the 228.04 acres how many more "not accurate" statements might be included in the massive DEIS? What confidence can the public have that the DEIS does not contain more of these "not accurate" statements relating to the MFIB and the serious negative impacts to the environment and lifestyle a Las Vegas style casino will have on Plymouth and Amador County? Based on my limited reading of the DEIS it is filled with "not accurate" statements from beginning to end.

On April 23, 2008 I sent the following email to Brian Waidmann, Carl J. Artman, and James Cason challenging whether the MFIB held the 228.04 acres in fee and requesting the documents on which the BIA PRO, BIA, and DOI relied that indicate that the MFIB held the 228.04 acres in fee. As of June 12, 2008 I had received no reply and I resent the request on June 12, 2008 and included now Secretary of Indian Affairs George Skibine and Chief Solicitor David Bernhardt as recipients. Unlike my first request, I received an immediate reply from Secretary Skibine and he responded that I could expect a letter next week. In a subsequent email Secretary Skibine provided me with the following information. **"It is our understanding that the Tribe does not currently own the land in fee. The statement in the Notice was in error. We are in the process of reviewing whether a correction needs to be published."** Irrespective of the content of the email or whether a correction will be published, I now submit the request made to Secretary Skibine and others that the MFIB, the BIA PRO, BIA, or DOI provide the documents that support the statement that as of April 18, 2008 the Ione Band held in fee the 228.04 acres that is the subject of the DEIS. Additionally, I also request if no such documents existed that the DEIS be immediately withdrawn and placed on hold until such time as the Ione Band does in fact own the 228.04 acres in fee and notice of the withdrawal and reason for the withdrawal be noticed in the Federal Register.

Subject: Federal Register Notice for Ione Band DEIS

From: bcranford4588@att.net

Date: April 23, 2008 9:44:16 PM PDT

To: Brian_Waidmann@ios.doi.gov

Cc: Carl_Artman@ios.doi.gov, James_Cason@ios.doi.gov

Mr. Waidmann,

I write you once again concerning the questionable actions of the Matt Franklin led Ione Band, the BIA and the DOI relating to the Ione Band of Miwok Indians and their attempts take land into trust in order to build a casino in Plymouth, California.

The following is from the Federal Register notice of February 18, 2008. The complete notice follows. I believe this statement, like many others contained in solicitor opinions, fee to trust applications, and other Federal Register notices related to the Franklin led Ione Band, is false.

SUPPLEMENTARY INFORMATION: The Tribe has requested that the BIA take into Federal trust 228.04 acres of land currently held in fee by the Tribe,

According to records available in the Amador County Recorder's Office and the Amador County Assessor's office on Friday, April 18, 2008 at 2:25 pm the Franklin led lone Band did not own in fee even one of the 12 parcels that make up the 228.04 acres contained in the Federal Register Notice as of the date of the notice or as of the date of January 22, 2008 next to the Assistant Secretary's name.

Therefore, finding Assistant Secretary of Indian Affairs Carl J. Artman's name affixed to this notice, I respectfully request copies of the documents on which Assistant Secretary Artman relied to approve the Federal Register notice in which this highly questionable information is included. While I would like to believe that this is simply an oversight, it is difficult to reach that conclusion given the considerable history of misinformation and questionable actions by the BIA PRO, the BIA, the Solicitor's Office and the DOI related to the Matt Franklin led lone Band in order to take land into trust for the Franklin led lone Band to build a casino in Plymouth.

The information and documents indicating ownership in fee of the 228.04 acres by the lone Band should be readily available and I would expect that an email reply to my request could be accomplished within 24 hours and will include a date on which I could expect to receive the copies of the documents that clearly indicate fee ownership of the 228.04 acres by the lone Band or a reply that no such documentation is available from the Assistant Secretary, the BIA, the BIA PRO, the Solicitor's Office, the DOI, or the Matt Franklin led lone Band.

Respectfully Submitted

D.W. Cranford II
209 245 4588
P.O. Box 794
Plymouth, Ca, 95669

The lack of a response relating to my first request for documentation on which the BIA PRO, BIA, and DOI relied in order to publish in the Federal Register the release of the DEIS for public comment and continue to process the Fee to Trust Application for the MFIB was not unexpected. The MFIB, BIA PRO, BIA, DOI, and Solicitor's office apparently have authored, embraced and are pursuing a policy that allows for questionable, misleading, and false statements to be included not only in this DEIS, but in both the Fee to Trust Application and the Artman restored lands opinion with little or no regard for their relation to fact or truth. In other words, these agencies have continually for the past several years engaged in a process where whatever information is needed to support approving a casino in Plymouth is included as fact and truth in such documents as this DEIS, the Fee to Trust Application, and the Artman restored lands opinion without supporting documents, representing them as factual and then presented to the public for comment. This practice of presenting fiction and falsehoods as fact and truth has not gone unnoticed by the public, the City of Plymouth, Amador County or the State of California. Citizens and citizen groups, the City of Plymouth, Amador County, and the State of California have all brought a number of questionable, misleading, and false statements to the attention of the BIA PRO, BIA, DOI, Solicitor's Office, Office of Inspector General (OIG), the Congress and Congressional Staff. Several of these groups and governments have indicated that actions to challenge the deceptive practices of the BIA PRO, BIA, and DOI relative to the fee to trust application and related documents in federal courts are certain unless the MFIB, the BIA PRO, BIA, and DOI discontinue their practice of providing false and misleading information to the public.

To be blunt, this DEIS, like the fee to trust application and Artman opinion, is an absolute abomination. It is an affront to the history of the lone Band, it makes a mockery of fact and truth, it is an insult to the public, it is a failure of the public trust and it should be an embarrassment to anyone

P17-3
cont.

P17-4

P17-5

who participated in its preparation or authorized its release for public comment. Outdated, incomplete, inaccurate, mistake filled, and filled with misleading and false statements that misrepresent the facts and history of the Ione Band hardly do justice in describing the contents of this DEIS.

P17-5
cont.

Nowhere can one find a detailed project description as required by the NEPA and the contents are not only outdated, incomplete, inaccurate, misleading and false; they are organized in a such a way as to discourage review and comment, especially if one were limited to use of the on line version where moving from one section to another required many screens. Hard copies were not readily available and in fact some requesters of hard copies were informed that a hard copy was available at a cost of \$175.00. This process as administered by the BIA Pacific Regional Office has been and continues to be one that appears to have every intention of ramming a casino down the throats of an unwilling community in Plymouth and Amador County. More than four years for the tribe to prepare this DEIS and only 75 days for public comment. A request for an additional 25 days from our Congressman, Dan Lungren, was denied and the public hearing held just 33 days after the Federal Notice was a sham with those finding significant and numerous issues with the DEIS allowed only three minutes to vocalize their findings. Three minutes is not time enough to identify and speak to many issues found on page 1-1 of the Introduction let alone with the document itself.

P17-6

Due to the many undocumented, false, fictitious, misleading, and fraudulent statements contained in this DEIS which have previously been brought to the attention of the Bureau of Indian Affairs Pacific Regional Office, the Bureau of Indian Affairs Central Office, the Office of Inspector General, the Secretary of Indian Affairs, the Secretary of Interior, the Office of Indian Gaming and various members of Senate and Congressional staff I believe that continued use of these undocumented, false, fictitious, misleading, and fraudulent statements related to this project would constitute knowingly and willfully falsifying, concealing, or covering up material facts related to the Ione Band, Ione Band lands, Ione Band leadership and membership, Ione Band history as well as this proposed casino project in documented statements, representations, and writings including this DEIS, the Fee to Trust Application, the Artman restored lands Opinion, the briefs filed by the Department of Interior in the Muwekma Ohlone case in the D.C. District Court and the Federal Register Notice for this DEIS. The following excerpt, which seems to be unread and unused by BIA PRO, BIA, DOI and Solicitor's Office, is from the Department of Interior Office of Ethics webpage.

P17-7

Fraud or false statements in a Government matter

An employee shall not, in any matter within the jurisdiction of any department or agency of the United States, knowingly or willfully falsify, conceal or cover up by any trick, scheme, or device a material fact, or make any false, fictitious, fraudulent statements or representations, or make or use any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry. Special attention is required in the certification of time and attendance reports, applications for employment, requests for travel reimbursement, and purchase orders and receiving forms. 18 U.S.C. § 1001; 43 CFR § 20.510

My comments on selected and specific sections and pages and questions related to those selected and specific sections and pages of the DEIS are found on the following pages.

Executive Summary, The information in this section is inaccurate, incomplete, obsolete and needs to be edited until it is accurate, complete and up to date.

P17-8

Introduction, Page i

Recent estimates based on public statements by tribal leaders place the number of members at over

P17-9

Comment Letter P17

<p>700. Is the actual number of members known as of some date such as January 1, 2008? Please provide the actual number of members as of a date sometime in 2008.</p>	P17-9 cont.
<p>If the Ione Band has no trust land does the Ione Band of Miwok own any fee land? If yes please include all assessor parcel numbers for all properties owned in fee by the tribe as of April 18, 2008.</p>	P17-10
<p>Has the Ione Band at any time publicly stated since January 1, 2003 that it is landless or included a statement that it is landless in public documents or documents provided to the public by the Ione Band or their investor? Please provide reference to all instances where the Ione Band has represented to the public that it is landless.</p>	P17-11
<p>As of April 18, 2008, the date of the Federal Register Notice for the DEIS did the Ione Band hold in fee any of 228.04 acres which the tribe has applied to have taken into trust? If yes, please provide all documents supporting this statement. If no, please explain why this statement with no basis in fact or truth was included in the notice to the public.</p>	P17-12
<p>The tribe's eligibility to acquire land in and adjacent to Plymouth for a reservation is based on what supporting documents? Please provide all the documents that support this statement.</p>	P17-13
<p>In the DEIS it is stated that Commissioner Bruce agreed to accept land into trust on behalf of the Tribe. In the letter addressed to Nicolas Villa Sr. and the Ione Band of Miwok Commissioner Bruce states that "As the Commissioner of Indian Affairs, I therefore, hereby agree to accept by relinquishment of title or gift the following described parcel of land to be held in trust for the Ione Band of Miwok Indians:..." a description of one specific parcel then follows. Please correct this statement in the final EIS to read that Commissioner Bruce agreed to accept the 40 acre parcel near Ione into trust on behalf of the Tribe.</p>	P17-14
<p>Commissioner Bruce's 1972 letter contains specific direction that the Sacramento Area BIA office assist in the preparation of a document containing a membership roll and governing papers which conform with the Indian Reorganization. Please include this membership roll and papers in the appendix with the Bruce letter or include an explanation with supporting documents as to why these documents cannot be included. If no documents are available please explain why Commissioner Bruce's specific directions have not been carried out in the past 36 years.</p>	P17-15
<p>Was the Ione Band included on the list of tribes eligible for reorganization under the 1934 Indian Reorganization Act (IRA)? Was the Ione Band or were any members of the Ione Band contacted pursuant to the 1934 IRA? If yes to either question, please provide all documents indicating that the Ione Band was on the list of tribes eligible for reorganization in 1934 or that the Ione Band or any member was contacted pursuant to the 1934 IRA.</p>	P17-16
<p>The DEIS states that Secretary Ada Deer reaffirmed the Bureau's commitment to bring land into trust and declare a reservation for the Tribe. This is not accurate and is a misrepresentation of the facts. Based on a reading of the Ada Deer reaffirmation letter of March 22, 1994 addressed to Nicolas Villa Jr., Secretary Deer, like Commissioner Bruce agreed to accept by relinquishment or gift the following described parcel of land to be held in trust for the Ione Band of Miwok Indians. The described parcel is the same specific parcel described in the Bruce letter. Please correct this statement in the final EIS. Nowhere in the March 22, 1994 letter does Secretary Deer refer to or even use the word reservation.</p>	P17-17
<p>The reference to a reservation by Secretary Deer is contained in a July 14, 1994 letter where she is responding to a memorandum from the Area Director, Sacramento Area Office in which the Area Director apparently requested clarification of the March 22, 1994 letter. The declaring of a reservation was suggested as part of an alternative action to the taking of the specific parcel into trust and was not</p>	P17-18

Comment Letter P17

addressed directly to the Tribe but to the Sacramento Area Director. An accurate representation of the content of the letters is requested in the Final EIS. Additionally, please include all letters from Ada Deer to the Tribe or to the Sacramento Area Director in the Final EIS as well as all letters from the Tribe or from the Sacramento Area Director to Ada Deer.

P17-18
cont.

Please explain why the specific 40 acre parcel described by Commissioner Louis Bruce and which both he and Secretary Deer agreed to take into trust for the Ione Band has not been taken into trust in the last 36 years? Please provide all documents supporting the explanation.

P17-19

What is the extent of the Federal actions in the development and operation of one of the four related commercial alternatives in this DEIS? What Federal agencies have been involved and to what extent? Please provide all documents referring to any Federal actions with emphasis on the BIA PRO in the development and operation of one of the four related commercial alternatives in this DEIS.

P17-20

Does the EIS address in any way the unforeseeable consequences of Tribal actions related to the development and operation of one of the four related commercial alternatives? How will the tribe address any unforeseen consequences related to the development and operation of one of the four related commercial alternatives?

P17-21

Executive Summary, Introduction, Page ii

Is grazing lands the only surrounding land uses south and east of the proposed site?

P17-22

Are there any mining operations or mining claims south and east of the proposed site? If yes, please include this information in a new DEIS for public comment.

P17-23

Are there any Bureau of Land Management lands adjacent to or near the property? If yes, please provide this information in a new DEIS for public comment.

P17-24

Executive Summary, Purpose and Need, Page ii

What is the current employment status of Ione Band members? Please include the number eligible for employment and number employed.

P17-25

What is the history of employment status of Ione Band members since 2002?

P17-26

Are there any Department of Labor data / statistics available on Ione Band employment? If yes please include this information and explain any large or unusual changes in employment numbers.

P17-27

How many Ione Band members currently live in Amador County?

P17-28

How many Ione Band members currently live outside Amador County?

P17-29

How many Ione Band members currently live within 25 miles of the proposed Casino? Within 50 miles?

P17-30

What are the current sources and amounts of revenue for the tribe?

P17-31

Have revenues to the "landless" Ione Band led by Matt Franklin ever included EPA funds?

P17-32

Did the "landless" Ione Band use the 40 acre parcel near Ione to apply for any EPA funds?

P17-33

What current social and educational programs are available to tribal members through Federal, BIA, State, County, City, or private entities?

P17-34

How many members currently use any social and educational programs available through Federal,

P17-35

Comment Letter P17

BIA, State, County, City, or private entities?

P17-35
cont.

What other economic opportunities have been explored? Please provide a list of other economic opportunities explored by the tribe with supporting documents.

P17-36

Executive Summary, Alternatives, Alternative A, Page ii

Will the potentially reclaimed water storage tank be required or not? (Only 5 years to plan this)

P17-37

Will the source of water for the storage tanks be from wells or from the municipal water supply? Again only 5 years to plan for this.

P17-38

Was a fire station on the 228.04 acre site included as part of the project in the Scoping sessions? If no, please explain why not.

P17-39

Executive Summary, Alternatives, Alternatives Considered but Eliminated

Is the alternative 40 acre site the parcel of land that Commissioner Bruce and Secretary Deer agreed to accept by relinquishment of title or gift to be held in trust for the Ione Band of Miwok Indians? If no, please identify the site by Assessor's parcel number.

P17-40

When did the tribe consider the alternative 40 acre site?

P17-41

Please provide all documents relating to any studies or analysis done in consideration of the 40 acre site?

P17-42

Since the current proposal requires the removal of trees and vegetation and displacement of existing residents please provide analysis why this does not disqualify the current land as a viable site?

P17-43

What is the extent of tree and vegetation removal required on the 40 acre site?

P17-44

How many residents would be displaced from the 40 acre site?

P17-45

Are the residents that would be displaced members of the Ione Band? If yes, why are these residents not willing to be temporarily displaced in order to provide their tribe with a stable sustainable source of employment and revenue to be used to support social and educational programs for the elderly, the poor, and younger Tribal members? If no, why are they living on the 40 acres and why are they members of the tribe?

P17-46

Are there any other casinos proposed within 5 miles of the 40 acre parcel that requires ancillary components such as a reservoir or wastewater treatment facility that requires more than 40 acres?

P17-47

Please provide documentation that ancillary components such as reservoir or wastewater treatment plant are required if a casino were built on the 40 acre parcel and that the property is not capable of handling such components?

P17-48

How much of the 40 acre property is located partially within the 100 year floodplain? Please provide documentation that some part the 40 acre parcel is actually in the 100 year floodplain and include the amount of the land that is within the 100 year floodplain.

P17-49

Is there any history of actual flooding on the Ione Band's 40 acre property that would prevent a casino being constructed on the 40 acre parcel?

P17-50

Executive Summary, Table ES 1 Groundwater Use AA, AB, AC, AD, The information in this section is inaccurate, incomplete, obsolete and needs to be edited until it is accurate, complete

P17-51

Comment Letter P17

and up to date.

What would be the increase in groundwater use under these alternatives?

Why is the monitoring program being developed by the Tribe in consultation with the BIA and EPA only? Any monitoring program must include participation by off site users and the final EIS should include a monitoring program that allows for the participation of off site users.

The monitoring of the wells and reporting of the results must be completed by an unbiased third party and available to the public.

Has any monitoring of the on site wells been implemented in the past 4 years? If yes, please include this monitoring data. If no explain why not.

What process would be used to determine if *significant* effect to off site groundwater users occurs? Who makes the determination? What criteria will be used?

How does monitoring the existing wells on the project site help determine whether off site wells are being significantly affected? Please explain and provide data that verifies that monitoring on site wells is an effective method of determining that off site wells are being adversely affected?

Will off site wells be included in the monitoring program? Off site wells must be included in any monitoring program.

How often will the monitoring occur or data be collected, documented, and reviewed? Please provide a draft of what the monitoring program process will entail in new DEIS for public comment.

Will the data be available to off site users?

Have other monitoring programs for wells in the Plymouth area been undertaken that have been completed or are still in process that indicate that the pumping of groundwater at the levels required by the project or that current levels of pumping by the City of Plymouth would in fact significantly affect off site wells?

Are any off site wells currently being monitored by any well monitoring program?

Have all the wells that might be potentially affected been identified? Please include all wells that the tribe believes might be affected in a new DEIS for public comment.

Has well data for all wells that might be affected been collected? If yes, please include these wells and data in a new DEIS for public comment.

Will there be a requirement that the tribe alter or stop its groundwater pumping regime? This must be a requirement in the mitigation.

Where is the pumping regime for each alternative defined? Please include the pumping regime in a new DEIS for public comment.

Will the tribe be required to pay for a new well or deepening existing wells? This must be a requirement in the mitigation. Please include in a new DEIS for public comment.

Are the pre project consumptive uses for off site wells known? If not how could the tribe or anyone know whether the pre project use is recovered fully? Does this mean that if an off site user had a 50 gpm well and it went dry due to tribal groundwater use the tribe will replace the well with 50 gpm well? Explain fully what this mitigation measure really means.

P17-51
cont.

P17-52

P17-53

P17-54

P17-55

P17-56

P17-57

P17-58

P17-59

P17-60

P17-61

P17-62

P17-63

P17-64

P17-65

The offsite user will be connected to the tribes water supply. Are you serious? Do you mean the off site user will be connected to the very source of water that caused their well to go dry? Connected permanently or temporarily? At what cost to the off site user if any? What affect will this have on other off site users? Has this potential demand for water been included in the project's water demand table? If this potential demand has not been included please include in a new DEIS for public comment.

P17-66

Are there any local, county or state restrictions on the use of water delivered via tanker truck to off site users?

P17-67

Are any permits required for off site delivery of water by truck? If yes, will the tribe obtain the permits? When?

Is there a documented pumping regime for the three wells? Please provide the pumping regime in a new DEIS for public comment.

P17-68

Section 1.0 The information in this section is inaccurate, incomplete, obsolete and needs to be edited until it is accurate, complete and up to date.

P17-69

Section 1.1 Introduction

Is the exact number of tribal members known as of any date such as January 1, 2008?

P17-70

How many members were eligible to vote in the last election?

Is acting Regional Director Amy Dutschke a member of the Ione Band?

P17-71

How many of acting Regional Director Amy Dutschke's relatives are members of the Ione Band?

While the tribe has no trust land or reservation does the tribe own any fee land? Please include information about any fee land holdings of the tribe as of April 18th, 2008 in a new DEIS for public comment.

P17-72

Was the Ione Band landless in 1972 when Louis Bruce agreed to accept a specific 40 acre parcel into trust for the Ione Band or had the Ione Band acquired title to the property through a quiet title action? If the Ione Band was not landless in 1972 please explain how the Matt Franklin led Ione Band has claimed to be landless for at least the past 5 years.

P17-73

Is there documentation that supports the statement that the BIA determined in 2006 that the tribe is eligible to have lands taken into trust as its initial reservation pursuant to 25 USC § 465? Please delete this statement or include supporting documents in a new DEIS for public comment.

P17-74

Is the tribe eligible to have lands taken into trust as its initial reservation for gaming under the Indian Gaming Regulatory Act (IGRA)? If yes, please explain and if no, please explain in a new DEIS for public comment.

P17-75

1.1.1 Project Location

Did the two scoping sessions noticed and conducted in 2003 and 2004 include all 12 parcels totaling 228.04 acres? If yes please provide the notices in a new DEIS for public comment. If no, please explain why all 12 parcels totaling 228.04 acres were not included.

P17-76

Explain why the scoping sessions were noticed and conducted on 10 parcels totaling 208 acres and include in a new DEIS for public comment.

When will scoping be conducted for the two parcels totaling nearly 20 acres be notices and completed?

P17-77

Why would scoping not be required on these parcels? Please explain and include in a new DEIS for public comment.

P17-78

1.1.3 Ione Band of Miwok Indians

How recently was the tribe restored to recognition? Please include documents that support official action by the U.S. Congress or the Department of Interior to restore the Ione Band? Please provide the official notification sent to the Ione Band informing the Ione Band that it was TERMINATED and the official notification sent to the Ione Band informing the Ione Band that it was RESTORED in a new DEIS for public comment.

P17-79

Please explain the lack of tribal land statement in light of fact that the Department of Interior agreed to accept land the Ione Band owned in 1972 into trust in 1972 and again in 1994? What happened to that land?

P17-80

What, if anything, was the tribe been using for a tribal land base from 1972 to 2002 and what if anything has the tribe been doing to acquire a land base from 1972 to 2002?

P17-81

What exactly does uncertain organization and status mean? How long has the status been uncertain? Why was the status uncertain? How long was organization of the tribe uncertain? Why was the organization uncertain?

P17-82

Why would the DOI in 1972 and 1994 agree to take land into trust for a tribe whose organization and status was uncertain? Please explain.

P17-83

Why was the organization and status uncertain given the specific instructions contained in the Bruce letter in 1972? Please explain in detail and provide supporting documents.

P17-84

Is this proposed casino project the only source of economic opportunity, employment, education, housing, and other services for tribal members?

P17-85

Are tribal members not eligible for economic programs, education programs, housing programs, and other services from the Bureau of Indian Affairs, the Federal Government, State Government, County Government, City Government and other entities? Please explain why the Ione Band needs more opportunity than is offered through all the programs available from the above listed agencies and the United States economy.

P17-86

Specifically, what developments related to gaming does the tribe plan to develop on this site?

Specifically, what are the kinds and magnitudes of the unmet needs of members related to employment, education, and socioeconomic needs? Please provide information as to what specific needs are not being met and why these needs cannot be met through all the incentive programs available from the BIA, Federal, State, County, City governments and other private entities.

Has any determination been made to quantify the revenue stream required to meet the unmet employment, education, and socioeconomic needs of the tribal members? Please provide this data.

P17-87

Would this initial reservation be the result of a Section 83 action and decision?

P17-88

In order for land acquired after October 12, 1988 to be eligible for gaming as an initial reservation the tribe must have successfully completed the Section 83 Acknowledgement process. Has the Ione Band completed the Section 83 Process? Did the Ione Band ever attempt to complete the Section 83

P17-89

process? If yes, was the tribe successful?

P17-89
cont.

While there may be much land that could be within a tribes ancestral territory; as a restored tribe proposing to engage in Class III gambling a tribe must show a historical connection and modern connection to the restored lands. Please provide the documents supporting any connection historical or modern of the Ione Band to the Plymouth site.

P17-90

Is there any evidence that the Ione Band resided on the Plymouth site since pre colonial times or at any time? If yes please provide the evidence which has been verified by at least two independent archeologists, ethno historians or other experts.

P17-91

Are there any documents that support that the Ione Band has lived on or near the 40 acre parcel described in the 1972 Louis Bruce letter since the early 1900's and that this land has been the acknowledged land base for the Ione Band for a hundred years or more? If yes, please correct the statement that the tribe was without benefit of any type of tribal land base.

P17-92

Specifically, how near is the Plymouth site to where treaties were negotiated?

If the tribe remains landless to this day what happened to the 40 acres near Ione? Has the tribe recently (in the past 12 months) purchased any land in or near Plymouth?

P17-93

How many parcels of land does the "landless" Ione Band own in fee besides the 40 acre parcel near Ione? Please include all information about any land or parcels the Ione Band owns.

P17-94

Section 1.2 Purpose and Need

Are there means other than gambling that could meet the diverse and urgent needs of the tribal members?

Specifically, what is the diversity of needs of Ione Band members?

P17-95

Specifically, what needs are urgent and why are they urgent?

Why are these diverse and urgent needs not being met with current programs available from the BIA, Federal, State, County, City, private entities, the tribal government, and by the members themselves?

P17-96

Given the fact that this proposed project is now 5 years old with no end in sight how have the urgent needs been met in past years and how will they be met in the coming years when no casino is built?

P17-97

In order to consider the present state of the tribe we need to know the present condition of the tribe. Please include this information in detail.

At what rate is membership increasing and why? Please provide a history of membership since at least 1972.

P17-98

What is the history of the tribe? Please include a detailed documented history of the Ione Band.

What specifically in the history of the tribe, and the modern day needs of the tribe and its tribal membership provide a strong basis for acquiring the lands in and near Plymouth?

What employment and educational opportunities and critically needed social services will the tribe provide that are not generally already available?

P17-99

Specifically, what critical social services are needed?

Will this proposed project actually increase tribal employment or just increase employment

P17-100

opportunities?

P17-100
cont.

How many tribal members will actually hold real jobs in the casino if the casino project were built?

P17-101

What is the current socioeconomic status of the tribe?

P17-102

If the tribe is landless, specifically what tribal housing will be improved and where is it now located?

Where will new tribal housing be constructed?

P17-103

Are there any plans to build tribal housing anywhere on the 228.04 acres?

How many tribal members live in or within 10 miles of Plymouth? 25 miles? 50 miles?

P17-104

Specifically, what kind of welfare services would be needed after the proposed casino is operating?

P17-105

Why would any welfare services be needed after the proposed casino is operating?

How much capital would be available for investment after the diverse, urgent and critical needs of the tribe are met?

P17-106

Specifically, what other developments are planned and are these development planned in or near Plymouth? What is the Environmental Impact of these planned developments?

P17-107

Will the revenue stream generated by the casino project not be sufficient to meet the needs of the tribe and the tribal government so that additional developments are needed? If no, why are the additional developments needed?

P17-108

What governmental powers of the tribe require acquiring land beyond the 40 acres in Ione ?

P17-109

How many members are currently enrolled to receive or are receiving public assistance funds?

P17-110

Are funds received from the BIA public assistance funds are a trust responsibility of the United States?

P17-111

Section 1.3 Overview of the Environmental Review Process

Does the following statement indicate a conflict of interest by the BIA? If no, please explain why not.

“The BIA exercises final approval authority over the EIS and related documentation, and has furnished guidance during development of the EIS and has participated in the preparation process.”

While the BIA “assumed” the “Lead Agency” role for the completion of the EIS could the Lead Agency role have been assumed by another agency?

P17-112

Specifically, what guidance was furnished?

Specifically, how did the BIA participate in the process?

Have any of the employees of the tribal Fee to Trust Consortium operating at the BIA PRO participated or been involved in preparing the EIS?

Has the Ione Band contributed to the Fee to Trust Consortium operating out of the BIA Pacific Regional Office?

P17-113

Did the Inspector General find that this Fee to Trust Consortium to be in fact a “conflict of interest” in a September 2006 report?

On April 18, 2008 was the Acting Regional Director of the BIA Pacific Regional Office a member of

P17-114

the Ione Band?

Is the current Acting Regional Director of the BIA PRO a member of the Ione Band?

Have any former Acting Regional Directors of the BIA PRO been members of the Ione Band?

Have any relatives of present or former BIA PRO Directors or Acting Directors been members of the Ione Band? If yes, how many

Are any relatives of present or former BIA PRO Directors or Acting Directors current members of the Ione Band? If yes, how many

Was the Notice of Intent to prepare an EIS published in the Federal Register on November 7th, 2003 for 12 parcels and 228.04 acres? If no, how many parcels and how many acres were described by the November 7th, 2003 Notice?

Please explain why this DEIS includes parcels and acreages properties not included in the November 7, 2003 NOI?

Please explain why this DEIS includes parcels and acreages not included in the January 20, 2004 NOI?

Will the Final EIS be filed with the Regional EPA Office or the Central Office or both?

Can additional comments be made during the 30 days after the EPA Notice (NOA) is published in the Federal Register? If yes please include an accurate and complete description of the process.

What decision will the BIA proceed with after the process at EPA is completed?

If this is a decision on the Fee to Trust Application, how can a decision on the FTT be made since the application as noticed in November of 2006 was incomplete with more than 20 documents withheld from public review and comment including the Artman restored lands opinion?

When will the public be allowed to comment on the restored lands opinion, that was listed as an exhibit for the FTT Application but was withheld from comment?

The record of decision will be prepared by the what BIA office or offices?

Section 1.4 Scoping

Why were two scoping sessions held?

Was a public hearing on the Ione Band of Miwok Indians Fee to Trust and Casino Project EIS Scoping Report required? If yes, when was the hearing held?

Table 1 - 1

Is a compact approved by the California State Legislature required? Please include this approval in Table 1-1.

Is this a complete list of approvals needed?

SECTION 2.0 Alternatives, The information in this section is inaccurate, incomplete, obsolete and needs to be edited until it is accurate, complete and up to date.

2.0 Description of Project Alternatives

2.2.1 Alternative A – Proposed Casino and Hotel

P17-114
cont.

P17-115

P17-116

P17-117

P17-118

P17-119

P17-120

P17-121

P17-122

P17-123

Where in Phase I of Table 2-1 are the associated facilities included? ie parking, water, wastewater, fire protection etc.

Table 2-1 is nothing more than a list of the buildings, their purpose and square footage. A more comprehensive table that actually indicates the phases of development is required and must be included in the FEIS.

P17-124

Development Standards Phases I and II

How would the tribes development in compliance with the building code standards described in this section be verified? Please explain. Who will verify? How often? Will reports or inspection results be available to the public?

P17-125

What liability is the tribe subject to for non compliance to the building code standards?

After the tribe issues a certificate of occupancy is the tribe liable for any injuries suffered as a result of shoddy workmanship or non compliance to building / construction standards?

P17-126

How will verification that the tribe has adopted and is complying with standards no less stringent than state public health standards for food and beverage handling be accomplished?

P17-127

Who will verify? How often? Will reports or inspection results be available to the public?

What liability is the tribe subject to for non compliance?

How will verification that the tribe has adopted and is complying with standards no less stringent than Federal air quality, water quality, and safe drinking water standards be accomplished?

P17-128

Who will verify? How often? Will reports or inspection results be available to the public?

What liability is the tribe subject to for non compliance?

How will verification that the tribe has adopted and is complying with standards no less stringent than Federal workplace and occupational health and safety standards be accomplished?

P17-129

Who will verify? How often? Will reports or inspection results be available to the public?

What liability is the tribe subject to for non compliance?

How will verification that the tribe has adopted and is complying with applicable Federal laws regarding public health and safety be accomplished?

P17-130

Who will verify? How often? Will reports or inspection results be available to the public?

What liability is the tribe subject to for non compliance?

What does make “reasonable provisions for adequate” emergency, fire, medical, and related relief and disaster services for patrons and employees of the gaming facility actually mean?

P17-131

Reasonable as determined by who or by what standards? Adequate as determined by who or by what standards?

Does gaming facility mean hotel, parking lots, water and wastewater and all other facilities and areas of the 228.04 acres?

P17-132

What liability is the tribe subject to for not “reasonably” providing “adequate” emergency, fire, medical, and related relief and disaster services for patrons and employees of the gaming facility?

P17-133

While designing a sprinkler system to comply with applicable is commendable the question is will the system as installed actually comply with the applicable codes?

P17-134

Will the automatic fire detection and alarm system located throughout the buildings that triggers the emergency voice alarm signaling systems comply with applicable codes as installed?

Phase I Land Trust Action

Were parcels 2 and 12 listed in Table 2-2, Trust Parcels, included in the two Scoping sessions? If no, was a scoping session ever conducted these two parcels? If yes please explain how the scoping session acreages were listed at ~208 acres in the Federal Register Notice and the DEIS Federal Register Notice is for ~228 acres?

P17-135

If these two parcels and ~20 acres are to be included in the fee to trust application is scoping required for these parcels? If no please cite applicable U.S. Code and Code of Federal Regulations. If, yes, when will the scoping session be held and when will it be noticed in the Federal Register?

Are any facilities, buildings, wells being used for this project located on either of the two parcels not included in the previous scoping sessions? If yes, what specifically is located on either parcel that will be used.

Was compliance with Section 20 of the Indian Gaming Regulatory Act included in the tribes incomplete fee to trust application in November 2006? If yes, where in the tribe's Fee to Trust Application would one find documentation that the tribe is in compliance with Section 20? If, no why was the documentation not included and when will this compliance to Section 20 be included in the tribes fee to trust application?

P17-136

Has a final Department decision been made that the Ione Band's fee to trust application is compliant with Section 20 of the Indian Gaming Regulatory Act? If yes please provide the documents that indicate a final decision has been made.

Since the DEIS states that the BIA determined in September 2006 that the Ione Band is eligible for an initial reservation which part of Section 20 must the Ione Band comply with in its Fee to Trust Application? Two Part or Land Settlement or Initial Reservation or Restored Lands

P17-137

Is the Ione Band eligible for an initial reservation for gaming per the Indian Gaming Regulatory Act?

Management Contract

What process will the NIGC use to look at the overall effect the project will have on human health?

Where is the data and analysis related to the project's affects on human health?

P17-138

Does the NIGC provide regulatory oversight on Class III tribal gaming operations to ensure the integrity of the games subsequent to the CRIT (Colorado River Indian Tribes) decision?

Is the proposed contract or any portion of a contract proposed between the Tribal Government and a management company to assist the tribe with funding currently in place without NIGC approval?

P17-139

Does the tribe currently have any contract with any management company or any other entity to assist with funding?

Why is the management company required to comply with the terms of IGRA and NIGC regulatory requirements related to the operation of the TRIBAL gambling facility? Why is the Tribe not required

P17-140

to comply? Is the Tribe liable for non compliance?

P17-140
cont.

Casino Complex

Will any portion of any casino complex facilities be located on parcels 1, 2, or 12? ie wells, spray fields, reservoirs etc.

P17-141

What small retail shops and how many?

P17-142

What kind of alcohol (beer, wine, liquor) would be served throughout the casino?

P17-143

When will the responsible alcoholic beverage policy be developed and adopted? This policy should be part of any mitigation measures and must be included in the DEIS and FEIS.

P17-144

Have encroachment permits been applied for from Cal Trans for the two driveways off Highway 49?

P17-145

Have any studies been conducted as to the safety of these driveways?

P17-146

Where will patrons park if the parking lot is full since you will not use Village Drive in any way?

P17-147

What standard uses typical to describe lighting for roadways and parking lots? Please cite what lighting standards are being used and complied with.

P17-148

Has the use of vintage style lighting standards on highway 49 been approved by Cal Trans?

P17-149

What measures if any are planned to shield residences to the east, northeast from any potential noise? Many homes in this area are line of sight to the proposed casino complex.

Water Demand and Supply

Option 1

How was it determined that the total water demand for Phase I Option I with or without use of recycled water would be met by the City of Plymouth's municipal water supply? Please include this analysis.

P17-150

Did the water demand estimates for the year 2025 for the City of Plymouth include the use of water for a casino complex? Please include a more up to date estimate?

P17-151

Was the personal communication with Selby Beck verbal or written? What authority to commit the city to any action does Selby Beck have? Is Selby Beck an elected member of the City Government?

P17-152

What is the size of the lines that currently serve the properties in the City which might be available to the tribe?

P17-153

Was the pipeline project designed to meet the water demand needs of the City of Plymouth or the needs of this casino complex project?

Option 2

What is the source of water to be trucked? What is the amount of water to be trucked? What is the size of trucks? How many trips a day are anticipated?

P17-154

Is pumping at rate of 83 gpm 24 hours a day required to sustain a yield of 119,520 gpd?

P17-155

In what rotation and for what time frames would the 3 wells (M1, M3, and H1) be pumped? Please include the pumping schedule for the wells.

P17-156

Was the approximately 10,000 gpd of brine included in the water demand estimates Table 2-6? If so

P17-157

where?

P17-157
cont.

When is it expected that trucking in water would be applicable?

P17-158

How was it determined that 70% of demand for Phase I can be met by groundwater wells? Please include this analysis or a reference to the location of this analysis?

P17-159

Is May 20, 2004 the most recent will serve letter from Aero Pure?

P17-160

What is planned beyond the 5 to 10 year guarantee of delivery of water from Aero Pure?

On what data was it determined that with the use of recycled water 101 % of the remaining water demand for Phase 1 would be met by the groundwater wells?

P17-161

Section 3.0 Description of the Affected Environment, The information in this section is inaccurate, incomplete, obsolete and needs to be edited until it is accurate, complete and up to date.

Section 3.3 Water Resources

3.3.3 Groundwater

Groundwater Usage

On what data is the statement that the City of Plymouth obtains its water supply from two groundwater wells located near the intersection of Burke Drive and Fiddletown that produce approximately 175 gallons a minute?

Have these two wells been tested and shown to have a long term yield of approximately 175 gpm?

On what data is the statement that two additional wells located north of the City produce flows of approximately 250 gpm?

P17-162

Have these two wells been tested and shown to have a long term yield of approximately 250 gpm?

Does each well produce 250 gpm or is the combined flow of the two wells 250 gpm?

It is not stated that the City of Plymouth owns or receives water from the two wells producing 250 gpm so does the City of Plymouth receive any water from these two wells? If yes in what quantity.

How many wells does the City of Plymouth use to supply City water?

Has the City ever had to limit pumping from any of its wells due to excessive drawdown in the well? If this has happened please include this information as part of the history of water use in the basin. A group with a historical and modern connection to Plymouth planning to build a casino should know this information.

P17-163

You have referenced the Ketron Report , 2004 please include the Ketron Report as an appendix?

P17-164

How much of an overdraft in the groundwater basin has over pumping by the City of Plymouth caused?

P17-165

Are there other wells in the groundwater basin evaluated by Ketron other than the wells included in the DEIS? How many wells have been drilled in the basin since 2004? How many wells in the basin have gone dry or become unusable due to lack of water since 2004?

P17-166

If more than one season of above average rainfall is needed to make up for the identified groundwater deficit, how many would be needed? This is important since California is now in a drought.

P17-167

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How large is the identified groundwater deficit? Has the deficit increased since 2004? If yes by how much?

P17-168

Did you make any attempt to collect any data to measure the impact of the groundwater deficit to other groundwater users in the basin? For example how many wells within one mile of the City of Plymouth's wells have had to be deepened or new wells drilled?

Are the City's 175 gpm ? and 250 gpm ? wells located within Watershed 1 or Watershed 2?

P17-169

Why are the City of Plymouth's wells located in Watershed 2 since anyone familiar with the terrain and watershed know they should be located in Watershed 1?

P17-170

Why is there nothing in this section relating to the number of wells within Watershed 1 within 2 miles of the proposed project?

P17-171

How many wells are located within Watershed 1 within two miles of the project site?

According to Figure 3.3-4 nearly all of the residential development Burke Ranch is within two miles of the proposed project site. Why were the number of wells within Burke Ranch not included in the DEIS?

P17-172

You reference the 36 wells and well reports for Watershed 2. Please include these reports as an appendix.

How long ago were the wells drilled? How are the wells used?

P17-173

Is the data from the well reports current?

Did you follow up with any of the 36 users to verify that the data from the well reports was still accurate?

P17-174

Please provide the data to support that two domestic wells within the City of Plymouth produce more than 200 gpm.

P17-175

Project Site

Are the wells M1, M3, or H1 located in Watershed 1?

P17-176

At page 3.3-9 we read "Due to the unique geology of the project site and outlying areas, no single groundwater basin exists." Please explain or provide data to support this statement since at page 3.3-8 you included the following; "Together these four wells represent the majority of the water usage for the basin...." (Ketron, 2004) and "Increased pumping by the City has led to an overdraft of groundwater in the basin even in years of average rainfall." (Amador County, 2007)

P17-177

Does this mean that there may be multiple basins? If yes how many basins have been identified.

Table 3.3-4 Long Term Well Yields indicates that the recommended total long term yields (gpm) for wells M1 (10 gpm), M3 (38 gpm), and H1 (35 gpm) is 83 gpm. At page 2-10 it is stated that the total sustained yield of these three wells is 119,520 gpd. and that the three wells will be pumped in rotation to allow for recharge between pumping periods but no pumping schedule is provided. 83 gpm x 60 minutes gives a result 4,980 gph and 4,980 gph x 24 hours gives a result of 119,520 gpd. This above described scenario raises several questions.

P17-178

Will all three wells be pumped at 83 gpm when they are being pumped in the pumping schedule?

At what rate will the wells be pumped?

Have any of the wells been pumped at or above 83 gpm during step drawdown, constant rate, or constant yield/drawdown testing or at any time?

If the wells are pumped in rotation at the long term yield rates of 10 gpm, 38 gpm, and 35 gpm it would appear that the maximum daily yield of the wells would be less than 38 x 60 x 24 or 54,720 gallons.

If the wells were each pumped for 8 hours and rested 16 hours it would appear that the maximum daily yield would be 39,840 gpd.

There are many potential pumping schedules that will produce a different amount of gallons per day so please provide the pumping schedule with pumping rates that verifies that the daily long term yield of three wells is 119,520 gpd.

P17-178
cont.

3.9 Public Services

3.9.1 Municipal Water Supply

In Section 3.3 it is indicated that the City's has access to two wells that produce 175 gpm and a well that produces over 250 gpm. Are 175 gpm and 250 gpm the long term yields for these wells? If known what are the long term yields for these wells

P17-179

Simple addition would indicate that the City has access to over 550 gpm and one well producing 175 gpm would produce over 250,000 gpd so please explain your statement that "This water supply nearly meets existing average day demands of 205gpm but does not meet existing summer or maximum day demands of over 450gpm."

P17-180

Is the City of Plymouth currently under a State Board of Health building moratorium for lack of a reliable supply of water?

If yes, how long has the City of Plymouth been under the building moratorium?

P17-181

How many building permits are currently available in the City of Plymouth?

According to the General Plan in place in 2004 was the Arroyo Ditch determined to be the City of Plymouth's primary source of water?

Was the Arroyo Ditch purchased by the City from the County in 1987 or did the City only purchase the right to maintain and operate the Ditch? Please include the purchase agreement that supports this statement.

P17-182

"The City has a five hundred thousand gallon storage tank to meet existing requirements for the City, but does not provide sufficient capacity for future City growth." Please provide the data on which this statement based?

P17-183

Is the City's growth limited because of a too small storage tank or an unreliable water supply?

If the City had a larger storage tank would the building moratorium be lifted so the City could accommodate future growth?

P17-184

"This water supply nearly meets existing average day demands of 205 gallons per minute (gpm), but does not meet existing summer or maximum day demands of over 450gpm." 205 gpm x 60 mins x 24hr gives a result of 295,200 gpd or 107.4 million gallons annually.

P17-185

If the water supply does not meet the existing summer maximum day demands has the City of Plymouth ever run out of water during summer months? If yes, provide documentation and if no, please explain this statement.

P17-185
cont.

You state that annual water sales peaked at 72.4 million gallons in 2004 (198,000 gpd). How are water sales relevant to water supply when you have already provided data the water supply nearly meets the water demand of 205 gpm or 107.4 million gallons annually?

P17-186

Is 459 commercial and residential customers the number of customers served water by the City of Plymouth in 2008?

P17-187

What is the current number of building permits available in the City of Plymouth?

P17-188

It appears that data from this section is from 2004 and years prior and therefore its accuracy as to current conditions must be questioned as to the amount of groundwater the City removes from the basin. Please provide updated water data from 2007?

P17-189

How many storage tanks are in the AWA pipeline project as currently proposed?

P17-190

Will the AWA pipeline as currently designed deliver sufficient water to supply the City of Plymouth with enough water to meet the demand for proposed projects not including the Casino?

P17-191

Groundwater

Please provide data to support the statement that approximately 50% of the 87 wells south of the City of Plymouth produce greater than 50 gpm. Where are these wells located? What is the long term yield of these wells? When were the wells drilled? How far south of the City?

P17-192

3.9.2 Wastewater Service

The number of 346 used for residential connections is understated and outdated? What is the current number of residential wastewater connections for the City of Plymouth?

P17-193

4.3 Water Resources

Groundwater

Please explain how the addition of a 250 room hotel in Phase II would not increase groundwater extraction. This statement is ludicrous on its face.

P17-194

There appears to be a typo of 81gpm when it should be 83 gpm. 81 gpm delivers 116,640 gpd not 119,520 gpd.

P17-195

Please explain how the three wells will deliver 119,520 gpd if they are pumped in rotation.

P17-196

If necessary pumping by the City of Plymouth has led to an overdraft of groundwater in the local basin please explain how an increase of more than 40% (295,000 gpd City of Plymouth / 119,520 Tribe 40.48%) would contribute to the existing overdraft of groundwater in the local basin and results in a less than significant effect?

P17-197

3.6 Cultural Resource

3.6.3 Regional Archaeology

While this section makes for interesting reading, is there any history of archaeological excavations in or near Plymouth that are related in any way to the Ione Band of Miwok? If yes please at least include a

P17-198

statement in this section that such a relationship exists?

P17-198
cont.

3.6.4 Ethnography

Is there any physical evidence that the village of Yuleyumne was located where the City of Plymouth is located currently? Was Yuleyumne a permanent village? Was Yuleyumne actually located at the confluence of the Middle and South Fork of the Cosumnes River?

P17-199

Unlike other mining towns Plymouth is not situated on a river or creek. What was the source of water that supported the village of Yuleyumne? How far is it to the nearest source of water from Plymouth? How many other, if any, Miwok villages are located where there is no source of water in close proximity in all seasons of the year including summer?

P17-200

Please include the Levy information and documents with the context of the comment in the Appendices.

P17-201

Ione Band of Indians

Exactly what lands in Plymouth has the Ione Band continuously used and occupied? Continually used and occupied since what date?

P17-202

How long has the Ione Band been associated with, continually lived on, occupied, and used lands southeast of Ione?

P17-203

When the United States attempted to buy land for the Ione Band early in the 20th century did they attempt to buy land in or near Plymouth or did they attempt to buy land southeast of and near Ione where the Ione Band lived?

P17-204

What lands have ancestors of the present day Ione Band occupied in Amador County since 1840? Please support this statement with documentation.

P17-205

What is meant by around Amador County? Alpine, Calaveras, El Dorado, Sacramento and San Joaquin Counties are not Amador County and if the ancestors of the present day Ione Band are from those counties then they should site their casino in one of those counties.

P17-206

Is there a letter from Ada Deer clarifying that it was her intent to recognize the Indians on the land near Ione? If yes, please include a reference to this letter and include the letter in the appendices.

Is there a letter from Ada Deer that verifies that the primary reason the Ione Band was reaffirmed was their ownership of the land near Ione? If yes, please include a reference to this letter and include the letter in the appendices.

Is the Federal Recognition of the Ione Band by Louis Bruce in 1972 based on the fact that the Ione Band had obtained title to the 40 acres near Ione? If no, please explain.

P17-207

Did Ada Deer ever restrict attendance at Ione Band tribal meetings or meetings organizing the tribe to those who lived on the 40 acres near Ione or in Amador County?

How many current members live in Amador County not counting the members of the Historic Ione Band who live on the 40 acres near Ione?

Has tribal chairman Matt Franklin ever lived in Amador County or on the 40 acres near Ione? Has Vice Chairman Jamerson ever lived on the 40 acres near Ione?

What is the problem, if any, with the title to property held by named individuals of the Historic Ione

Band and other members of the Ione Band that would prevent the United States from taking the land into trust?

P17-207
cont.

Was the Ione Band ever instructed by any agency of the United States as to what needed to be changed on the deed so the United States could accept the property in trust? If yes, why has this not happened?

P17-208

3.6.5 Historical Context of the Project Area

Is there any reference to the Ione Band that could be included in this section? Please explain why nothing related to the Ione Band was included in the historical context of the project area.

P17-209

3.6.6 Cultural Resources

Did Windmiller and / or Osanna contact the present day Ione Band of Miwok as part of their study and 2001 Pioneer Mine Project Report?

If the present day Ione Band of Miwok was contacted by Windmiller / Osanna did they respond to the contact?

P17-210

If the present day Ione Band of Miwok did reply please include their reply and if they did not reply please explain how a project in an area of such historical and cultural importance to the Ione Band did not warrant a reply in 2001 but is now so closely associated with and vitally important to the Ione Band.

The records search also revealed the presence of cultural resources recorded in close proximity to the project area. Are these cultural resources related to the Ione Band?

P17-211

Does close proximity to the project area mean that the resources are not on the 228.04 acres? Approximately what distance is defined by close proximity?

Field Survey Methods and Results

Did ECORP find anything related to the Ione Band of Miwok Indians in their survey? If yes, please describe what was found that related directly to the Ione Band.

P17-212

Based on the statement that "None of the isolates recorded within the project area display any exceptional qualities." and that Table 3.6-1 does not list a single cultural resource that appears to have any connection to the Ione Band is it accurate to say that the project area contains nothing of cultural importance to the Ione Band beyond its value as a casino site? If no, please explain.

Contemporary Resources

Were any of the contemporary resources related in any significant way or any importance to the Ione Band prior to 2003? If yes please explain the relationship and why it was significant?

P17-213

Native American Consultation Results

How many letters were sent and to what Native American Contacts?

How was the project described in the letters?

How many replies were received and how many were no comment and how many expressed no concern?

P17-214

What reasons were given as to why there was no concern expressed concerning the project?

Appendix B Wastewater and Water Study – This The information in this appendix is inaccurate, incomplete, obsolete and needs to be edited until it is accurate, complete and up to date.

P17-215

2.0 Projected Flows

Why are general assumptions being used? Are there no documented project, facility designs from which to work? If there are no project facility designs from which to work please explain. If there are project facility designs from which to work explain why general assumptions are being used.

Please explain why the analysis begins with estimates on wastewater flows because wastewater flows are more available than water usage information? I do not believe that wastewater flows are available and that water usage information is not? Please explain why estimated water usage information is not available and estimated waster water flows are available.

P17-216

Is this a standard method / practice in the industry to calculate water usage? If not why was it used for the DEIS?

2.1 Wastewater Flows

What facility programs were used to calculate the wastewater flows? What facility design documents were used?

How accurate are the estimates obtained using this method and these facility programs? Is the accuracy based on facility designs?

Why were assumed flows from other similar casinos used and not the actual flows? From what other similar casinos were “assumed” flows used? How similar were these casinos?

P17-217

Why is it not known whether the casino and hotel heating and air conditioning system will include cooling towers? Why is this critical design information not available?

Is the size of cooling towers and amount of water they require known for other “similar” facilities?

2.2 Water Demands

Table 2-6 – is the water demand for the Brine included here? If not please include the water demand for water brine and update the table.

P17-218

Why is it assumed that the proposed water storage tank will provide enough storage to handle the higher weekend water demands? Please provide analysis on the size of the tank vs. water demand? What if the proposed water storage tank will not handle the higher weekend water demands?

P17-219

Is there any data available that supports the statement that similar facilities operating in California have historically recycled 40% of the wastewater flow for recycled water use? Please provide this data.

P17-220

3.5 Water Facilities

“Due to the limited amount of available water supply in proximity to the project site, a multitude of supply sources are anticipated to be required to meet the various alternative's water demands. The proposed sources of water for the project site include onsite wells and off site wells, as well as trucking water.”

P17-221

How limited is amount of available water supply in proximity to the project site?

What portion of the water demand will be met with on site wells?

What portion of the water demand will be met with off site wells?

What portion of the water demand will be met with trucked water?

Is it stated anywhere in this report that the demand for water for the project will be met by groundwater from 3 onsite wells? (see page 4-3-8 & 4-3-9)

P17-221
cont.

3.5.1 Water Treatment Plant

The iron and manganese sludge will be disposed at what local sanitary landfill?

P17-222

Page 3-16 Does the Ione Band have any agreement with EBMUD for disposal of the brine?

P17-223

Water Storage Tank and Pump Station

Have the projects fire flow requirements been determined? If no why not? If yes, please include the required fire flow requirements.

P17-224

Please provide tank sizes for no use of recycled water and for use of recycled water?

Wastewater Facility

5.2.1 Membrane Bioreactors

How many MBR's are in operation in California?

Do these MBR's comply with or meet CEQA standards for wastewater treatment?

P17-225

How reliable are MBR's? Please provide operation and maintenance history data from actual users.

Page 5-6 Are the average day flows for other surrounding casinos actual flows, or assumptions, or estimates?

For comparison to this proposed casino project what are the size of the casinos and casino hotels listed on page 5-6?

P17-226

Explain how the wastewater flows from Cache Creek are 10% more than this proposed casino / hotel? Explain how the wastewater from Thunder Valley (a casino only) are only 25,000 gpd less than the wastewater flows for this proposed casino / hotel?

P17-227

6.0 Conclusions - The information in this section is inaccurate, incomplete, obsolete and needs to be edited until it is accurate, complete and up to date.

Table 6-1 Summary of Demands and Flows - According to the DEIS 119,520 gpd is the potable water demand for Phase I & II Alternative A using recycled water while this table indicates this demand to be 128,500 gpd. Please explain the misrepresentation of the potable water demand in the DEIS for use of recycled water as well as the demand without use of recycled water? Please explain all differences in the amounts of water demand required contained in Table 6-1 with the water demand presented in the DEIS.

P17-228

Figure 6-1, Figure 6-2 Do these Flow Diagrams include the water loss from the Cooling Towers?

Why is the amount of water to be trucked not included in the DEIS while it is included here?

How many trips required to truck 80,780 gpd?

P17-229

Appendix B Pumping Tests Sustainability Analysis for Wells H1, M1, and M3, and Evaluation of

Water Quality

2.1 Hydrology/Geology

Page 4 These 96 wells are very likely located on the eastern side of Plymouth not the Western. Please check this and change as necessary. If these 96 wells include the wells of the community of Burke Ranch are there any Well Logs available that indicate how many if any of these wells have needed to be deepened or new wells drilled by the property owners since 2003? Please include this data.

Have the wells in Burke Ranch been plotted? This is development of 5 to 7 acre parcels and a plot of these wells and their proximity to the project should be included.

Please provide data to support statement that approximately 50% of these wells are reported to produce more than 50 gpm? When were these wells drilled? When was the last time these wells were tested?

Is it possible that some of these wells no longer produce 50 gpm providing they did in the first place?

How many of these wells produce 10 gpm or less?

3.1.6 Measurement of Discharge Rate

Are there no real time and cumulative flow meters calibrated above 50 gpm available? The data from the H1 well must be completed using a calibrated meter capable of measuring whatever flow the H1 well produces?

How long did it take for the H1 well to pump 5 gallons? Please show this calculation? Was the device used to measure 5 gallons calibrated and was the timing device calibrated?

Table 3-4 indicates that well M3 Discharge Rate test was performed at 60gpm for 188 mins and 70 gpm for 60 mins. At 3.1.6 it is stated that no meter calibrated above 50gpm was available, how was the 60 and 70 gpm rates for M3 determined?

4.2 Recommended Long Term Well Yield

This approach assumes that sufficient precipitation will occur and that a significant percentage of recharge will reach the aquifer. It also assumes that the interconnected fracture network extends beyond the radius of influence created during the test, and that these fractures have sufficient storage to produce sustainable yields. However, these conditions may not be realized.

What is the impact to the long term yield of M1, M3, and H1 if these conditions are not realized?

What is the impact to neighboring wells if these conditions are not realized?

Well M1, M3, H1 – what are the remaining degrees of uncertainty inherent these wells?

Why are the Lower Limits not used as the recommended Long Term Yields for wells M1, M3, and H1?

Since 2004 what has prevented additional testing to determine the actual long term yields?

Why wait until the first year of production to determine the actual long term yields when it could have been done anytime since 2004? Based on the data presented in the DEIS I believe it is impossible for the three wells (M1, M3, H1) to produce the 128,000 gpd required for this project.

The need for additional wells can be assessed to meet the required water demands. The need for additional wells is obvious based on the data provided. No data has been presented that demonstrates that M1, M3, and H1 can meet the water demand needs or is the trucking of water not needed?

P17-230

P17-231

P17-232

P17-233

P17-234

5.0 Statement of Liability (dated October 20, 2004)

This Report was written to document testing activities related to estimating the long term yield of water from certain wells at the Site based on a limited number of observation points and limited duration tests. Further investigation, testing, and data analysis can reduce the inherent uncertainties associated with this type of testing. The Report is based on factual information obtained from Analytical Environmental Services, and others, that has been assumed to be correct, accurate, and complete. Applied Engineering does not guarantee the correctness, accuracy, or completeness of those data.

Why is the number of observation points limited and duration of tests limited? Was there not enough time between 2004 and 2008 to conduct more testing of longer duration?

What are the inherent uncertainties associated with this type of testing?

What is level of uncertainty based on the limited observation points and limited duration tests used for this Report?

Is there a Statement of Liability from Analytical Environmental Services? If no, why not?

Appendix O Phase 1 - The information in this appendix is inaccurate, incomplete, obsolete and needs to be edited until it is accurate, complete and up to date.

1.7 Walk-Over Site Reconnaissance

Were Parcels 2 & 12 included in the Scoping Sessions

2.6 Aerial Photographs

Does the 1962 aerial photograph show any evidence of a sawmill on any of the properties or having been on any of the properties ?

2.9 Historical Uses of the Project Parcels

Were any of the parcels or any portion of the parcels used for a sawmill?

Section 3.0 Site Reconnaissance and Interviews

3.2 Site Reconnaissance Findings

Parcel 1 Have the several large piles of waste rock been tested for hazardous waste or toxicity? Has the site been tested for hazardous waste or toxicity?

Appendix A Environmental Data Report – Database Search - The information in this section is inaccurate, incomplete, obsolete and needs to be edited until it is accurate, complete and up to date.

Executive Summary page 4. It is simply not believable that the sites listed could not be mapped due to poor or inadequate address information. Please explain why these well known local sites were not mapped.

Appendix R Economic Impact Study - The information in this section is inaccurate, incomplete, obsolete and needs to be edited until it is accurate, complete and up to date.

Was this document or a previous version an exhibit included in the fee to trust application submitted by the tribe in November 2006?

P17-235

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P17-241

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P17-244

Has this document or a previous version been included on a list of documents listed as part of the fee to trust application but that was withheld from public review and comment?

P17-244
cont.

With respect to the following comment on page 26 concerning zoology; "Surveys of the study area in September and November 2003 did not reveal the presence of any nesting raptor or migratory bird species, or the presence of old nests." I have several questions and comments. To begin raptors nest during the spring months, generally April and May, and not in September and November. Surveying for nesting raptors during September and November speaks to a potential lack of expertise in the surveyor. Please explain why no surveys were done in the past 4 years during months when raptors are breeding and nesting. More importantly, why was this survey of the area pertinent to this DEIS done in September and November of 2003 prior to any scoping session being conducted? Is this information in the DEIS from another Environmental Study for some other project? Perhaps the environmental study completed for a proposed project named the Pioneer Project is the source for the information in this DEIS. Surveys for the parcels in the 22.04 acres must be conducted and completed at the proper times and seasons of the year to properly evaluate the impact this proposed casino complex will have on flora and fauna.

P17-245

Lastly, with respect to the absence of a required formal development proposal. If such a proposal has been submitted the public in Plymouth is not aware or in receipt of such a proposal. The MFIB has released public relations flyers with general descriptions but at no time has the public been provided with a formal development plan and it would appear that some of the firms retained to provide evaluation of the project impacts have not received such information either. It is clear that the firm providing waste water and water demand analysis does not know whether cooling towers will be used as part of a heating and/or cooling system used in the project as they had to assume that cooling towers would be used. This is but one of many examples that could be cited where assumptions and estimates are required in the impact analysis and assessment for lack of a formal development proposal.

P17-246

Does the analysis of 3 and 4 year old data generally found in this DEIS meet the requirement of the gaming checklist found at Page 4 I. 151.10.g? If yes please explain.

P17-247

I would be remiss if I did not include some comment on alternative sites for this project. I will propose two alternatives, one in Sacramento and one in Stockton. In Sacramento, there have been several very costly unsuccessful efforts by the City to revitalize the K Street Mall. Everything a casino needs may already exist in terms of infrastructure. Mass transit is in place and access to Interstates 5 and 80 is less than 5 minutes away with easy access from highways 99 and 50. No need to build restaurants and hotels as many are located in and near K Street. This is a site that would require less capital, create less impact to the environment and could potentially be an asset to the City if casinos are indeed the economic engines they claim to be. The second proposal in Stockton has no specific area identified but with several areas in Stockton in need of economic revival I believe that the tribe could present a proposal where the tribe would work cooperatively with the city. The tribe would build only a casino and then the City and private business would provide the hotels, restaurants, and shops in the area surrounding the casino with less environmental impact than in Plymouth. Both these proposals are much more a win win for a tribe, a city, and private business willing to work cooperatively. There is but one fly in the ointment for the MFIB relating to both these proposals. Their well documented history of misrepresenting themselves as the landless restored Ione Band of Miwok will surely follow them where ever they might make another proposal – no matter the merit that such a proposal might have for all concerned.

P17-248

This concludes my questions and comments and I would hope that the response to all DEIS

P17-249

comments be more timely than the response to comments submitted by citizens, citizens groups, City, County and State governments related to the inadequate and incomplete November 2006 Fee to Trust Application. It has been nearly 18 months since comments were submitted and no response has been received pursuant to those comments from the BIA PRO Director or any other official source.

P17-249
cont.

Given the fact that the process acquiring land in trust for gambling allows a limited number of days for public comment with no apparent time limit for response I would expect that I could receive answers supported by current data and documents to my several questions as well as a comprehensive response to my comments on this DEIS within 180 days. This is a much more generous limit of time than the 75 days allowed by the BIA for review and comment on this massive DEIS. If the requested response cannot be provided within 180 days please provide reason for the inability to provide the requested response by letter or email no later than 180 days from July 2, 2008 or by December 29th, 2008.

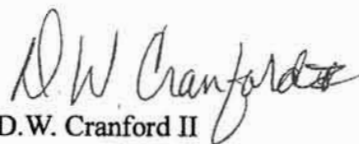
P17-250

Additionally, selected citizen, and city, county and state government comments on the Fee to Trust Application in 2007 were improperly and unethically submitted directly to the law firm of Holland & Knight (the firm then representing the MFIB) by then BIA PRO Director Clay Gregory for review and comment back to Director Gregory. While the process requires that the Regional Director provide the Tribe with copies of comments on their fee to trust application nowhere is there any requirement for the Regional Director to provide copies of fee to trust comments directly to the Tribe's law firm or tribal attorneys and there is most certainly no requirement that the Director request comment from the Tribes law firm or tribal attorneys. To the contrary the process requires that the Director make such review and comment independently. Independent comment which has not been forthcoming for nearly 18 months and "independent" comment from a BIA PRO regional director now appears unlikely given the fact that the then Regional Director received the comments he requested from the tribe's law firm of Holland & Knight via memo from Rory Delwig. Due to that most unprofessional and unethical action engaged in by then Director Gregory, I now make specific request that my comments on this DEIS not be submitted directly to the MFIB's law firm or their attorneys for review and/or comment.

P17-251

Should you have any questions related to these questions and comment please contact me using the contact information that follows.

Respectfully Submitted,


D.W. Cranford II

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plymouthbutch@hotmail.com

Dep. Dir. DB ✓
Dep. Reg. DB ✓
Eng. Adv. J. DB
Route DELMAS
Response Required No
Due Date _____
Memo _____ Ltr _____
Tele _____

DEIS Comments

Ione Band of Miwok Indians' Casino Project

received PRO
6/30/08
Submitted ~~July 2, 2008~~

27

By

**No Casino in Plymouth
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DEIS Comments

Ione Band of Miwok Indians' Casino Project



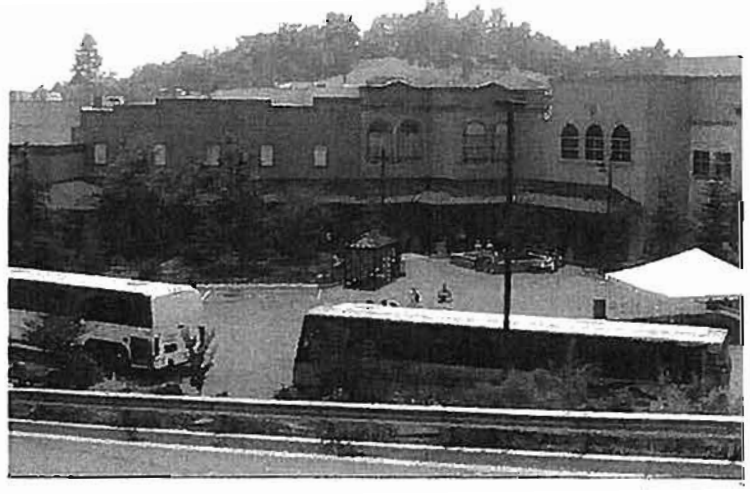
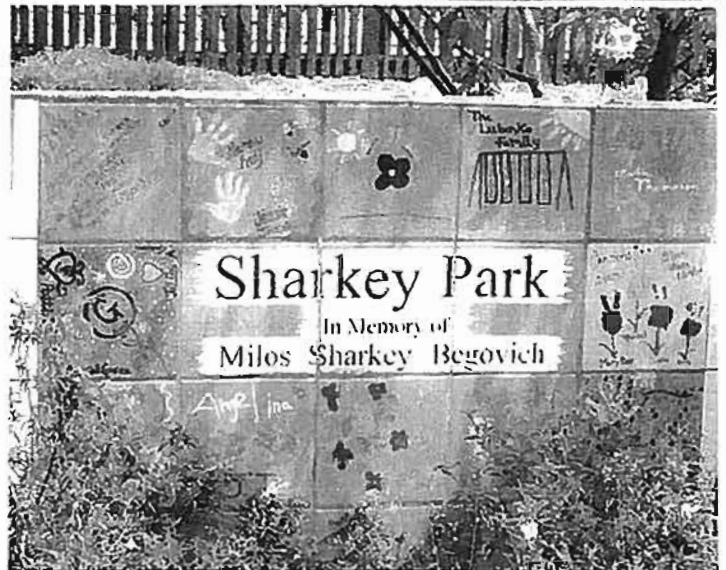
Submitted July 2, 2008

By

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DEIS Comments

Ione Band of Miwok Indians' Casino Project



Submitted July 2, 2008

By

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7/2/08

Amy Dutschke,
Acting Regional Director,
Pacific Regional Office, BIA
2800 Cottage Way
Sacramento, Ca. 92825

RE: Comments on the Draft Environmental Impact Statement Ione Band of Miwok Indians' Proposed 228.04-Acre Fee-to-Trust Land Transfer and Casino Project, Amador County, California.

Dear Director:

We the undersigned are submitting this cover letter and the following comments on behalf of the organization No Casino in Plymouth, their many individual members, and the good people who have diligently prepared these comments.

Description of No Casino in Plymouth

Members of No Casino in Plymouth and their families have taken their place in the rural grasslands and woods of Amador County. Their lives and memories are inextricably interwoven on the multifaceted tapestry of this unique region. It is the place they work with, struggle with; and where they endure the hot summers and the wet winters. Their connections to this place have inspired in them a desire to maintain the quality of their City and County, and to pass it on to newcomers and future generations.

The members of No Casino in Plymouth value the City's simple rural amenities, and lack of urban blight. Plymouth is a city with no traffic lights, because it needs none. Plymouth is a City that has no loud and bright urban "night life", because the early rising, hard working, people who call Plymouth their home like it that way. Plymouth is a city with actively grazed land right on edge of town, because ranching is a valuable part of its past and present. Plymouth is a city with a patch of irises along the highway that dazzlingly announces spring every year. Plymouth is a city where the post office door can stay open even after the postmaster has left for the day. Plymouth is a city where people check on the wellbeing of their elderly neighbors if they miss seeing them that week at church or at the branch library.

Members of No Casino in Plymouth, and the Amador County public, rely upon the area's roads as the arteries of commerce, public service, community relations, and family life. It is through the highways that they commute, supply their businesses, and receive their customers. Safe and free-flowing thoroughfares are the difference between life and death when police, fire, and ambulance services are called into action. Their rural roads take them to the potlucks, dances, churches, and volunteer endeavors through which distant strangers, isolated by rural acreage, are transformed into communities of

P18-01

caring neighbors. It is on these roads that children return home from school, that parents return home from work, that patient drivers wait as elderly drivers carefully negotiate slow turns, and that the entire spectrum of life's errands is run.

Members of No Casino in Plymouth recognize that there are a lot of things that are commonplace in urban cities that Plymouth does not have. Plymouth and Amador County do not have grand plans for expanding road infrastructure, because existing development patterns around narrow roads make widening cost prohibitive, and the area does not receive outside funding at the levels seen in urban areas. Plymouth does not have a large surplus potable water supply and available sewage treatment capacity, because it has a limited level of development planned for within its sphere of influence. Plymouth and Amador County do not have large enough populations to financially support one gaming and entertainment complex, let alone the three that are planned for the area.

Finally, members of No Casino in Plymouth recognize that the scale of the built environment is smaller and simpler in Plymouth than in urban cities. Plymouth is a city without a building over three stories. In Plymouth, people park their cars in small parking lots, not multi-level parking structures. In Plymouth, roadside advertisements are on waist-high sandwich boards and wooden roadway signs, not multi-story electrified billboards. For recreation in Plymouth, parents take their children to a baseball diamond or to Sharkey Park, instead of going to a 120,000 square-foot casino. For event receptions, folks in Plymouth use a carousel-styled picnic area, not a 30,000 square-foot event and convention center.

Thus, while a more populated urban area like nearby Stockton or Sacramento would be an ideal location for a casino, it would be an environmental catastrophe to introduce a loud, bright, late night, traffic generating, water sucking, sewage spewing casino into a rural city like Plymouth. Members of No Casino in Plymouth, like any reasonable person, have to believe that there are less harmful and more profitable alternative casino locations available for the Bureau to consider.

Purposes of NEPA

Before reviewing the Bureau procedure and the Draft EIS for compliance with NEPA, it is useful to review the purposes of the act.

"The National Environmental Policy Act (NEPA) is our basic national charter for protection of the environment." (40 CFR 1500.1(a).)

"In order to carry out the policy set forth in this Act, it is the continuing responsibility of the Federal Government to use all practicable means, consistent with other essential considerations of national policy, to improve and coordinate Federal plans, functions, programs, and resources to the end that the Nation may –

P18-01
cont.

- (1) fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;
- (2) assure for all Americans safe, healthful, productive, and esthetically and cultural pleasing surroundings;” (42 USC 4331(b).)

“NEPA procedures must ensure that environmental information is available to public officials and citizens before decisions are made and before actions are taken. The information must be of high quality. Accurate scientific analysis, expert agency comments, and public scrutiny are essential to implementing NEPA.” (40 CFR 1500.1(b).)

“The NEPA process is intended to help public officials make decisions that are based on understanding of environmental consequences, and take actions that protect, restore, and enhance the environment.” (40 CFR 1500.1(c).)

“Federal agencies shall to the fullest extent possible:

- b) Implement procedures ... to emphasize real environmental issues and alternatives.
- d) Encourage and facilitate public involvement in decisions which affect the quality of the human environment.
- e) Use the NEPA process to identify and assess the reasonable alternatives to proposed actions that will avoid or minimize adverse effects of these actions upon the quality of the human environment.”
- f) Use all practical means, consistent with the requirements of the Act and other essential considerations of national policy, to restore and enhance the quality of the human environment and avoid or minimize any possible adverse effects of their actions upon the quality of the human environment.” (40 CFR 1500.2.)

With this federal mandate for environmental protection and informed government in mind, we can now review the adequacy of the Bureau’s procedures and the DEIS.

The Bureau Afforded Insufficient Notice and Opportunity to Comment

The Bureau has failed to provide the public an adequate opportunity to review and comment on this document. The following problems are noteworthy:

1. Though the Tribe was given over 4 years to professionally produce the Draft EIS, the public was given only 33 days to review it prior to the May 21 hearing, a mere 42 days more to provide written comments.
2. Though the letter sent out to notify people of the intent to file a DEIS stated that interested parties can receive a copy of the draft document, in fact only select individuals have been provided a copy and others have been informed that they would have to pay \$175 for a copy. Two or three copies of a document this lengthy available only during working hours for an entire county to review in only 75 days is wholly inadequate.
3. Electronic versions have proved impossible to navigate due to the number of appendices and cross-references and have suffered continual technical difficulties.

P18 -01

P18-02

4. Additionally, a simple 25-day request for extension of the comment period made on behalf of this community by our Congressman was denied.

5. Lastly, while no mention of time constraints on the public comments were included in the notification and instructions sent to interested parties prior to the May 21, 2008 hearing (and indeed at the prior Scoping sessions held in 2003 and 2004 no time limitation were imposed) the public was informed at the meeting just prior to the commencement of the oral comment period that a three minute time limit would be imposed. This severely prejudices that opportunity to participate by those members of our community who due to physical limitations are not able to provide their comments in written form.

P18 -02
cont.

The Bureau's DEIS Does not Inform Public Participation and the Agency's Decision.

Inaccurate Notice

Basic flaws in the DEIS make it unsuitable as an environmental disclosure document and as a tool to inform public participation and agency decisionmaking.

P18-03

The credibility of data in the DEIS was compromised from the very beginning, due to the gross factual inaccuracy in the Federal Register Notice. The Federal Register notification for this Draft Environmental Impact Statement is false and misleading to the public in stating that the "228 acres in question is currently held in fee by the Lone Band." It is more than difficult to believe that an error in such a fundamental and easily verifiable aspect of the project description could be mistaken.

The Department of Interior's own Ethics Office indicates this statement may be a violation of U.S. Code and the Code of Federal Regulations and quoting in part from the same (18 U.S.C. § 1001; 43 CFR 20.510) "*An employee shall not, in any matter within the jurisdiction of any department or agency of the United States, knowingly or willfully falsify, conceal or cover up by any trick, scheme, or device a material fact, or make any false, fictitious, fraudulent statements or representation, or make or use any false writing or document knowing the same to contain any false, fictitious or fraudulent statements or entry.*"

P18-04

We are pleased that, at the Public Hearing held on May 21, 2008 in Plymouth, California, the hearing facilitator admitted to this error and indicated that a correction should be made. She indicated that the properties in question were in fact "not" owned by the Tribe but were in the "acquisition pipeline". We hope that the Bureau is similarly responsive in making the numerous corrections needed in the DEIS as described in our comments and in those of others.

Lack of a Clear, Stable, and Finite Project Description

From the beginning of this environmental review, we have not had a clear and stable project description for the casino proposal. The Scoping sessions held here in 2003 and

P18-05

2004 took place without a formal project description. Even the number of parcels of land under discussion has continued to change to this day.

P18 -05
cont.

Narrow and Vague Alternatives

The descriptions of the proposed alternative projects are brief and sketchy, and certainly do not meet the criteria for adequate alternatives for the sake of the environmental review at this time.

P18-06

Substandard Analyses

The issues of inaccuracy, incomplete analysis of data, and complete omission of supportive materials, are pervasive throughout the (DEIS) text. Quite frankly, the majority of the document is so poorly and inaccurately put together as to amount to, in many instances, a huge collection of words few of which have any relation or relevance to actual fact.

P18-07

Conclusion

While the members of No Casino in Plymouth have tried to diligently participate in this environmental review process, they have been repeatedly frustrated by the fundamental failure of this process to meet the basic foundational principles of the National Environmental Policy Act (NEPA). Neither the letter nor the intent of the laws regarding this process are being followed with respect to public notice, public participation, and environmental review. These fundamental flaws must be corrected as this process continues.

P18-08

The flaws in the EIS process and document to date are so pervasive that they cannot be cured by mere production of the Final EIS. The DEIS should be withdrawn until a project proposal has been submitted with all the necessary and required detail. Likewise, care should be taken in correcting the false statements in the DEIS. The Federal Register notice should be reissued in an accurate and truthful form, and appropriate public hearings should be held. Then and only then can we move forward with this process in the transparent manner that the law intends.

P18-09

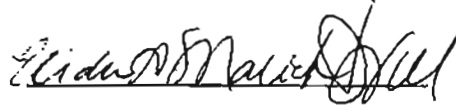
Documents referenced in these comments are incorporated into the administrative record for this project. Please retain a copy of these comments for the administrative record.

P18-10

Sincerely,



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Pine Grove, CA 95665
(209) 295-8866
tomi@volcano.net



Elida Malick, Director
No Casino in Plymouth
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LIST OF PREPARERS

Below is a list of the individuals who prepared these written comments on the DEIS.

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Executive Summary
Section 1
Section 2
Section 3.3 Water Resources
Section 3.6 Cultural Resources
Section 3.9 Public Services
Section 4.3 Water Resources
Section 4.9 Public Services
Appendix A Environmental Data Report
Appendix B Water & Wastewater Study
Appendix C Pumping Tests
Appendix O Phase I
Appendix R Economic Impact Study
Federal Register Notice

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NEPA citations
Section 4.11 Cumulative Impacts

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Sections 3.7 & 4.7 Socioeconomic
Conditions/Environmental Justice

Dick Minnis
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Appendix M Traffic Study

FEDERAL REGISTER NOTICE

To have submitted this Draft Environmental Impact Study for public comment speaks to an apparent willingness of the Bureau of Indian Affairs Pacific Regional Office (BIA PRO), the Bureau of Indian Affairs (BIA), the Department of the Interior (DOI) and the Solicitor's Office to participate in a fraudulent action perpetrated by the Matt Franklin led Ione Band (MFIB). The apparent lack of integrity and apparent absence of ethics at these agencies is demonstrated by the content of this DEIS as well as the content of the Federal Register Notice that appeared on April 18, 2008 announcing the availability of the DEIS for public comment.

Since 2003 the MFIB, with the apparent cooperation of the BIA PRO, the BIA, the DOI, and the Solicitor's Office, has misrepresented the history of the Ione Band, invented a non existent termination of the Ione Band's Federal recognition, misrepresented Ada Deer's reaffirmation of the Federal recognition of the Ione Band as a restoration, misrepresented the Ione Band's lack of tribal land, misrepresented the leadership and membership of the Ione Band, misrepresented the Ione Band as a restored tribe and misrepresented the eligibility of the 228.04 acres for Class II / III gaming under the Indian Gaming Regulatory Act (IGRA) despite a well documented Ione Band history that does not support the landless, restored claims of made by the MFIB. The repeated efforts by citizens, citizen groups, Amador County and the State of California to inform the BIA, BIA PRO, DOI, and Solicitor's Office of the documented history of the Ione Band have to date fallen on deaf ears. It appears that the BIA PRO, BIA, DOI, and Solicitor's Office is intent on siting a casino in Plymouth without regard to the law, without regard to regulation, without regard to history, without regard to documented facts, without regard to the enormous negative impacts such a casino would have on the small city of Plymouth and Amador County and most importantly without regard to the overwhelming opposition from the community whose environment and lives will be most affected and negatively impacted.

P18 -11

The latest example of the misrepresentations afforded the public by the BIA PRO, BIA, and DOI appeared in the Federal Register Notice of April 18, 2008 approved by Carl J. Artman and contains a false statement in the first sentence in supplementary information. That statement is included below as copied from the HTML version of the notice available on line.

SUPPLEMENTARY INFORMATION: The Tribe has requested that the BIA take into Federal trust 228.04 acres of land currently held in fee by the Tribe,

This above statement cannot be supported with documents and is patently false. At the Public hearing held in Plymouth on May 21, 2008 the BIA Official moderating the hearing informed the approximately 150 attendees before the hearing began that this statement was not accurate and that the parcels were in the "acquisition pipeline". To my knowledge no further action has been taken to inform the public as the fact that the Notice is not accurate or in more honest language false. This is not the first time the MFIB, the BIA PRO, BIA, DOI, and Solicitor's Office has presented the public with "not accurate" information about the Ione Band and the MFIB's attempts to take land into trust and build a casino in Plymouth. If the Federal Register Notice contains such an obvious and unsupported false statement about the ownership of the 228.04 acres how many more "not accurate" might be included in the massive DEIS? What confidence can the public have that the DEIS does not contain more of these "not accurate" statements relating to the tribe and the serious negative impacts to the environment and

lifestyle a Las Vegas style casino will have on Plymouth and Amador County?

On April 23, 2008 I sent the following email to Brian Waidmann, Carl J. Artman, and James Cason challenging whether the MFIB held the 228.04 acres in fee and requesting the documents on which the BIA PRO, BIA, and DOI relied that indicate that the MFIB held the 228.04 acres in fee. As of June 12, 2008 I have received no reply and I have resent the request as of June 12, 2008 and will include George Skibine and David Bernhardt as recipients. I now submit the request as part of my comments on the DEIS that the MFIB, the BIA PRO, BIA, or DOI provide the documents that support the statement that as of April 18, 2008 the Ione Band held in fee the 228.04 acres that is the subject of the DEIS.

Subject: Federal Register Notice for Ione Band DEIS
From: bcranford4588@att.net
Date: April 23, 2008 9:44:16 PM PDT
To: Brian_Waidmann@ios.doi.gov
Cc: Carl_Artman@ios.doi.gov, James_Cason@ios.doi.gov

Mr. Waidmann,

I write you once again concerning the questionable actions of the Matt Franklin led Ione Band, the BIA and the DOI relating to the Ione Band of Miwok Indians and their attempts take land into trust in order to build a casino in Plymouth, California.

The following is from the Federal Register notice of February 18, 2008. The complete notice follows. I believe this statement, like many others contained in solicitor opinions, fee to trust applications, and other Federal Register notices related to the Franklin led Ione Band, is false.

SUPPLEMENTARY INFORMATION: The Tribe has requested that the BIA take into Federal trust 228.04 acres of land currently held in fee by the Tribe,

According to records available in the Amador County Recorder's Office and the Amador County Assessor's office on Friday, April 18, 2008 at 2:25 pm the Franklin led Ione Band did not own in fee even one of the 12 parcels that make up the 228.04 acres contained in the Federal Register Notice as of the date of the notice or as of the date of January 22, 2008 next to the Assistant Secretary's name.

Therefore, finding Assistant Secretary of Indian Affairs Carl J. Artman's name affixed to this notice, I respectfully request copies of the documents on which Assistant Secretary Artman relied to approve the Federal Register notice in which this highly questionable information is included. While I would like to believe that this is simply an oversight, it is difficult to reach that conclusion given the considerable history of misinformation and questionable actions by the BIA PRO, the BIA, the Solicitor's Office and the DOI related to the Matt Franklin led Ione Band in order to take land into trust for the Franklin led Ione Band to build a casino in Plymouth.

The information and documents indicating ownership in fee of the 228.04 acres by the lone Band should be readily available and I would expect that an email reply to my request could be accomplished within 24 hours and will include a date on which I could expect to receive the copies of the documents that clearly indicate fee ownership of the 228.04 acres by the lone Band or a reply that no such documentation is available from the Assistant Secretary, the BIA, the BIA PRO, the Solicitor's Office, the DOI, or the Matt Franklin led lone Band.

Respectfully Submitted

D.W. Cranford II
209 245 4588
P.O. Box 794
Plymouth, Ca, 95669

Although NEPA regulations require federal agencies to make such documents available to the public (40 CFR 1506.6 (f)), the lack of a response relating to this simple request for documentation on which the BIA PRO, BIA, and DOI relied in order to continue to release the DEIS for public comment and continue to process the Fee to Trust Application for the MFIB is not unexpected. The MFIB, BIA PRO, BIA, DOI, and Solicitor's office apparently have authored, embraced and are pursuing a policy that allows for questionable, misleading, and false statements to be included not only in this DEIS, but in both the Fee to Trust Application and the Artman restored lands opinion with little or no regard for their relation to fact or truth. In other words these agencies have continually for the past several years engaged in a process where whatever information is needed to support approving a casino in Plymouth is included as fact and truth in such documents as this DEIS, the Fee to Trust Application, and the Artman restored lands opinion without supporting documents.

P18-11
cont.

This has not gone unnoticed by the public or other governments. Citizens and citizen groups, the City of Plymouth, Amador County, and the State of California have all brought a host of questionable, misleading, and false statements to the attention of the BIA PRO, BIA, DOI, Solicitor's Office, Office of Inspector General (OIG), the Congress and Congressional Staff. To date no action of note has been taken by any of these offices or agencies to curtail the continuing dissemination of the questionable, misleading, and false information by the BIA PRO, BIA, DOI, and Solicitor's Office. The most frequent response is no response, or that this is an executive branch issue, or that while your complaint is valid and should be investigated the amount in question is only a million dollars and there are no investigators available. Facts count in Federal Court and be assured we will avail ourselves of the Federal Court should that become necessary.

As indicated above this DEIS is an absolute joke, it is an affront to the history of the lone Band, it makes a mockery of the truth, it is an insult to the public, it is a failure of the public trust and it should be an embarrassment to anyone who participated in its preparation or authorized its release for public comment. Outdated, incomplete, inaccurate, mistake filled, and filled with misleading and false statements hardly do justice in describing the content of this DEIS.

Due to the many false, undocumented, fictitious, and fraudulent, statements contained in this DEIS that have previously been brought to the attention of the Modern Day lone Band led by Matt

Franklin, the Bureau of Indian Affairs Pacific Regional Office, the Bureau of Indian Affairs Central Office, the Office of Inspector General, the Secretary of Indian Affairs, the Secretary of Interior, the Office of Indian Gaming and various members of Senate and Congressional staff we believe that continued use of these undocumented, false, fictitious, fraudulent statements related to this project would constitute knowingly and willfully falsifying, concealing, or covering up material facts related to the Lone Band and this proposed casino project in documented statements, representations, and writings including this DEIS, their Fee to Trust Application, the Artman restored lands Opinion, the briefs filed by the Department of Interior in the Muwekma Ohlone case in the D.C. District Court and the Federal Register Notice for this DEIS per the following from the Department of Interior Office of Ethics webpage. 18 U.S.C. § 1001; 43 CFR § 20.510 which follows.

Fraud or false statements in a Government matter

An employee shall not, in any matter within the jurisdiction of any department or agency of the United States, knowingly or willfully falsify, conceal or cover up by any trick, scheme, or device a material fact, or make any false, fictitious, fraudulent statements or representations, or make or use any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry. Special attention is required in the certification of time and attendance reports, applications for employment, requests for travel reimbursement, and purchase orders and receiving forms. 18 U.S.C. § 1001; 43 CFR § 20.510

P18 -11
cont.

Comments and questions related to various specific sections and portions of the DEIS follow. I hope that the response to these comments is more timely than comments submitted by citizens, citizens groups, City, County and State governments to the Fee to Trust Application. It has been more than a year and no response has been received pursuant to those comments from the BIA PRO Director. Nevertheless, answers to my questions and a response to my comments are expected within 180 days. This is much more generous than the 75 days allowed for review and comment on this DEIS.

Additionally, selected comments on the Fee to Trust Application in 2007 were improperly submitted directly to Holland & Knight, the law firm representing the MFIB at the time by the then BIA PRO Director for review and comment. I specifically request that my comments not be submitted directly to the MFIB's law firm or their attorneys for review and comment.

EXECUTIVE SUMMARY

Introduction, Page i:

NEPA requires that the EIS cite the documents that support its factual statements. (40 CFR 1502.21, 1502.24.) These underlying documents must be accessible and available to the public. (*Save the Niobrara River Association v. Andrus* (1977) 483 F.Supp.844, 850-851.) As noted below, the Executive Summary of the DEIS makes many statements of apparent fact without referencing the supporting documentation. Please make these references in the final EIS.

P18-12

Recent estimates based on public statements by tribal leaders place the number of members at over 700. Is the actual number of members known as of some date such as January 1, 2008?

P18-13

If the Ione Band has no trust land does the Ione Band of Miwok own any fee land? If yes please include all assessor parcel numbers for all properties owned in fee by the tribe as of April 18, 2008?

P18-14

As of April 18, 2008, the date of the Federal Register Notice for the DEIS did the Ione Band hold in fee any of 228.04 acres which the tribe has applied to have taken into trust?

P18-15

The tribe's eligibility to acquire land in and adjacent to Plymouth for a reservation is based on what supporting documents? Please provide the supporting documents.

P18-16

In the DEIS it is stated that Commissioner Bruce agreed to accept land into trust on behalf of the Tribe. In the letter addressed to Nicolas Villa and the Ione Band of Miwok Commissioner Bruce states that "As the Commissioner of Indian Affairs, I therefore, hereby agree to accept by relinquishment of title or gift the following described parcel of land to be held in trust for the Ione Band of Miwok Indians:..." a description of one specific parcel then follows. Please correct this statement in the Final EIS to read that Commissioner Bruce agreed to accept the 40 acre parcel near Ione into trust on behalf of the Tribe.

P18-17

Commissioner Bruce's 1972 letter contains specific direction that the Sacramento Area BIA office assist in the preparation of a document containing a membership roll and governing papers which conform to the Indian Reorganization. Please include this membership roll and papers in the appendix with the Bruce letter or include an explanation with supporting documents as to why these documents cannot be included.

P18-18

Was the Ione Band included on the list of tribes eligible for reorganization under the 1934 Indian Reorganization Act (IRA)? Was the Ione Band or any members of the Ione Band contacted pursuant to the 1934 IRA?

P18-19

The DEIS states that Secretary Ada Deer reaffirmed the Bureau's commitment to bring land into trust and declare a reservation for the Tribe. This is not accurate and is a misrepresentation of the facts based on a reading of the Ada Deer reaffirmation letter of March 22, 1994 addressed to Nicolas Villa Jr.. Secretary Deer, like Commissioner Bruce agreed to accept by relinquishment or gift the following described parcel of land to be held in trust for the Ione Band of Miwok Indians. The described parcel is the same specific parcel described in the Bruce letter. Please correct this statement in the Final EIS. Nowhere in the March 22, 1994 letter does Secretary Deer refer to or even use the word reservation.

P18-20

The reference to a reservation by Secretary Deer is contained in a July 14, 1994 letter where she is responding to a memorandum from the Area Director, Sacramento Area Office in which the Area Director apparently requested clarification of the March 22, 1994 letter. The declaring of a reservation was suggested as part of an alternative action to the taking of the specific parcel into trust and was not addressed directly to the Tribe but to the Sacramento Area Director. An accurate representation of the content of the letters is requested in the Final EIS. Additionally, please include all letters from Ada Deer to the Tribe or to the Sacramento Area Director in the Final EIS as well as all letters from the Tribe or from the Sacramento Area Director to Ada Deer.

P18-21

Please explain why the specific 40 acre parcel described by Commissioner Louis Bruce and which both he and Secretary Deer agreed to take into trust for the Ione Band has not been taken into trust in the last 46 years? Provide any documents supporting the explanation.

P18-22

What is the extent of the Federal actions in the development and operation of one of the four related commercial alternatives in this DEIS? What Federal agencies have been involved and to what extent? Please provide all documents referring to any Federal actions in the development and operation of one of the four related commercial alternatives in this DEIS.

P18-23

Does the EIS address in any way the unforeseeable consequences of Tribal actions related to the development and operation of one of the four related commercial alternatives?

P18-24

Executive Summary, Introduction, Page ii

NEPA regulations require that an EIS describe the environment of the areas affected by the proposed project. (40 CFR 1502.15.)

P18-25

Is grazing lands the only surrounding land uses south and east of the proposed site?

Are there any mining operations or mining claims south and east of the proposed site?

P18-26

Are there any Bureau of Land Management lands adjacent to or near the property?

P18-27

Executive Summary, Purpose and Need, Page ii

Again, NEPA requires that the EIS cite the documents that support its factual statements. (40 CFR 1502.21, 1502.24.) These underlying documents must be accessible and available to the public. (*Save the Niobrara River Association v. Andrus* (1977) 483 F.Supp.844, 850-851.) As noted below, the Executive Summary of the DEIS makes many statements of apparent fact without referencing the supporting documentation. In addition to answering the questions below, please make these references in the final EIS.

P18-28

What is the current employment status of tribal members?

What is the history of employment status of tribal members since 2002?

P18-29

Are there any Department of Labor data / statistics available on tribal employment? If yes please include this information.

How many tribal members currently live in Amador County?

How many members currently live within 25 miles of the proposed Casino? Within 50 miles?

P18-30

What are the current sources and amounts of revenue for the tribe?

Have revenues to the landless Ione Band led by Matt Franklin ever included EPA funds?

Were these funds applied for by the landless Ione Band by using the 40 acre parcel near Ione?

P18-31

What current social and educational programs are available to tribal members through Federal, BIA, State, County, City, or private entities?

How many members currently use any social and educational programs available through Federal, BIA, State, County, City, or private entities?

P18-32

What other economic opportunities have been explored?

P18-33

Executive Summary, Alternatives, Alternative A, Page ii

NEPA regulations require that an agency consider the project and alternatives "in detail". (40 CFR 1502.14.) In answering the questions below, please provide the details regarding the project and alternatives.

P18-34

Will the potentially reclaimed water storage tank be required or not? (Only 5 years to plan this)

P18 -35

Will the source of water for the storage tanks be from wells or from the municipal water supply? Again only 5 years to plan for this.

Was a fire station included as part of the project in the Scoping sessions?

P18-36

Executive Summary, Alternatives, Alternatives Considered but Eliminated

Is the alternative 40 acre site the parcel of land that Commissioner Bruce and Secretary Deer agreed to accept by relinquishment of title or gift to be held in trust for the Ione Band of Miwok Indians?

P18-37

When did the tribe consider the alternative 40 acre site?

Please reference and provide all documents relating to any studies done in consideration of the 40 acre site?

Since the current proposal also requires the removal of trees and vegetation and displacement of existing residents, please provide analysis why this does not disqualify the current land as a viable site?

What is the extent of tree and vegetation removal required on the 40 acre site?

P18-38

How many residents would be displaced?

Are the residents that would be displaced members of the Ione Band? If yes, why are these residents not willing to be temporarily displaced in order to provide their tribe with a stable sustainable source of employment and revenue to be used to support social and educational programs for the elderly, the poor, and younger Tribal member?

Are there any other casinos proposed in the near vicinity of the 40 acre parcel that requires ancillary components such as a reservoir or wastewater treatment facility that requires more than 40 acres?

P18-39

Please reference and provide documentation that ancillary components such as reservoir or wastewater treatment plant are required if a casino were built on the 40 acre parcel and that the property is not capable of handling such components?

How much of the 40 acre property is located partially within the 100 year floodplain? Please reference and provide documentation that some part the 40 acre parcel is actually in the 100 year floodplain and include the amount of the land that is within the 100 year floodplain.

P18-40

Is there any history of actual flooding on the Ione Band's 40 acre property that would prevent a casino being constructed on the 40 acre parcel?

P18-40
cont.

Executive Summary, Table ES 1 Groundwater Use AA, AB, AC, AD

Since an EIS must present impacts of the proposal and alternatives in a comparative form (40 CFR 1502.14), what would be the increase in groundwater use under these alternatives? Please present this information in the Final EIS.

P18-41

Why is the monitoring program being developed by the Tribe in consultation with the BIA and EPA only? Any meaningful monitoring must include participation by potentially impacted off-site users and the Final EIS should include a monitoring program that allows for the participation of such off- site users.

P18-42

The monitoring of the wells and reporting of the results must be completed by an unbiased third party and available to the public.

Has any monitoring of the on-site wells been implemented in the past 3 years?

What process would be used to determine if a *significant* effect to off-site groundwater users occurs? Who makes the determination? What criteria will be used? The time for determining criteria for significance is during the EIS process, not later. (40 CFR 1502.16 (a, b, c).)

How does monitoring the existing wells on the project site help determine whether off-site wells are being significantly affected?

Will off-site wells be included in the monitoring program? Off-site wells must be included in any monitoring program.

How often will the monitoring occur or data be collected?

Will the data be available to off-site users?

P18-43

Have other monitoring programs in the Plymouth area been undertaken that have been completed or are still in process that indicate that the pumping of groundwater at the levels required by the project would in fact significantly affect off site wells?

Are any off site wells currently being monitored by any program?

Have all the wells that might be potentially affected been identified? Please include all wells that the tribe believes might be affected.

Has baseline well data for all wells that might be affected been collected?

NEPA requires reasonable forecasting of impacts, and the disclosure of the risk of uncertainty regarding impacts. (*Scientists' Institute for Public Information, Inc. v. Atomic Energy Commission* (1973) 481 F.2d 1079; *Northwest Indian Cemetery Protective Association v. Petersen* (1986) 795 F.2d 688.) This is especially important when it comes to well yields. In reporting well yields, average numbers can be deceiving, since yields vary dramatically from dry years to wet years. In the Final EIS, provide expected future yields in dry and wet years based upon historic data, and forecast the likely extent of future impacts.

P18-44

Will there be a requirement that the tribe alter or stop its groundwater pumping regime? This must be a requirement in the mitigation.

Where is the pumping regime for each alternative defined?

If the project causes impacts to wells, will the tribe be required to pay for a new well or deepening existing wells? This must be requirement in the mitigation.

Are the pre-project consumptive uses for off-site wells known? If not, how could the tribe or anyone know whether the pre-project use is recovered fully? Does this mean that if an off site-user had a 50 gpm well and it went dry due to tribal groundwater use the tribe will replace the well with 50 gpm well? Explain fully what this mitigation measure really means.

P18-45

The off-site user will be connected to the tribe's water supply. Are you serious? Do you mean the off-site user will be connected to the very source of water that caused their well to go dry? Connected permanently or temporarily? At what cost to the off-site user if any?

NEPA requires that an agency disclose the history of success and failure of similar projects. (*NRDC v. Grant* (1973) 355 F.Supp.280; *Sierra club v. Morton* (1975) 510 F.2d 813.) Specifically with regard to the mitigation component of a project, NEPA requires that the agency discuss the expected efficacy of the mitigation, and provide factual support for this effectiveness. (*South Utah Wilderness Alliance v. Norton* (2003) 277 F.Supp2d 1169.) Have these or similar water supply mitigations been attempted at any other Indian casino projects? If so, in the Final EIS please indicate how effective these mitigation measures have been in the past, and provide documentation to support the effectiveness claim. Also, make some estimate regarding the expected effectiveness of these measures in the proposed project.

P18-46

Are there any local, county or state restrictions on the use of water delivered via tanker truck to off-site users?

P18-47

Are any permits required for off-site delivery of water by truck? If yes, will the tribe obtain the permits? When?

Is there a documented pumping regime for the three wells? Please provide it.

P18-48

SECTION 1.0 INTRODUCTION

Section 1.1 Introduction

Is the exact number of tribal members known as of any date such as January 1, 2008?

P18-49

How many members were eligible to vote in the last election?

While the tribe has no trust land does the tribe own any fee land? Please include information about any fee land holdings of the tribe as of April 18th, 2008.

Was the Ione Band landless in 1972 when Louis Bruce agreed to accept a specific 40 acre parcel into trust for the Ione Band or had the Ione Band acquired title to the property through a quiet title action?

P18-50

Is there documentation that supports the statement that the BIA determined in 2006 that the tribe is eligible to have lands taken into trust as its initial reservation pursuant to 25 USC Sec. 465? Please include supporting documents in the FEIS.

Is the tribe eligible to have lands taken into trust as its initial reservation for gaming under the Indian Gaming Regulatory Act (IGRA)?

Section 1.1.1 Project Location

Were the two scoping sessions noticed and conducted on 12 parcel totaling 228.04 acres?

Explain why the scoping sessions were noticed and conducted on 10 parcels totaling 208 acres.

P18-51

When will scoping be conducted for the two parcels totaling nearly 20 acres?

Why would scoping not be required on these parcels?

Section 1.1.3 Ione Band of Miwok Indians

How recently was the tribe restored to recognition? Please include documents that support official action by the U.S. Congress or the Department of Interior to restore the Ione Band? Please provide the official notification sent to the Ione Band informing the Ione Band that it was terminated and the official notification sent to the Ione Band informing the Ione Band that it was RESTORED.

P18-52

Please explain the lack of tribal land statement in light of fact that the Department of Interior agreed to accept land the Ione Band owned in 1972 into trust in 1972? What happened to that land?

P18-53

What, if anything, was the tribe been doing from 1972 to 2002 to acquire a land base?

What exactly does uncertain organization and status mean? How long has the status been uncertain? Why was the status uncertain? How long was organization of the tribe uncertain?

P18-53
cont.

Why was the organization and status uncertain given the specific instructions contained in the Bruce letter?

Is this proposed casino project the only source of economic opportunity, employment, education, housing, and other services for tribal members?

Are tribal members not eligible for all economic programs, education programs, housing programs, and other services from the Bureau of Indian Affairs, the Federal Government, State Government, County Government, City Government and other entities? Please explain why the Ione Band needs more opportunity than is offered through all the programs available from the above listed agencies and the United States economy.

P18-54

Specifically, what developments related to gaming does the tribe plan to develop on this site?

Specifically, what are the kinds and magnitudes of the unmet needs of members related to employment, education, and socioeconomic needs? Please provide information as to what specific needs are not being met and why these needs cannot be met through all the incentive programs available from the BIA, Federal, State, County, City governments and other private entities.

Has any determination been made to quantify the revenue stream required to meet the unmet employment, education, and socio economic needs of the tribal members? Please provide this data.

P18-55

Would this initial reservation be the result of a Section 83 action and decision?

In order for land acquired after October 12, 1988 to be eligible for gaming as an initial reservation the tribe must have successfully completed the Section 83 Acknowledgement process. Has the Ione Band completed the Section 83 Process? Did the Ione Band ever attempt to complete the Section 83 process? If yes, was the tribe successful?

P18-56

While there may be much land that could be within the tribe's ancestral territory as a restored tribe proposing to engage in Class III gambling a tribe must show a historical connection and modern connection to the restored lands. Please provide the documents supporting any connection historical or modern of the Ione Band to the

P18-57

Plymouth site.

P18-57
cont.

NEPA requires the consideration of alternatives to the project that could reduce its impacts. (40 CFR 1502.14.) Many of the impacts of this project could be reduced by locating the project in an urban location where there are ample public services, existing public transit, and potential casino patrons. To help in the identification of potential alternative sites, please provide documents identifying the range of areas to which the Ione Band has a historical and modern connection. Please use this information to include an urban location alternative in the Final EIS.

P18-58

Is there any evidence that the Ione Band resided on the Plymouth site since pre colonial times or at any time? If yes, please provide the evidence which has been verified by at least two independent archeologists, ethno historians or other experts.

Are there any documents that support that the Ione Band has lived on or near the 40 acre parcel described in the 1972 Louis Bruce letter since the early 1900's and that this land has been the acknowledged land base for the Ione Band for a hundred years or more? If yes, please correct the statement that the tribe was without benefit of any type of tribal land base.

P18-59

Specifically, how near is the Plymouth site to where treaties were negotiated?

If the tribe remains landless to this day what happened to the 40 acres near Ione? Has the tribe recently (in the past 12 months) purchased any land in or near Plymouth?

P18-60

How many parcels of land does the "landless" Ione Band own in fee besides the 40 acre parcel near Ione?

Section 1.2 Purpose and Need

The purpose in need statement must be reasonably detailed for it to meet its objective of helping to guide the development of alternatives to the project. (40 CFR 1502.13; See *Carmel-By-The-Sea v. U.S. Department of Transportation* (1997, 9th Cir.) 123 F.3d 1142, 1155; *Friends of Southeast's Future v. Morrison* (1998, 9th Cir.) 153 F.3d 1059, 1066-1067.) Below are questions that should be answered in the FEIS. Those answers should also be used to refine the analysis of project alternatives.

Are there means other than gambling that could meet the diverse and urgent needs of the tribal members?

P18-61

Specifically, what is the diversity of needs of Ione Band members?

Specifically, what needs are urgent and why are they urgent?

Why are these diverse and urgent needs not being met with current programs

available from the BIA, Federal, State, County, City, private entities, the tribal government, and by the members themselves?

P18-61
cont.

Given the fact that this proposed project is now 5 years old with no end in sight, how have the urgent needs been met in past years and how will they be met in the coming years when no casino is built?

In order to consider the present state of the tribe we need to know the present condition of the tribe. Please include this information in detail.

At what rate is membership increasing and why? Please provide a history of membership since at least 1972.

What is the history of the tribe? Please include a detailed documented history of the Ione Band.

P18-62

What specifically in the history of the tribe, and the modern day needs of the tribe and its tribal membership, provide a strong basis for acquiring the lands in and near Plymouth?

What employment and educational opportunities and critically needed social services will the tribe provide that are not generally already available?

Specifically, what critical social services are needed?

Will this proposed project actually increase tribal employment or just increase employment opportunities?

How many tribal members will actually hold real jobs in the casino if the casino project were built?

What is the current socioeconomic status of the tribe?

If the tribe is landless, specifically what tribal housing will be improved?

P18-63

Where will the new tribal housing be constructed?

Are there any plans to build tribal housing anywhere on the 228.04 acres?

How many tribal members live in or within 10 miles of Plymouth? 25 miles? 50 miles?

Specifically, what kind of welfare services would be needed?

Why would any welfare services be needed?

How much capital would be available for investment after the diverse, urgent and critical needs of the tribe are met?

P18-64

Specifically, what other developments are planned and are these developments planned in or near Plymouth? What is the Environmental Impact of these planned developments?

Will the revenue stream generated by the casino project not be sufficient to meet the needs of the tribe and the tribal government so that additional developments are needed? If no, why are the additional developments needed?

What governmental powers of the tribe require acquiring land beyond the 40 acres in Ione?

P18-65

How many members are currently enrolled or receiving public assistance funds?

P18-66

Are funds received from the BIA public assistance funds a trust responsibility of the United States?

Section 1.3 Overview of the Environmental Review Process

An agency is precluded from biasing analyses of alternatives in an EIS, and an agency may not take action to advocate for, or in furtherance of, an alternative prior to completion of both the EIS and the record of decision. The courts will not abide by such prejudicial agency behavior, and mere *pro forma* completion of an EIS, that renders impossible the fair and careful environmental evaluation that NEPA demands. (See *NRDC v. Callaway* (1975) 524 F.2d 79; *International Snowmobile Manufacturers' Association v. Norton* (2004) 340 F.Supp.2d 1249, 1261.)

P18-67

Does the following statement indicate a conflict of interest by the BIA? "The BIA exercises final approval authority over the EIS and related documentation, and has furnished guidance during development of the EIS and has participated in the preparation process."

While the BIA "assumed" the "Lead Agency" role for the completion of the EIS could the Lead Agency role have been assumed by another agency?

Specifically, what guidance was furnished?

Specifically, how did the BIA participate in the process?

Have any of the employees of the tribal Fee to Trust Consortium operating at the BIA PRO participated or been involved in preparing the EIS?

P18-68

Has the Ione Band contributed to the Fee to Trust Consortium operating out of the BIA Pacific Regional Office?

Did the Inspector General find that this Fee to Trust Consortium was a “conflict of interest” in a September 2006 report?

P18-68
cont.

On April 18, 2008 was the Acting Regional Director of the BIA Pacific Regional Office a member of the Ione Band?

Is the current Acting Regional Director of the BIA PRO a member of the Ione Band?

Have any former Acting Regional Directors of the BIA PRO been members of the Ione Band?

P18-69

Have any relatives of present or former BIA PRO Directors or Acting Directors been members of the Ione Band? If yes, how many

Are any relatives of present or former BIA PRO Directors or Acting Directors current members of the Ione Band? If yes, how many

Was the Notice of Intent to prepare an EIS published in the Federal Register on November 7th, 2003 for 12 parcels and 228.04 acres? If no, how many parcels and how many acres were described by the November 7th, 2003 Notice?

P18-70

Please explain why this DEIS includes parcels and acreages properties not included in the November 7, 2003 NOI?

Please explain why this DEIS includes parcels and acreages not included in the January 20, 2004 NOI?

Will the Final EIS be filed with the Regional EPA Office or the Central Office or both?

Can additional comments be made during the 30 days after the EPA Notice (NOA) is published in the Federal Register? If yes please include an accurate and complete description of the process.

P18-71

What decision will the BIA proceed with after the process at EPA is completed?

If this is a decision on the Fee to Trust Application, how can a decision on the FTT be made since the application as noticed in November of 2006 was incomplete with more than 20 documents withheld from public review and comment including the Artman restored lands opinion?

P18-72

When will the public be allowed to comment on the restored lands opinion, that was listed as an exhibit for the FTT Application but was withheld from comment?

The record of decision will be prepared by what BIA office or offices?

P18-72
cont.

Section 1.4 Scoping

Why were two scoping sessions held?

Was a public hearing on the Ione Band of Miwok Indians Fee to Trust and Casino Project EIS Scoping Report required? If yes, when was the hearing held?

P18-73

Table 1 - 1

Is a compact approved by the California State Legislature required? Please include this approval in Table 1-1.

Is this a complete list of approvals needed?

P18-74

SECTION 2.0

2. Description of Project Alternatives

The description of the project and its alternatives “is the heart of the environmental impact statement.” (40 CFR 1502.14; *Sierra Club v. U.S.* (1998) 23 F.Supp.2d 1132, 1145.) The purpose of the Alternatives requirement is “to ensure that each agency decision maker has before him and takes into proper account all possible approaches to a particular project (including total abandonment of the project) which would alter the environmental impact and the const-benefit analysis. Only in this fashion is it likely that the most intelligent, optimally beneficial decision will ultimately be made.” (*Calvert Cliffs’ Coordinating Committee, Inc. v. Atomic Energy Commission* (1971) 499 F.2d 1109.) The alternatives must be considered in detail, rigorously explored, and objectively evaluated. (40 CFR 1502.14 (a & b).) Alternatives must be considered for any course of action involving unresolved conflicts over alternative uses of resources, even when project impacts are not significant. (40 CFR 1507.2(d); *Hanly v. Kleindienst* (II) (1972) 471 F.2d 823; *Oregon Natural Desert Association v. Singleton* (1998) 47 F.Supp.2d 1182, 1194-1195.)

P18-75

The discussion can include reasonable alternatives not within the lead agency’s jurisdiction, that could be implemented by other federal agencies or by the private sector, or that could require new legislation. This is especially true when the purpose of the project is broad like improving the well being of an alleged tribe. (40 CFR 1502.14 (c); *State of Ala. Ex rel Baxley v. Corps. Of Engineers of U.S. Army* (1976) 411 F.Supp.1261; *NRDC v. Morton* (1972) 458 F.2d 827.)

2.2.1 Alternative A – Proposed Casino and Hotel

An EIS must be sufficiently detailed to enable those who did not participate in the statement’s compilation to understand and meaningfully consider the factors involved in the decision, and to allow responsible officials to arrive at a reasonably accurate decision regarding the environmental benefits and detriments to be expected from project implementation. (*Environmental Defense Fund, Inc. v. Corps of Engineers U.S. Army* (1974) 492 F.2d 1123; *Sierra Club v. Froehlke* (1973) 486 F.2d 946.) Please provide the details requested below.

P18-76

Where in Phase I of Table 2-1 are the associated facilities included (i.e. parking, water, wastewater, fire protection etc.)?

P18-77

Table 2-1 is nothing more than a list of the buildings, their purpose and square footage. A more comprehensive table that actually indicates the phases of development is required and must be included in the FEIS.

P18-78

Development Standards Phases I and II

“ ‘Mitigation must be discussed in sufficient detail to ensure that the environmental consequences have been fairly evaluated.’ ” (*Carmel-By-The-Sea v. U.S. Department of Transportation* (1997, 9th Cir.) 123 F.3d 1142, 1154.) “ ‘A mere listing of mitigation measures is insufficient to qualify as the reasoned discussion required by NEPA.’ ” (*Neighbors of Cuddy Mountain v. U.S. Forest Service* (1998, 9th Cir.) 137 F.3d 1372, 1380.) NEPA requires that the agency discuss the expected efficacy of the mitigation, and provide factual support for this effectiveness. (*South Utah Wilderness Alliance v. Norton* (2003) 277 F.Supp.2d 1169.) In the Final EIS, please provide the mitigation details requested in the comments below.

P18-79

How would the tribes development in compliance with the building code standards described in this section be verified? Please explain. Who will verify? How often? Will reports or inspection results be available to the public? What liability is the tribe subject to for non compliance to the building code standards?

After the tribe issues a certificate of occupancy is the tribe liable for any injuries suffered as a result of shoddy workmanship or non compliance to building / construction standards?

How will verification that the tribe has adopted and is complying with standards no less stringent than state public health standards for food and beverage handling be accomplished? Who will verify? How often? Will reports or inspection results be available to the public? What liability is the tribe subject to for non compliance?

P18-80

How will verification that the tribe has adopted and is complying with standards no less stringent than Federal air quality, water quality, and safe drinking water standards be accomplished? Who will verify? How often? Will reports or inspection results be available to the public? What liability is the tribe subject to for non compliance?

How will verification that the tribe has adopted and is complying with standards no less stringent than Federal workplace and occupational health and safety standards be accomplished? Who will verify? How often? Will reports or inspection results be available to the public? What liability is the tribe subject to for non compliance?

How will verification that the tribe has adopted and is complying with applicable Federal laws regarding public health and safety be accomplished? Who will verify? How often? Will reports or inspection results be available to the public? What liability is the tribe subject to for non compliance?

What does make “reasonable provisions for adequate” emergency, fire, medical, and related relief and disaster services for patrons and employees of the gaming facility actually mean? Reasonable as determined by who or by what standards? Adequate as determined by who or by what standards?

P18-81

Does gaming facility mean hotel, parking lots, water and wastewater and all other facilities and areas of the 228.04 acres?

P18-82

What liability is the tribe subject to for not "reasonably" providing "adequate" emergency, fire, medical, and related relief and disaster services for patrons and employees of the gaming facility?

P18-83

While designing a sprinkler system to comply with applicable codes is commendable, the question is will the system as installed actually comply with the applicable codes?

P18-84

Will the automatic fire detection and alarm system located throughout the buildings that triggers the emergency voice alarm signaling systems comply with applicable codes as installed?

Phase I Land Trust Action

Were parcels 2 and 12 listed in Table 2-2, Trust Parcels, included in the two Scoping sessions? If no, was a scoping session ever conducted these two parcels? If yes please explain how the scoping session acreages were listed at ~208 acres in the Federal Register Notice and the DEIS Federal Register Notice is for ~228 acres?

If these two parcels and ~20 acres are to be included in the fee to trust application is scoping required for these parcels? If no please cite applicable U.S. Code and Code of Federal Regulations. If, yes, when will the scoping session be held and when will it be noticed in the Federal Register?

P18-85

Are any facilities, buildings, wells being used for this project located on either of the two parcels not included in the previous scoping sessions? If yes, what specifically is located on either parcel that will be used?

Was compliance with Section 20 of the Indian Gaming Regulatory Act included in the tribe's incomplete fee to trust application in November 2006? If yes, where in the tribe's Fee to Trust Application would one find documentation that the tribe is in compliance with Section 20? If, no why was the documentation not included and when will this compliance to Section 20 be included in the tribe's fee to trust application?

Has a final Department decision been made that the Ione Band's fee to trust application is compliant with Section 20 of the Indian Gaming Regulatory Act?

P18-86

Since the DEIS states that the BIA determined in September 2006 that the Ione Band is eligible for an initial reservation, which part of Section 20 must the Ione Band comply with in its Fee to Trust Application? Two Part or Land Settlement or Initial Reservation or Restored Lands?

Is the Ione Band eligible for an initial reservation for gaming per the Indian Gaming Regulatory Act?

P18-87

Management Contract

What process will the NIGC use to look at the overall effect the project will have on human health?

P18-88

Where are the data and analysis related to the project's affects on human health?

Does the NIGC provide regulatory oversight on Class III tribal gaming operations to ensure the integrity of the games subsequent to the CRIT (Colorado River Indian Tribes) decision?

P18-89

Is the proposed contract or any portion of a contract proposed between the Tribal Government and a management company to assist the tribe with funding currently in place without NIGC approval?

Does the tribe currently have any contract with any management company or any other entity to assist with funding?

P18-90

Why is the management company required to comply with the terms of IGRA and NIGC regulatory requirements related to the operation of the TRIBAL gambling facility? Why is the Tribe not required to comply? Is the Tribe liable for non compliance?

Casino Complex

As noted above, the description of the project and its alternatives "is the heart of the environmental impact statement." (40 CRF 1502.14; *Sierra Club v. U.S.* (1998) 23 F.Supp.2d 1132, 1145.) The description must be detailed, so that the project impacts can be rigorously explored, and objectively evaluated. (40 CFR 1502.14 (a & b).) Please provide the details requested below regarding the casino.

P18-91

Will any portion of any casino complex facilities be located on parcels 1, 2, or 12? i.e. wells, spray fields, reservoirs etc.

P18-92

What small retail shops and how many?

P18-93

What kind of alcohol (beer, wine, liquor) would be served throughout the casino?

When will the responsible alcoholic beverage policy be developed and adopted? This policy should be part of any mitigation measures and must be included in the DEIS and FEIS.

P18-94

Have encroachment permits been applied for from Cal Trans for the two driveways off Highway 49?

P18-95

Have any studies been conducted as to the safety of these driveways?

P18-95
cont.

Where will patrons park if the parking lot is full, since you will not use Village Drive in any way?

P18-96

What standard uses typical to describe lighting for roadways and parking lots? Please cite what lighting standards are being used and complied with.

P18-97

Has the use of vintage style lighting standards on highway 49 been approved by Cal Trans?

What measures if any are planned to shield residences to the east, northeast from any potential noise? Many homes in this area are line of sight to the proposed casino complex.

P18-98

Water Demand and Supply

An agency must have analytical data to support a conclusion that an impact is insignificant. (*Oregon Natural Desert Association v. Singleton* (1998) 47 F.Supp.2d 1182, 1193-1194; *Idaho Sporting Congress v. Thomas* (1998, 9th Cir.) 137 F.3d 1146, 1151; *Blue Mountain Biodiversity Project v. Blackwood* (1998, 9th Cir.) 161 F.3d 1208, 1214.) In the Final EIS, please provide the data and analyses requested below.

P18-99

Option 1

How was it determined that the total water demand for Phase I Option I with or without use of recycled water would be met by the City of Plymouth's municipal water supply? Please include this analysis.

P18-100

Did the water demand estimates for the year 2025 for the City of Plymouth include the use of water for a casino complex? Please include a more up to date estimate?

P18-101

Was the personal communication with Selby Beck verbal or written? What authority to commit the city to any action does Selby Beck have? Is Selby Beck an elected member of the City Government?

P18-102

What is the size of the lines that currently serve the properties in the City which might be available to the tribe?

P18-103

Was the pipeline project designed to meet the water demand needs of the City of Plymouth or the needs of this casino complex project?

P18-104

Option 2

What is the source of water to be trucked? What is the amount of water to be trucked? What is the size of trucks? How many trips a day are anticipated?

P18-105

Is pumping at rate of 83 gpm 24 hours a day required to sustain a yield of 119,520 gpd?

P18-106

In what rotation and for what time frames would the 3 wells (M1, M3, and H1) be pumped? Please include the pumping schedule for the wells.

Was the approximately 10,000 gpd of brine included in the water demand estimates Table 2-6? If so where?

P18-107

When is it expected that trucking in water would be applicable?

P18-108

How was it determined that 70% of demand for Phase I can be met by groundwater wells? Please include this analysis or a reference to the location of this analysis?

P18-109

Is May 20, 2004 the most recent will serve letter from Aero Pure?

P18-110

What is planned beyond the 5 to 10 year guarantee of delivery of water from Aero Pure?

On what data was it determined that with the use of recycled water 101 % of the remaining water demand for Phase I would be met by the groundwater wells?

P18-111

An Additional Alternative

Consider an Urban Location Alternative

Members of No Casino in Plymouth recognize that there are a lot of things a casino needs that are commonplace in urban cities, but that Plymouth does not have. Plymouth and Amador County do not have grand plans for expanding road infrastructure, because existing development patterns around narrow roads make widening cost prohibitive, and the area does not receive outside funding at the levels seen in urban areas. Plymouth does not have a large surplus potable water supply and available sewage treatment capacity, because it has a limited level of development planned for within its sphere of influence. Plymouth and Amador County do not have large enough populations to financially support one gaming and entertainment complex, let alone the three that are planned for the area.

P18-112

Also, the scale of the built environment is smaller and simpler in Plymouth than in urban cities. In Plymouth people park their cars in small parking lots, not multi-level parking structures. In Plymouth, roadside advertisements are on waist-high sandwich

boards and wooden roadway advertisements, not multi-story electrified billboards. For recreation in Plymouth, people take their children to a baseball diamond or Sharkey Park, instead of going to a 120,000 square-foot casino. For event receptions, Plymouth has a carousel styled picnic area, not a 30,000 square-foot event and convention center. The scale of a casino is in sharp contrast to the rest of the built environment in Plymouth.

Thus, a more populated and up-scaled urban area like nearby Stockton or Sacramento would be a less impacting and more profitable location for a casino. Those locations have infrastructure for water and sewer already in place. They are accessible by major highways, as well as bus and rail transit, and Sacramento International Airport. They have existing law enforcement. They have potential labor forces already in residence. The Governor has already set the precedent that he will consider and approve land swaps like this for environmental mitigation reasons. Also, the alleged Ione Band claims that their archeological finds come from the area around the confluence of the American and Sacramento rivers.

P18-112
cont.

Section 3.3 Water Resources

3.3.3 Groundwater

Groundwater Usage

As stated previously, NEPA requires reasonable forecasting of impacts, and the disclosure of the risk of uncertainty regarding impacts. (*Scientists' Institute for Public Information, Inc. v. Atomic Energy Commission* (1973) 481 F.2d 1079; *Northwest Indian Cemetery Protective Association v. Petersen* (1986) 795 F.2d 688.) This is especially important when it comes to well yields. In reporting well yields, average numbers can be deceiving, since yields vary dramatically from dry years to wet years. As requested below, in the Final EIS, provide expected future yields in dry and wet years based upon historic data, and forecast the likely extent of future impacts.

P18-113

On what data is the statement based that the City of Plymouth obtains its water supply from two groundwater wells located near the intersection of Burk Drive and Fiddletown that produce approximately 175 gallons a minute?

Have these two wells been tested and shown to have a long term yield of approximately 175 gpm?

On what data is the statement that two additional wells located north of the City produce flows of approximately 250 gpm?

P18-114

Have these two wells been tested and shown to have a long term yield of approximately 250 gpm?

Does each well produce 250 gpm or is the combined flow of the two wells 250 gpm?

It is not stated that the City of Plymouth owns or receives water from the two wells producing 250 gpm so does the City of Plymouth receive any water from these two wells? If yes, in what quantity?

How many wells does the City of Plymouth use to supply City water?

Has the City ever had to limit pumping from any of its wells due to excessive drawdown in the well? If this has happened please include this information as part of the history of water use in the basin. A group with a historical and modern connection to Plymouth planning to build a casino should know this information.

P18-115

You have referenced the Ketron Report , 2004. Please include the Ketron Report as an appendix to the Final EIS. NEPA requires that, when an EIS cites a document to support a factual statement, the underlying document must be accessible and available to the public. (*Save the Niobrara River Association v. Andrus* (1977) 483 F.Supp.844, 850-

P18-116

851.)

P18-116
cont.

How much of an overdraft in the groundwater basin has over pumping by the City of Plymouth caused?

P18-117

Are there other wells in the groundwater basin evaluated by Ketron other than the wells included in the DEIS? How many wells have been drilled in the basin since 2004? How many wells in the basin have gone dry or become unusable due to lack of water since 2004?

P18-118

If more than one season of above average rainfall is needed to make up for the identified groundwater deficit, how many would be needed? This is important since California is now in a drought.

P18-119

How large is the identified groundwater deficit? Has the deficit increased since 2004? If yes, by how much?

Did you make any attempt to collect any data to measure the impact of the groundwater deficit to other groundwater users in the basin? For example how many wells within one mile of the City of Plymouth's have had to be deepened or new wells drilled? It is essential to provide quantified and detailed information in the assessment of cumulative impacts across the impacted landscape. (See, *Ocean Advocates v. U.S. Army Corps of Engineers* (2005, 9th Cir.) 402 F.3d 846; *Lands Council v. Powell* (2004, 9th Cir) 395 F.3d 1019, 1035; *Habitat Education Center, Inc. v. Bosworth* (2005) 363 F.Supp.2d 1070, 1078.)

P18-120

Are the City's 175 gpm? and 250 gpm? wells located within Watershed 1 or Watershed 2?

Why are the City of Plymouth's wells located in Watershed 2 since anyone familiar with the terrain and watershed know they should be located in Watershed 1?

P18-121

Why is there nothing in this section relating to the number of wells within Watershed 1 within 2 miles of the proposed project?

How many wells are located within Watershed 1 within two miles of the project site?

According to Figure 3.3-4 nearly all of the residential development Burke Ranch is within two miles of the proposed project site. Why were the number of wells within Burke Ranch not included in the DEIS?

P18-122

You reference the 36 wells and well reports for Watershed 2. Please include these reports as an appendix.

P18-123

How long ago were the wells drilled? How are the wells used?

Is the data from the well reports current? Stale data cannot be used in an impact analysis to support an agency conclusion. (*Lands Council v. Powell* (2004, 9th Cir) 395 F.3d 1019, 1035.)

P18-123
cont.

Did you follow up with any of the 36 users to verify that the data from the well reports was still accurate?

Please provide the data to support that two domestic wells within the City of Plymouth produce more than 200 gpm.

P18-124

Project Site

Are the wells M1, M3, or H1 located in Watershed 1?

P18-125

At page 3.3-9 we read "Due to the unique geology of the project site and outlying areas, no single groundwater basin exists." Please explain or provide data to support this statement since at page 3.3-8 you included the following; "Together these four wells represent the majority of the water usage for the basin...." (Ketron, 2004) and "Increased pumping by the City has led to an overdraft of groundwater in the basin even in years of average rainfall." (Amador County, 2007)

P18-126

Does this mean that there may be multiple basins? If yes, how many basins have been identified?

Table 3.3-4 Long Term Well Yields indicates that the recommended total long term yields (gpm) for wells M1 (10 gpm), M3 (38 gpm), and H1 (35 gpm) is 83 gpm. At page 2-10 it is stated that the total sustained yield of these three wells is 119,520 gpd. and that the three wells will be pumped in rotation to allow for recharge between pumping periods, but no pumping schedule is provided. 83 gpm x 60 minutes gives a result 4,980 gph and 4,980 gph x 24 hours gives a result of 119,520 gpd. This above described scenario raises several questions.

Will all three wells be pumped at 83 gpm when they are being pumped in the pumping schedule?

At what rate will the wells be pumped?

Have any of the wells been pumped at or above 83 gpm during step drawdown, constant rate, or constant yield/drawdown testing or at any time?

If the wells are pumped in rotation at the long term yield rates of 10 gpm, 38 gpm, and 35 gpm it would appear that the maximum daily yield of the wells would be less than 38 x 60 x 24 or 54,720 gallons.

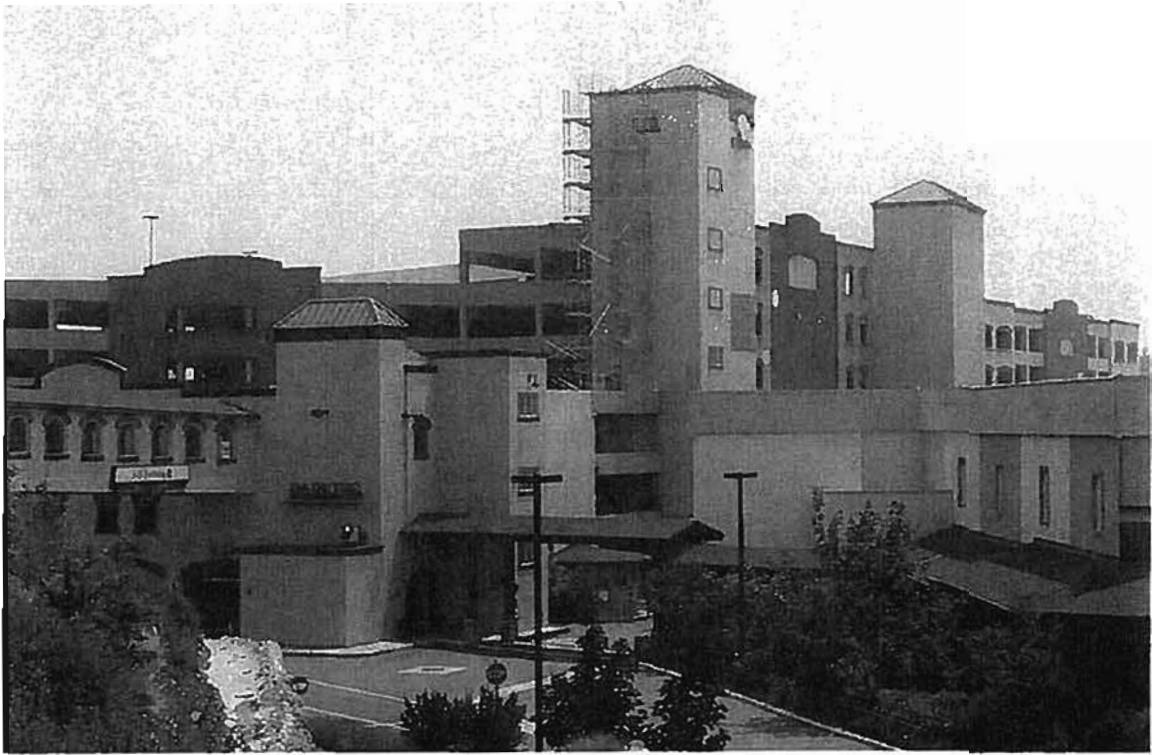
P18-127

If the wells were each pumped for 8 hours and rested 16 hours it would appear that the maximum daily yield would be 39,840 gpd.

There are many potential pumping schedules that will produce a different amount of gallons per day, so please provide the pumping schedule with pumping rates that verifies that the daily long term yield of three wells is 119,520 gpd.

P18-127
cont.

PARKING AT A CASINO



PARKING IN PLYMOUTH

SECTION 3.4 AIR QUALITY & GREENHOUSE GAS EMISSIONS

This Draft EIS is clearly an attempt to overwhelm the reader. Taking 4 years to develop this document using sub-contracting help for an unqualified applicant* is an extreme misuse of government funds and power. Further, providing so little time to review and comment on an over 2000-page document with several missing sections and supporting appendices is NOT JUST UNREASONABLE, BUT IMPOSSIBLE. This is particularly true when public notice states there are 75 days provided for review with the clock started upon filing a notice in the Federal Register (which contained blatant lies**) with distribution of the document made more than a month later.

P18-128

Because of the obvious lack of veracity demonstrated by the BIA in requesting constructive review and comment by the public, I elected to review a small portion of the Draft EIS trusting others would collectively cover the other areas to be addressed.

The BIA was told in the 2003 Scoping Session for the proposed Plymouth Casino that the projected traffic increase (using the SANDAG method) is expected to exceed 14,000 vehicle trips per day to the Amador County roadways when the casino project is implemented. This method and estimate was verified using traffic statistics resulting from the existing Jackson Rancheria Casino's impact to our county. This verification of the method and estimate showed an accuracy of 0.3%.

P18-129

As discussed in our review of the DEIS traffic analysis, the volume of traffic expected by development of the proposed Plymouth Casino is substantially underestimated in the DEIS. Hence, this analysis will be based on the 14,000 vehicle trips projected. ***

Using the Intergovernmental Panel On Climate Change (IPCC) guidelines for calculating emissions require that an oxidation factor be applied to the carbon content to account for a small portion of the fuel that is not oxidized into CO2. For all oil products, the oxidation factor used is 0.99 . To calculate the CO2 emissions from a gallon of fuel the carbon emissions are multiplied by the ratio of the molecular weight of CO2 (m.w.= 44) to the molecular weight of carbon (m.w.= 12), or 44/12. Therefore CO2 emissions from a gallon of gas = 2,421 grams x 0.99 x (44/12) = 8,788 grams/gallon = 8.8 kg/gallon.

The proposed Plymouth casino would be located more than 40 miles from major urban centers. Using an average of 5 gallons of fuel per vehicle trip, this would result in an increase of CO2 emissions caused by traffic to and from the proposed casino of 880,000 kg of CO2 added to our air quality every day.

P18-130

The analysis of global warming in the DEIS makes the ridiculous claim that this project's contribution is too small to matter as a percent of *global* emissions. In a state where the goal is to *reduce* emissions across the board by 30% by 2020 to avoid the devastating impacts of climate change, because our cumulative emissions already exceed significance thresholds, any *increase* in emissions is significant. In fact, the location of

the casino in a rural area is counter to the state's plan to reduce emissions by discouraging driving and concentrating development in urban areas near transit.

P18-130
cont.

Further, the DEIS concludes that the project will generate "minimal adverse effects" because it does not exceed a 100 tons per year threshold for ROG and NOx. (DEIS, p. 4.4-10.) This threshold is ridiculously high. In Amador County, the Air Pollution Control District sets the threshold for significance for ROG and NOx emissions at the same level as the San Joaquin Valley Air Quality Management District, 10 tons per year. (See Mokelumne Bluff Subdivision and Rezoning Project EIR, 2/15/08, pp. 6-9 & 6-10.) The project's emissions of ROG are more than 3 times that threshold, and the emissions of NOx are more than 9 times that threshold! Now that is significant, and the Final EIS should disclose this rather than sweeping the issue under the rug. In order to avoid underestimating impacts, an agency must evaluate impacts in terms of the established standards of the area. (See, *Northwest Indian Cemetery Protective Association v. Peterson* (1986) 795 F.2d 688, 696.)

P18-131

Similarly, traffic generated CO2 during the week of 111 tons/yr in 2008 will be more than double the Amador County Air Pollution Control District's threshold of significance of 50 tons/yr. On weekends, traffic generated CO2 of 167 tons/yr. in 2008 will be more than triple this same threshold. The DEIS does not account for this unacceptable expected increase in CO2 emissions in the Amador County air quality.

P18-132

Continued emissions of greenhouse gases into the atmosphere will almost certainly have a negative impact on existing water supplies, agriculture, wildlife habitat, our forests, public health, and the California economy. AB 32 acknowledges this in its initial findings and declarations. Global warming will have detrimental effects on many Amador County businesses including agriculture, wine, tourism, skiing, recreational and commercial fishing and forestry. It will also increase the strain on electricity supplies necessary to meet the demand for summer air conditioning in the hottest parts of the state.

P18-133

Because the American Lung Association (ALA) has graded over 700 counties on their air quality, and their results were verified by the EPA, it would seem highly relevant that Amador County has been rated as having poor air quality for the past three years. It was concluded in the May 9, '08 headline article in the Ledger Dispatch that we must reduce the vehicle traffic to our county in an attempt to correct this hazardous air quality condition. A 14,000 vehicle trip addition to our county roadways every day would most assuredly not help to improve this situation. Another article in the Sacramento Bee newspaper on 4 June '08 stated Amador County air quality is greatly negatively affected by emissions from Sacramento and Stockton to the extent that often, acceptable air quality is only achieved in the early morning hours of each day.

P18-134

In summary, the DEIS draws the wrong conclusion regarding the air quality resulting from the existence of a Plymouth Casino by:

- (1) using very old reference documents and studies,
- (2) underestimating the additional traffic caused by the proposed Plymouth Casino,
- (3) observing but then ignoring the already existing effects of neighboring county pollution to the air quality in Amador County,
- (4) not properly evaluating the substantial contribution of CO2 emissions caused by 14,000 vehicle trips per day to our county roadways due to the existence of the proposed Plymouth Casino.

P18-135

Clearly, the greenhouse effect and the carbon footprint of Amador County, along with its ozone and particulate problems, will be greatly affected by increased ROG, NOX, CO2 and PM10 caused by any more casinos in Plymouth or in the county.

P18-136

- * The application to place land in trust has never been filed in a completed form. The tribe's restored status has never been established and the tribe is not landless.
- ** The government (BIA) cannot verify that the tribe owned any of the proposed land as stated in the Federal Register.
- ***The DEIS projected less than 14,000 additional trips which was shown to be underestimated in another study submitted.

SECTION 3.6 CULTURAL RESOURCES

3.6.3 Regional Archaeology

While this section makes for interesting reading, is there any history of archaeological excavations in or near Plymouth that are related in any way to the Ione Band of Miwok? If yes, please at least include a statement in this section that such a relationship exists.

P18-137

3.6.4 Ethnography

Is there any physical evidence that the village of Yuleyumne was located where the City of Plymouth is located currently? Was Yuleyumne a permanent village? Was Yuleyumne actually located at the confluence of the Middle and South Fork of the Cosumnes River?

P18-138

Unlike other mining towns Plymouth is not situated on a river or creek. What was the source of water that supported a village? How far is it to the nearest source of water from Plymouth? How many other, if any, Miwok villages are located where there is no source of water in close proximity in all seasons of the year including summer?

P18-139

Please include the Levy information/document with the context of the comment in the Appendices. NEPA requires that when the EIS cites a document to support a factual statement, the underlying document must be accessible and available to the public. (*Save the Niobrara River Association v. Andrus* (1977) 483 F.Supp.844, 850-851.)

P18-140

Ione Band of Indians

Exactly what lands in Plymouth has the Ione Band continuously used and occupied?

P18-141

How long has the Ione Band been associated with, lived on, and occupied lands southeast of Ione?

When the United States attempted to buy land for the Ione Band early in the 20th century did they attempt to buy land in or near Plymouth or did they attempt to buy land southeast of and near Ione where the Ione Band lived?

P18-142

What lands have ancestors of the present day Ione Band occupied in Amador County since 1840? Please support this statement with documentation.

What is meant by around Amador County? Alpine, Calaveras, El Dorado, Sacramento and San Joaquin Counties are not Amador County and if the ancestors of the present day Ione Band are from those counties then they should site their casino in one of those counties.

P18-143

Is there a letter from Ada Deer clarifying that it was her intent to recognize the Indians on the land near Ione?

P18-144

Is there a letter from Ada Deer that verifies that the primary reason the Ione Band was reaffirmed was their ownership of the land near Ione?

Is the Federal Recognition of the Ione Band by Louis Bruce in 1972 based on the fact that the Ione Band had obtained title to the 40 acres near Ione?

Did Ada Deer ever restrict attendance at Ione Band tribal meetings or meetings organizing the tribe to those who lived on the 40 acres or in Amador County?

How many current members live in Amador County, not counting the members of the Historic Ione Band who live on the 40 acres near Ione?

P18-145

Has tribal chairman Matt Franklin ever lived in Amador County or on the 40 acres near Ione?

What is the problem with the title to property held by named individuals of the Historic Ione Band and other members of the Ione Band?

Was the Ione Band ever instructed by any agency of the United States as to what needed to be changed on the deed so the United States could accept the property in trust? If yes, why has this not happened?

3.6.5 Historical Context of the Project Area

Is there any reference to the Ione Band that could be included in this section? Please explain why nothing related to the Ione Band was included in the historical context of the project area.

P18-146

3.6.6 Cultural Resources

Did Windmiller and / or Osanna contact the present day Ione Band of Miwok as part of their study and 2001 Pioneer Mine Project Report?

If the present day Ione Band of Miwok was contacted by Windmiller / Osanna did they respond to the contact?

P18-147

If the present day Ione Band of Miwok did reply please include their reply and if they did not reply, please explain how a project in an area of such historical and cultural importance to the Ione Band did not warrant a reply in 2001, but is now so closely associated with and important to the Ione Band.

The records search also revealed the presence of cultural resources recorded in close proximity to the project area. Are these cultural resources related to the Ione Band?

P18-148

Does close proximity to the project area mean that the resources are not on the 228.04 acres?

P18-148
cont.

Approximately what distance is defined by close proximity?

Field Survey Methods and Results

Did ECORP find anything related to the Ione Band of Miwok Indians in their survey?

Based on the statement that "None of the isolates recorded within the project area display any exceptional qualities," and that Table 3.6-1 does not list a single cultural resource that appears to have any connection to the Ione Band, is it accurate to say that the project area contains nothing of cultural importance to the Ione Band beyond its value as a casino site? If no, please explain.

P18-149

Contemporary Resources

Were any of the contemporary resources related in any significant way or of any importance to the Ione Band prior to 2003? If yes, please explain the relationship and why it was significant?

P18-150

Native American Consultation Results

How many letters were sent and to what Native American Contacts?

How was the project described in the letters?

How many replies were received, and how many were no comment, and how many expressed no concern?

What reasons were given as to why there was no concern expressed concerning the project?

P18-151

**SECTION 3.7 SOCIOECONOMIC CONDITIONS/ENVIRONMENTAL JUSTICE
(PAGES 3.7-1 THROUGH 3.7-12)**

An EIS must be a document with scientific integrity. NEPA demands an unbiased evaluation of environmental effects. (*NRDC v. Callaway* (1975) 524 F.2d 79.) Sources of information must be footnoted. (40 CFR 1502.24.) Study methodologies and model limitations must be disclosed and explained. (*Lands Council v. Powell* (2004, 9th Cir.) 395 F.3d 1019, 1036-1037.) “A patently inaccurate factual contention can never support an agency’s determination that a project will have ‘no significant impact’ on the environment.” (*Ocean Advocates v. U.S. Army Corps of Engineers* (2005, 9th Cir.) 402 F.3d 846.)

P18-152

Nevertheless, in this section tables of data are incomplete and insufficiently analyzed and based on biased and unverifiable source material, there are numerous exaggerated statements made as if they are statements of fact with no available supporting documentation to reference, false statements are pervasive throughout the text, material has been plagiarized from other sources, critical studies and supporting references are missing altogether as are complete appendices. Furthermore, nowhere in this section is there a discussion of how the “proposed” project will affect and impact any of the considered topics.

**3.7.1 Socioeconomic Characteristics of the Ione Band of Miwok Indians
Population**

“The Ione Band of Miwok Indians has 652 members.”

Comment:

1. Explain the increase in membership from approximately 85 members to the current number.
2. Provide documentation to support that the over 550 individuals newly added to the tribe qualify as legitimate tribal members according to tribal charter and enrollment criterion.
3. Document the City or town of primary residence of the 652 tribal members.

P18-153

P18-154

P18-155

“Based on an economic survey distributed to members of the Tribe (32-percent of which responded...”

Comments:

1. What type of survey was conducted and was this survey of a standard recognized in the data collection industry as being accurate?
2. Who conducted this survey and was this institution a recognized entity with legitimate standing in the industry and no record of complaint against the business entity?
3. What measures were put in place to ensure accuracy of the data collected and to guard against individuals falsifying data in order to skew the results?

P18-156

P18-157

P18-158

"It has been estimated that about 81-percent of all members have incomes below the national median income level."

Comments:

- 1. Demonstrate the data that supports this estimate.
- 2. Who has made this estimate and is that entity a legitimate source for producing this data?

P18-159

Table 3.7-1 Socioeconomic Profile of the Ione Band of Miwok Indians

Comments:

- 1. *Employment and Income* is notated with a superscript B indicating the source as the GVA, 2004. Define this acronym and document this source. It is now 2008; produce more timely data to support these descriptions of *Employment and Income*. Stale data cannot be used in an impact analysis to support an agency conclusion. (Lands Council v. Powell (2004, 9th Cir) 395 F.3d 1019, 1035.)
- 2. Source "A-Ione Band of Miwok Indians, 2005" cannot be correlated to any statement in the text. Describe what information is being sourced to the tribe itself and provide independent and unbiased documentation to support the data received.
- 3. The report states that 32-percent of tribal members responded to an economic survey. Thirty-two percent of adult respondents would yield 85.12 persons of adult age providing employment information. Of that number, 47.66 persons are reported as employed. Of that, 38.60 persons receive incomes below the national median income. Of this number there is no identification of what percentage is of retirement age or disable and unable to work (AKA Not Available for Work). The table is therefore incomplete. It is possible that this 5% of the tribal enrollment falls into one of these categories thereby making the data provided artificially appear to support a large number of unemployed. Provide the data that fully describes tribal age, income, employment status, etc.
- 4. Explain the discrepancy between the data provided in the table that is based on tribal information, and the report of the 2003 American Indian Population and Labor Force Report put out by the U. S. Department of the Interior in 2003 (the year the casino project was made public) that indicates that of the 171 tribal members Available for Work, all 171 persons were employed. Also explain the apparent discrepancy between the Table data indicating that 81% of those employed are below the National Median Income an the 2003 DOI report indicating 27% below Poverty Guidelines.
- 5. Describe and explain all income received by tribal members via any and all social assistance programs as well as other funding sources e.g. special distribution funds, etc.

P18-160

P18-161

P18-162

P18-163

P18-164

Tribal Government

Comment:

- 1. Are there any challenges to tribal membership and formation of a tribal council with the current members?
- 2. Document and verify tribal membership.
- 3. Explain and verify the statement, "...however no land is currently held in trust by the BIA." since the BIA is not authorized to hold land in trust.

P18-165

P18-166

Tribal Attitudes, Expectations, Lifestyle and Culture

“Both the Tribal government and individual Tribal members participate in area political and social activities.”

Comments:

- 1. Document and provide proof to support this statement.
- 2. Document primary residence addresses for all tribal members and notating those new to the tribe since 2003.

P18-167

“Tribal Children attend school located primarily in Amador and Sacramento Counties...”

Comments:

- 1. Document and demonstrate the number of tribal children attending school in Amador vs. Sacramento County. Document child enrollment in Amador County schools.
- 2. Document child enrollment in Amador County schools for new tribal members (since 2003).
- 3. What is the significance of children attending schools in Sacramento County?

P18-168

“...and various Tribal members of age are employed by local businesses.”

Comments:

- 1. Documents by some verifiable method, i.e. tax records or other, the exact number of Tribal members employed by local business and if these Tribal members are new to the Tribe since 2003.

P18-169

3.7.2 Socioeconomic Characteristics of the Amador County Region

General Comment on Section:

- 1. The majority of estimates are based on numbers obtained from the California Department of Finance. Are there better and more accurate sources, perhaps in-County, from which to gather numerical data on which to base estimates?
- 2. For the City Plymouth in particular, are analysis models affected by or fail by virtue of small population size?

P18-170

P18-171

Population

“According to the City of Plymouth General Plan (amended 2001), the population is anticipated to grow to 1,880 persons in 2020, an increase of 80-percent compared to existing condition, (City of Plymouth, 2001).”

Comment:

- 1. Document that portion of the City of Plymouth General Plan that was amended in 2001.

P18-172

Housing

“...it is estimated that approximately 689 units² are vacant in Amador County.”

(Footnote indicates that this figure does not include seasonal, recreation, or occasional use residences.)

Comment:

1. Provide data corrected to show the number of residences that are seasonal, recreation, or occasional use residences.

P18-173

“In 2000, the median value of owner-occupied housing units in the county was \$153,700 and the median contract rent was \$568 per month.”

Comments:

1. Provide sources for this data.

2. This data is over 8 years old. Provide the most recent data possible. Stale data cannot be used in an impact analysis to support an agency conclusion. (Lands Council v. Powell (2004, 9th Cir) 395 F.3d 1019, 1035.)

P18-174

“The General Plan’s Housing Element estimates that nearly 20 percent of homeowners were overpaying for housing (paying more than 30-percent of gross income for rent or mortgage) and that nearly 40-percent of renters were overpaying for housing (Amador County, 2005).

Comment:

1. Explain the significance of this statement relative to the DEIS.

P18-175

The number of housing units in Plymouth grew by 27.3-percent from 1990 to 2000 (US Census 1990 and 2000). In 2000, the vacancy rate was 14.2-percent, with approximately half of the vacant units (7.4-percent of total units) being identified as seasonal, recreational, or occasional use residences (Table 3.7-3).”

Comments:

1. Provide current data. Stale data cannot be used in an impact analysis to support an agency conclusion. (Lands Council v. Powell (2004, 9th Cir) 395 F.3d 1019, 1035.)

2. Has this accuracy of this data been verified with City or County sources?

P18-176

“Based on the ratio of seasonal, recreation, and occasional use vacant units to total units shown in the 2000 Census and recent total vacancy rates, it is estimated that approximately 35 units³ are vacant in Plymouth (US Census 2000; CDOF, 2004c). (Footnote indicates that the figure does not include seasonal, recreation, or occasional use residences.)

Comments:

1. The figure of 35 vacant units in Plymouth appears to be seriously flawed based on real time personal experience of looking for a rental and then later owning a rental unit during this 2000 - 2004 period. Provide a detailed description of this analysis and estimation and recalculate the data using data from consistent years.

2. Provide data reflecting the current situation in Plymouth.

P18-177

“The General Plan’s Housing Element identifies that approximately 139 rental units existed in the City of Plymouth in 2000 (Amador County, 2005). “

Comments:

- 1. How many rental units were reported to exist in the City of Plymouth by the City of Plymouth?
- 2. How many rental units are reported to exist in the City of Plymouth, by the City of Plymouth, today?

P18-178

“Based on this ratio, and the total number of housing units presented in Table 3.7-3, it is estimated that by 2004 there were approximately 175 rental units in the City of Plymouth.”

Comments:

- 1. This data again appears to be seriously overestimated. Provide a detailed description of the methodology used to calculate the 175, 2004-rental unit number.
- 2. Provide accurate data reflecting the number of rental units in the City of Plymouth today.
- 3. What is the significance of repeated calculation of inaccurate rental units numbers for random past years?

P18-179

Employment

General Comments:

- 1. Who and what method is used to arrive at estimates in this section? Provide detailed description of method of calculation.
- 2. Do numbers of those employed include self-employed e.g. farm and agriculture?
- 3. Data listed on Table 3.7-4 for the Unincorporated County shows “figures estimated from City and County figures”. Demonstrate method of calculation and where the City and County figures come from.

P18-180

P18-181

P18-182

Property Taxes

Comments:

- 1. Table 3.7-5 Major Employers and Manufacturers in Amador County does not reflect or report employment in the Agricultural industry.
- 2. Jackson Rancheria Casino Hotel is erroneously listed as “misc. amusement”. Correction should be made to identify this source as “Casino Gambling”.
- 3. Likewise, Jackson Rancheria Casino Hotel listed under property taxes section is misleading in that this “major employer” does not contribute to the County property tax base.
- 4. The Ione Band of Miwok has title to lands contiguous to the proposed fee-to-trust parcels. It is fully expected that these parcels will be added to the application for a combined trust acquisition. There has been no denial of this plan by the Tribe and indeed is a tactic ascribed to by many tribes that have sought land in trust. There are no figures reflecting property taxes collected by Amador County for these additional parcels.

P18-183

P18-184

P18-185

Community Infrastructure

Schools

Comments:

- 1. List of schools close to the proposed casino site did not include the Amador County Court School – list needs to include this school and proximity to site.
- 2. Table 3.7-6 a projected excess of classrooms for Plymouth elementary of 2. Provide a detailed description of analysis in light of the fact that Plymouth elementary is currently at maximum capacity and there are over 1200 new residential units planned for the City of Plymouth.

P18-186

P18-187

“Future plans may also include a new elementary school in the Sutter Creek area and a new high school that would serve all county students in grades 9-12 (Carey, 2004).

Comments:

- 1. With burgeoning development in Amador County, data from 2004 is obsolete. Likewise, statements of what “may” be included in plans from 2004 do not constitute data of sufficient substance to have meaning. Provide current data reflecting the impact of today’s development plans for the County.
- 2. Is the ACUS’s updated facilities master plan completed and available to include in this DEIS?

P18-188

P18-189

“The main source of funding for K-12 schools comes from the state and derives from local property tax, business, corporate, and personal income taxes, and some special taxes.”

Comments:

- 1. How has the Governor’s recent budget and massive slashes in California’s school budget impacted Amador County and funds available for school facilities?
- 2. How will this project contribute to local property tax, business, corporate, and personal income taxes?
- 3. What is the impact to Amador County and Plymouth resulting from the loss of these funding sources from the project in question?

P18-190

P18-191

“Based on these percentages and the current property tax rate of \$35,820 for the proposed project area, approximately \$13,400 would be distributed to the school district, \$4,755 would be distributed to ERAF, and \$643 would be distributed to the County Office of Education.”

Comments:

- 1. On what basis does the DEIS claim that these tax revenues would be distributed to the school district?

P18-192

Libraries:

Comment:

- 1. The Plymouth Branch of the Amador County Public Library is located on Main Street, on of the main thoroughfares to the project site. How will this project affect access and safety in accessing the Plymouth Branch Library?

P18-193

Parks and Recreation:

Comments:

1. Colburn Ball Field, located at the edge of the Amador County Fairgrounds, is less than one-half mile from the proposed project site. How will this project affect access and safety in accessing the Ball Field?



P18-194

3.7.3 Environmental Justice

Ethnic Composition

“The largest minority in this census tract are Hispanic or Latinos and Blacks which each represent approximately 22 percent of the population.”

Comment:

- 1. Since there is only 1 known family of African American heritage living in the City of Plymouth, provide documentation and detailed review of analysis demonstrating that Blacks constitute 22 percent of the population.*
- 2. Report current population figures for the City of Plymouth.*
- 3. Report population figures for the City of Plymouth in 2003.*
- 4. Report Native American population figures for the City of Plymouth in 2003 and 2008.*



P18-195



P18-196

SECTION 3.9 PUBLIC SERVICES

3.9.1 Municipal Water Supply

In Section 3.3 it is indicated that the City's has access to two wells that produce 175 gpm and a well that produces over 250 gpm. Are 175 gpm and 250 gpm the long term yields for these wells? If known what are the long term yields for these wells Simple addition would indicate that the City has access to over 550 gpm and one well producing 175 gpm would produce over 250,000 gpd so please explain your statement that "This water supply nearly meets existing average day demands of 205gpm but does not meet existing summer or maximum day demands of over 450gpm."

P18-197

Since NEPA requires that an EIS describe the environment in the project area (40 CFR 1502.15), please note in the Final EIS the answers to the questions below.

P18-198

Is the City of Plymouth currently under a State Board of Health building moratorium for lack of a reliable supply of water?

P18-199

If yes, how long has the City of Plymouth been under the building moratorium?

The City has no available building permits, and information indicating otherwise is outdated.

P18-200

According to the General Plan in place in 2004 was the Arroyo Ditch determined to be the City of Plymouth's primary source of water?

P18-201

Was the Arroyo Ditch purchased by the City from the County in 1987 or did the City only purchase the right to maintain and operate the Ditch? Please include the purchase agreement that supports this statement.

"The City has a five hundred thousand gallon storage tank to meet existing requirements for the City, but does not provide sufficient capacity for future City growth." Please provide the data on which this statement based?

Is the City's growth limited because of a too small storage tank or an unreliable water supply?

P18-202

There is no storage tank in the proposed AWA pipeline, and information indicating otherwise is outdated.

If the City had a larger storage tank would the building moratorium be lifted so the City could accommodate future growth?

"This water supply nearly meets existing average day demands of 205 gallons per minute (gpm), but does not meet existing summer or maximum day demands of over 450gpm." 205 gpm x 60 mins x 24hr gives a result of 295,200 gpd or 107.4 million

P18-203

gallons annually.

If water supply does not meet the existing summer maximum day demands, does the City run out of water in the summer? If yes please provide dates and durations of insufficient water for the City of Plymouth. If no, please explain this statement.

P18-203
cont.

You state that annual water sales peaked at 72.4 million gallons in 2004 (198,000 gpd). How are water sales relevant to water supply when you have already provided data the water supply nearly meets the water demand of 205 gpm or 107.4 million gallons annually?

P18-204

Is 459 commercial and residential customers the number of customers served water by the City of Plymouth in 2008?

P18-205

What is the current number of building permits available in the City of Plymouth?

P18-206

It appears that data from this section is from 2004 and years prior and therefore its accuracy as to current conditions must be questioned as to the amount of groundwater the City removes from the basin. Please provide updated water data from 2007?

P18-207

Groundwater

Please provide data to support the statement that approximately 50% of the 87 wells south of the City of Plymouth produce greater than 50 gpm. Where are these wells located? What is the long term yield of these wells?

P18-208

Section 3.9.2 Wastewater Service

The use of 346 residential connections is outdated. Update to accurately inform the public as to the current number of residential connections as well as the total number of EDU's (Equivalent Daily Units). Stale data cannot be used in an impact analysis to support an agency conclusion. (*Lands Council v. Powell* (2004, 9th Cir) 395 F.3d 1019, 1035.)

P18-209

Section 3.9.5 Public Health & Safety

Law Enforcement

The ASCO does not provide 1.5 full time sheriff's equivalent to the City of Plymouth and the statement to this effect is based on outdated case load information for the Sheriff and District Attorney Offices. Update this section in the Final EIS to reflect conditions as they currently exist and indicate accurately the increased impact which this casino project will cause.

P18-210

Fire Protection

The material from 2003 is outdated and not reflective of current conditions. The reference to a Municipal Services Agreement with the City of Plymouth no longer exists as a valid agreement.



P18-211

CASINO-STYLE RECREATIONAL FACILITY



PLYMOUTH-STYLE RECREATIONAL FACILITY

SECTION 4.3 WATER RESOURCES

Groundwater

Please explain how the addition of a 250 room hotel in Phase II would not increase groundwater extraction. This statement is ludicrous on its face.

P18-212

There appears to be a typo of 81gpm when it should be 83 gpm. 81 gpm delivers 116,640 gpd not 119,520 gpd.

P18-213

Please explain how the three wells will deliver 119,520 gpd if they are pumped in rotation.

P18-214

If necessary pumping by the City of Plymouth has led to an overdraft of groundwater in the local basin, please explain how an increase of more than 40% (295,000 gpd City of Plymouth / 119,520 Tribe 40.48%) would contribute to the existing overdraft of groundwater in the local basin, and yet result in a less than significant effect?

P18-215

SECTION 4.7 SOCIOECONOMIC CONDITIONS AND ENVIRONMENTAL JUSTICE (PAGES 4.7-1 THROUGH 4.7- 11/24)

An EIS must be a document with scientific integrity. NEPA demands an unbiased evaluation of environmental effects. (*NRDC v. Callaway* (1975) 524 F.2d 79.) Sources of information must be footnoted. (40 CFR 1502.24.) Study methodologies and model limitations must be disclosed and explained. (*Lands Council v. Powell* (2004, 9th Cir.) 395 F.3d 1019, 1036-1037.) Stale data cannot be used in an impact analysis to support an agency conclusion. (*Lands Council v. Powell* (2004, 9th Cir.) 395 F.3d 1019, 1035.)

P18-216

“A patently inaccurate factual contention can never support an agency’s determination that a project will have ‘no significant impact’ on the environment.” (*Ocean Advocates v. U.S. Army Corps of Engineers* (2005, 9th Cir.) 402 F.3d 846.) In the Final EIS, correct the errors in methodology noted below.

4.7.1 Methodology

“...this analysis is based in part on an Economic Impact Analysis prepared by GVA Marquette Advisors(Appendix R9).”

Comments:

1.Appendix R, letter from GVA Marquette Advisors to Mr. Mark Williams of Ikon Group, LLC, dated August 18, 2004 Re: Ione Band of Miwok Indians Economic Impact of a Proposed Casino.

a) *This letter states “the revisions consist of an inclusion of the impact expected to result from the Municipal Services Agreement...”*

Comments:

1.The Municipal Services Agreement was vacated by the California Third District Court of Appeal on April 17, 2007 and no longer exists. Any data based on this agreement or developed to include the effects of this agreement are inaccurate, misrepresentative, and obsolete.

P18-217

b) *“Our analysis of the direct impact was based upon information obtained from direct interviews with representatives of the Ione Band of Miwok Indians and Ikon Group, LLC...”*

“No effort has been made to obtain independent verification of the source data, which has been assumed to be accurate.”

P18-218

Comment:

1.This is clearly a case of the wolf watching the proverbial hen house. With “no effort be[ing] made to obtain independent verification of the source data, and the project is being proposed over the strenuous objections of the majority of citizens of Amador County and the City of Plymouth as well as a multitude of local and state agencies including the County of Amador and State of California. What assurances are available to the public that the source data is in fact accurate and truthful?

P18-219

2. Why was no independent verification of the source data sought?

**4.7.2 Alternative A – Preferred Casino and Hotel
Economic Impact
Phase I
Operation
Employment**

“The proposed casino would also provide benefits for workers, including health insurance, workers compensation and other benefits.”

Comments:

1. Tribal governments are not required to adhere to State and Federal worker protection requirements. How will the provisions in the above statement be legally enforceable?

P18-220

“...it is estimated the 60-percent or 763 of those employed would be residents of Amador County.”

Comments:

1. The existing Jackson Rancheria derives most of its labor pool from outside of Amador County. Likewise, there are a number of new developments including regional shopping centers and conference centers that will and are opening new employment opportunities in Amador County. Where is the data on which the 60-percent number is based? How is this estimate derived?

P18-221

Expenditures on Goods and Services

“It is expected that these purchases would be made primarily from existing vendors located in Amador County and surrounding counties...” “This is considered a beneficial impact.”

Comments:

1. “Expected” indicates a level of uncertainty. If these purchases are not made from local vendors then would that represent another negative impact on the City and County?

P18-222

2. What is the potential magnitude of that negative impact? The risk of uncertainty must be disclosed. (Northwest Indian Cemetery Protective Association v. Peterson (1985, 9th Cir.) 764 F.2d 581.)

P18-223

**Phase II
Operation
Employment**

“...it is estimated that only five-percent or 68 of those employed would be residents of Plymouth.”

Comments:

1. Table 3.7-4, Regional Labor Force Estimates, indicates that there is a 0% unemployment rate in the City of Plymouth. Clarify the inconsistency between these two statements.

P18-224

Community Infrastructure

Phase I

Schools

“Payment of school impact fees to the District totally \$107,610, as indicated in Section 5.2.7, would provide Amador County Public Schools with the resources to mitigate effects that may occur as a result of Alternative A. This would reduce impacts to a less-than-significant level.”

Comment:

1. Provide data demonstrating what this payment will provide for the children in the ACUSC in terms of number of classroom, number of teachers salaries paid, or other essential services.
2. Explain in detail the assertion that impacts to the school system will be reduced to a less than significant level and demonstrate what the impact will be at this less than significant level.
3. Who determines what a less than significant level is?
4. On what basis is this one time payment of \$107,610 considered sufficient to reduce impacts on the schools to a less than significant level. An agency must have analytical data to support a conclusion that an impact is insignificant. (Oregon Natural Desert Association v. Singleton (1998) 47 F.Supp.2d 1182, 1193-1194; Idaho Sporting Congress v. Thomas (1998, 9th Cir.) 137 F.3d 1146, 1151; Blue Mountain Biodiversity Project v. Blackwood (1998, 9th Cir.) 161 F.3d 1208, 1214; South Utah Wilderness Alliance v. Norton (2003) 277 F.Supp.2d 1169.)

P18-225

P18-226

P18-227

Phase II

Schools

“Based on the development of a 166,500 square foot hotel and 30,000 square foot event and convention center in Phase II of Alternative A, the calculated school impact fees from this development would be \$66,810. Similar to Phase I, payment of school impact fees to the District would reduce impacts to a less than significant level.”

Comments:

1. Similar to Phase I, explain in detail the assertion that impacts to the school system will be reduced to a less than significant level and demonstrate what the impact will be at this less than significant level.
2. Who determines what a less than significant level is?
3. On what basis is this one time payment of \$107,610 considered sufficient to reduce impacts on the schools to a less than significant level.

P18-228

P18-229

**Fiscal Effects
Phases I & II**

“Potential adverse fiscal effects would result from an increased demand for public services and loss of property taxes.” “Public services that could be affected include law enforcement and fire protection and emergency medical services.”

Comments:

1. Are these the only public services that could be affected? What other public services could be affected?

P18-230

2. What is the estimated magnitude of the potential adverse fiscal effects? What effects have befallen other communities that have been impacted by this type of development? NEPA requires that an agency disclose the history of success and failure of similar projects. (*NRDC v. Grant* (1973) 355 F.Supp.280; *Sierra club v. Morton* (1975) 510 F.2d 813.) Specifically with regard to the mitigation component of a project, NEPA requires that the agency discuss the expected efficacy of the mitigation, and provide factual support for this effectiveness. (*South Utah Wilderness Alliance v. Norton* (2003) 277 F.Supp2d 1169.)

P18-231

3. There are no numbers provided in either of the references sections (4.9 or 5.2.9) to examine mitigation to be provided for these public services. Section 5.2.9 states in paragraphs K and L that it shall “negotiate the exact amount of compensation” for these services and in paragraph N that it shall “negotiate in good faith”. Provide data that will be used to conduct the negotiations for these services. “ ‘Mitigation must be discussed in sufficient detail to ensure that the environmental consequences have been fairly evaluated.’ ” (*Carmel-By-The-Sea v. U.S. Department of Transportation* (1997, 9th Cir.) 123 F.3d 1142, 1154.) “ ‘A mere listing of mitigation measures is insufficient to qualify as the reasoned discussion required by NEPA.’ ” (*Neighbors of Cuddy Mountain v. U.S. Forest Service* (1998, 9th Cir.) 137 F.3d 1372, 1380.)

P18-232

“Potential fiscal benefit would result from increased revenues generated from sales taxes.”

Comments:

1. Since Tribal governments are exempt from collecting sales taxes and likewise from distributing any money’s collected as “taxes” to the County and City governments, how is the above potential benefit to be realized and enforced?

P18-233

“The fee-to-trust transfer of the 12 project parcels would remove them from the County’s assessed property rolls.”

Comments”

1. As recorded in the Amador County Assessors office, the Tribe owns 5 parcels of land contiguous to the project parcels. It is fully expected and reasonable to expect that, like other tribes have done, the Tribe will exercise the ability to have these parcels taken into trust as well. Why are these parcels omitted from this DEIS analysis?

P18-234

2. Not all parcels are located in the County of Amador; some are located in the City of Plymouth. Please make the necessary corrections that reflect the correct location of the parcels.

P18-235

“The Tribe would provide compensation to Amador County to mitigate impacts of the lost tax revenues, as discusses in Section 5.2.7”

Comments:

Section 5.2.7 only makes a vague reference to this aspect of mitigation in the following paragraph B, “ The Tribe shall negotiate in good faith with the City of Plymouth and Amador County regarding monetary compensation of the impact of the Tribe’s intended use of its trust lands. Monetary compensation shall be in the form of either a one-time payment or annual payments, as determined appropriate during good faith negotiations. The exact amount of compensation shall be negotiated. The amount of payment shall be subject to annual review”

1. *Correcting the above statement to include the parcels that are within the boundaries of the City of Plymouth, what compensation will be provided to the City of Plymouth to mitigate impacts of lost tax revenues?*
2. *What measures will be in place to enforce the payment of that compensation?*
3. *Does this statement refer to mitigation of impacts of lost tax revenue?*
4. *Who will conduct the annual review?*

P18-236

P18-237

“The net effect of fiscal impacts is considered less than significant”.”

Comments:

1. *Clarify if it is the net effect of the negative fiscal impacts or the positive fiscal impacts that are considered less than significant.*

P18-238

Social Impacts

Phases I & II

Pathological and Problem Gambling

“The APA has established ten criteria for diagnosis of a pathological and problem gambler, which include....illegal acts...”

Comments:

1. *What types of illegal acts are documented as being committed by casino patrons, both pathological and recreational gamblers?*
2. *What are the social and fiscal impacts to local jurisdictions that are forced to host these casino venues?*

P18-239

P18-240

“An additional casino in Amador County under Alternative A is not expected to substantially increase the prevalence of problem gamblers.”

Comments:

1. *While it may be true that another casino may not increase the prevalence of problem gamblers, demonstrate what the effect of two new or more new casinos may do. In the case of Amador County, it is a real possibility that the Buena Vista Casino may be approved and constructed as well thereby creating two new venues for gambling.*
2. *While it may be true that another casino may not increase the prevalence of problem gamblers, demonstrate that another venue will not exacerbate the severity of the problem gambler issue that already exists in Amador County due to the existing Jackson Rancheria casino. This cumulative effect must be analyzed and evaluated. (Carmel-By-The-Sea v. U.S. Department of Transportation (1997, 9th Cir.) 123 F.3d 1142, 1160;*

P18-241

P18-242

Neighbors of Cuddy Mountain v. U.S. Forest Service (1998, 9th Cir.) 137 F.3d 1372, 1378- 1380; Blue Mountain Biodiversity Project v. Blackwood (1998, 9th Cir.) 161F.3d 1208, 1214-1215; , Ocean Advocates v. U.S. Army Corps of Engineers (2005, 9th Cir.) 402 F.3d 846; Lands Council v. Powell (2004, 9th Cir) 395 F.3d 1019, 1035; Habitat Education Center, Inc. v. Bosworth (2005) 363 F.Supp.2d 1070, 1078.)

P18-242
cont.

“Nonetheless, the Tribe has agreed to make an annual contribution of \$10,000 to an organization or organization to address problem gambling issues, as address in Section 5.2.7”

Comments:

1. Section 5.2.7 states the following in paragraph A, “The Tribe shall pay an annual contribution of \$10,000 to an organization or organizations mutually agreed upon by the Tribe and the BIA to address problem gambling issues.”

- a. How is the \$10,000 figure derived and what substantiates that it will provide sufficient mitigation to Amador County to address the issue of problem gamblers?
- b. Why are the organization(s) to be benefited by the Tribes contribution selected by the BIA to the apparent exclusion of Amador County?
- c. Are these organizations(s) specific to Amador County as the impacted County and if not why not.

P18-243

“This is considered a less than significant impact.”

Comments:

1. In order to determine if the effect of the casino will constitute a less than significant impact relative to problem gamblers we need to understand what the impact of the current casino is on Amador County. What is the current status of the problem gambler issue in Amador County, how are these numbers derived and what is the source of the data?

P18-244

2. What is the expected impact of the new casino on the current status of the problem gambler situation in Amador County and how are these numbers derived?

P18-245

3. How exactly will the Tribal contribution to some as of yet undefined and unnamed organization(s) alleviate the problem gambling issue to a less than significant level?

P18-246

Crime

“Both of these arguments are based more on anecdotal evidence than empirical evidence”

Comments:

1. Since the introduction of Tribal Class III casino gambling in California, there has been ample data, not just anecdotal evidence, to support the contention that crime does indeed increase in communities that host Tribal gambling halls. In Amador County alone, 27 percent of the cases handled by the District Attorney’s office are attributed to the Jackson Rancheria Hotel and Casino.

P18-247

Provide evidence supporting the above statement that there is nothing more than anecdotal evidence on which to base arguments for decreased or increases in crime due to casinos. Collect the relevant law enforcement data from jurisdictions with existing Indian casinos.

“Whenever large volumes of people are introduced into a community, the volume of crime is also expected to increase. This holds true for the introduction of any large-scale-development.”

Comments:

1. Provide documentation that reflects similar effects on local communities from the introduction of Class III gambling establishments compared to the introduction of residential development.

P18-248

“Taken as a whole, the literature on the relationship between casino gambling and crime suggests that communities with casinos are as safe as communities without casinos.”

Comments:

1. Considering that Amador County has itself experienced a significant increase in crime in the area of the casino, provide specific case studies demonstrating the contention that non-casino communities are as safe as casino communities. An agency must have analytical data to support a conclusion that an impact is insignificant. (Oregon Natural Desert Association v. Singleton (1998) 47 F.Supp.2d 1182, 1193-1194; Idaho Sporting Congress v. Thomas (1998, 9th Cir.) 137 F.3d 1146, 1151; Blue Mountain Biodiversity Project v. Blackwood (1998, 9th Cir.) 161 F.3d 1208, 1214; South Utah Wilderness Alliance v. Norton (2003) 277 F.Supp.2d 1169.)

P18-249

“Increased tax revenues resulting from Alternative A would fund expansion of law enforcement services required to accommodate planned growth.”

Comments:

1. Since Tribal entities are exempt from participating in the federal and state taxation system, explain how tax revenues resulting from Alternative A would fund expansion of law enforcement serviced.

P18-250

2. Since Tribal entities are exempt from County and City general plan policies and implementation procedures as well as zoning regulations and other development regulations, they fall completely outside of the parameters of planned growth. Explain the above statement in this context and how Counties and City's are expected to accommodate, in terms of law enforcement services, growth on Tribal land that is completely unplanned and uncontrolled.

P18-251

**Effects On The Ione Band Of Miwok Indians
Phases I & II**

“Second, Tribal members will have access to new jobs created by the casino and hotel.”

Comment:

1. Since Tribal members will receive casino money whether they work or not, does access to new jobs mean that tribal members will actually seek employment?

2. If Tribal members do not fill casino jobs, how is this benefit achieved?

P18-252

“Employment generated by the project would reduce government assistance payments to tribal members.”

Comments:

1. Document data that demonstrate reduction in government assistance payments to tribal members from casino operating tribes.

P18-253

2. Document that Ione Band of Miwok members will no longer seek government assistance payments of any kind once they commence operation of a tribal casino.

P18-254

Tribal Attitudes, Expectation, Lifestyle and Culture

“Alternative A would also fulfill stated Tribal goals for economic development and self-sufficiency.”

Comments:

1. Since economic development of the Tribe has to date included a project that will profoundly and most likely negatively affect the local community, and since the Tribe has purchased other lands in the immediate vicinity of the proposed project lands that are not discussed in the DEIS, what are the Tribal goals for economic development that could potentially further affect the local jurisdiction in any way?

P18-255

Environmental Justice

Phases I & II

“One minority community was identified in census tract 3.01.”

Comment:

1. Section 3.7-8 discusses Census tract 3.01 as having 22 percent Black minority population. This is not an accurate reflection of the population of the City of Plymouth. Provide data demonstrating the minority make up of the City of Plymouth.

P18-256

“Census tract 3.01 is located west of the project site and the City of Plymouth and is characterized by open spaces with scattered residential and commercial developments.”

Comment:

1. Provide easily identifiable landmarks such as parcel numbers or other labels in standard use to delineate this census tract.

P18-257

2. Why are locations outside of the City of Plymouth being used to calculate minority parentages?

P18-258

“Regional impacts, such as air quality impacts, would be distributed throughout the region.”

Comments:

1. What would the local impact to air quality be?

P18-259

“Alternative A would benefit all communities within proximity of the project site by creating employment opportunities that would be primarily filled by the local labor market.”

Comments:

1. Table 3.7-4 provides data indicating that Plymouth has 0 percent unemployment. How does this affect the statement that employment opportunities will primarily be filled by the local labor market?

P18-260

2. Section 4.7.2, page 4, paragraph three; states that an estimated 60 percent of those employed by the proposed project will be residents of Amador County. Provide data and methodology to support that estimate.

P18-261

3. What percentage of the Jackson Rancheria employees are residents of Amador County?

P18-262

“These communities would not be disproportionately adversely impacted. A less than significant effect would result.”

Comment:

1. Provide data and/or examples to support this statement.

P18-263

2. How is a less than significant effect determined and what exactly does this statement mean?

Section 3.7, the section on Socioeconomic Conditions and Environmental Justice, states the following, “*Altogether, tribal attitudes and expectations promote increasing participation in and benefit from the regional economy, with continuation of the long tradition of comfortable coexistence and cooperation with their non-Indian neighbors.*” It is fully understood that this Franklin-led Ione band expects to benefit from the regional economy. However, the neo-Ione band members that number over 500 since the début of the planned casino are complete strangers to Amador County and the Plymouth area, making the implications of the word “tradition” an utter sham and, in the face of 85% of Amador County and 73% of the City of Plymouth that have said “no more casinos”, and especially not in Plymouth, there is a clear disconnect on what cooperation with the non-tribal community means.

P18-264

SECTION 4.9 PUBLIC SERVICES

Municipal Water Service

Alternative A accounts for 17% of the city's water supply. What is the current number of water hookups available in the City of Plymouth? Even with the proposed AWA pipeline, the City currently has applications that exceed the capacity of the pipeline. The statement that Phase I would have less than significant impact is false.

P18-265

Wastewater Treatment

What soil data and analysis indicate that spray fields will be effective? The State of California will not allow discharge to surface waters. With regard to the mitigation component of a project, NEPA requires that the agency discuss the expected efficacy of the mitigation, and provide factual support for this effectiveness. (*South Utah Wilderness Alliance v. Norton* (2003) 277 F.Supp2d 1169.)

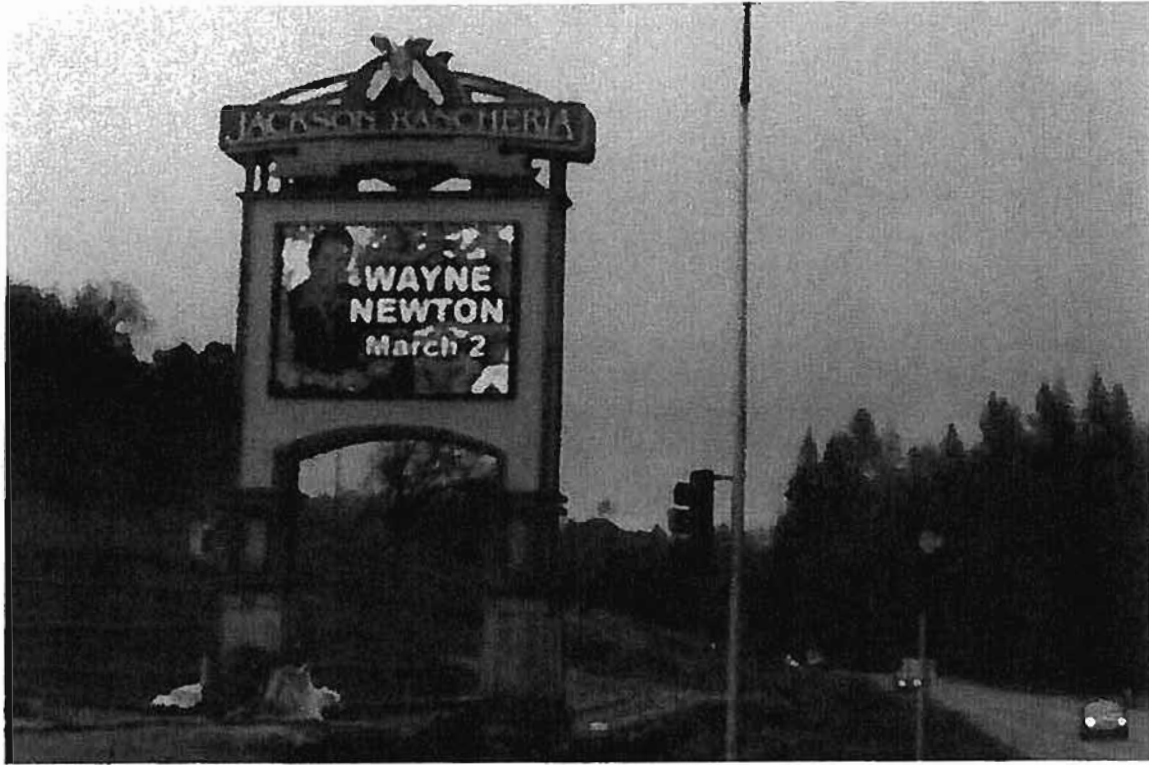
P18-266

Fire Protection

Please provide data that indicates that manpower for the proposed on-site fire department will meet the 7x24 demands of the proposed 2000 slot machine casino. The estimated manpower required for this 2000 machine casino is less than what was developed for a proposed 960 machine casino in Buena Vista and is not commensurate with the existing fire department in place at the 1650 machine Jackson Rancheria. Where is the analysis of the impact that the additional traffic and people will have in initiating fires, accidents, etc. miles from the casino site as they travel to and from Amador County?

P18-267

CASINO-SCALE ROADWAY SIGN



PLYMOUTH-SCALE ROADWAY SIGN

SECTION 4.10 OTHER VALUES

Section 4.10, Other Values, is both inadequate and incomplete. The data presented is old and out of date. The absence of complete project design information as well as current noise studies renders impossible any analysis of significance.

P18-268

Noise

The noise measurements presented were made in early 2004. Why have current measurements not been made? Current traffic studies made by Cal Trans and the City of Plymouth have not been utilized? Why? Stale data cannot be used in an impact analysis to support an agency conclusion. (*Lands Council v. Powell* (2004, 9th Cir) 395 F.3d 1019, 1035.)

P18-269

Noise measurements were made in January and at low traffic periods. Why? The results in no way represent current conditions in and around Plymouth.

P18-270

When will studies and noise measurements be made which reflect current conditions?

Noise abatement walls and berms are mentioned in section 4.10. What will be the height and construction of these sound attenuation devices? What is the projected result? With regard to the mitigation component of a project, NEPA requires that the agency discuss the expected efficacy of the mitigation, and provide factual support for this effectiveness. (*South Utah Wilderness Alliance v. Norton* (2003) 277 F.Supp2d 1169.)

P18-271

Sound will escape in all directions from the proposed site but no attenuation was presented for the east side of the project site. Why? In the rural atmosphere of the proposed site noise is transmitted over much longer distances than in an urban environment. Traffic noise is clearly heard on a continuous basis by residents located approximately one mile east of the proposed site. Will the project meet the requirements of the Uniform Building Code, Chapter 35; California Noise Insulation Standards, Cal Admin Code, Title 25 ?

P18-272

Existing ambient noise levels and the anticipated noise increase associated with the proposed project must be determined. Amador County General Plan Noise Element calls for a maximum acceptable increase in noise levels of 3dB (A). Does the proposed project meet this standard?

P18-273

Table 4.10.6 covers projected noise increases from traffic is several locations but does not cover that portion of Highway 49 for the junction of Highways 49 and 16 to the junction of Highway 49 and Shenandoah road. This omission pertains to the roadway that passes in front of the proposed site and through the City of Plymouth. This is the most important highway segment and the segment which will generate the most traffic noise. Why has this highway segment been omitted from the projections?

P18-274

Hazardous materials

Who will be responsible for identifying on site hazardous materials during the construction phase and during operations? Who will develop standard operating procedures (SOP) for handling hazardous materials during construction and during operations? Who will be responsible for compliance with SOP?

P18-275

Lighting

Light pollution has not been included in the list of potential environmental impacts. Why? What are the details of exterior lighting (parking lot, exterior walk ways, walls, portico, highway, landmark etc.) design for the project?

P18-276

According to the International Dark-Sky Association, light pollution represents a waste of a magnitude that almost no home owner would allow inside their homes... Our tolerance of wasted light means most lighting fixtures are oversized by a third in wattage.... 30 to 50 percent of construction and operation costs are wasted.

P18-277

Since no design information was presented, rational comments cannot be made. The ultimate design must be compliant with accepted standards for wattage, light shade, pole height, fixture design and type etc, etc. Offsite bleeding of light must be held to an absolute minimum and neon lighting should not be used. Ultimately light levels should be downsized to no more than the Illuminating Engineering Society recommended levels. Please provide mitigation specifications in the Final EIS.

P18-278

Vernal pools

How will vernal pools be identified and protected?

P18-279

Electromagnetic radiation

The DEIS omits any mention of the environmental impacts from electromagnetic fields power lines, internal wiring, electrical occupations, operation of appliances, and gambling machines. In light of current evidence this area of environmental impact must be evaluated. (See the national Institute of Environmental health.)

P18-280

SECTION 4.11 CUMULATIVE IMPACTS

“Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.” (40 CFR 1508.7.) Cumulative effects must be analyzed and evaluated in NEPA environmental reviews. The analysis must be quantitative and detailed, not perfunctory or conclusory. (*Carmel-By-The-Sea v. U.S. Department of Transportation* (1997, 9th Cir.) 123 F.3d 1142, 1160; *Neighbors of Cuddy Mountain v. U.S. Forest Service* (1998, 9th Cir.) 137 F.3d 1372,1378- 1380; *Blue Mountain Biodiversity Project v. Blackwood* (1998, 9th Cir.) 161F.3d 1208, 1214-1215; , *Ocean Advocates v. U.S. Army Corps of Engineers* (2005, 9th Cir.) 402 F.3d 846; *Lands Council v. Powell* (2004, 9th Cir) 395 F.3d 1019, 1035; *Habitat Education Center, Inc. v. Bosworth* (2005) 363 F.Supp.2d 1070, 1078.)

P18-281

Air Quality

The evaluation of significance ignores the purpose of cumulative impact analysis. It dismisses project impacts as a small percentage (1% - 2%) of countywide emissions. That is irrelevant to cumulative analysis. What is relevant is that the project considerably contributes to a cumulative impact that is already significant, namely, the ongoing violation of federal air quality standards. By adding ozone precursors to a basin in non-attainment for ozone, the project will delay the time when federal ambient air quality standards will be met in the air basin. The DEIS does not disclose this. The Final EIS should.

P18-282

The EIS notes that air quality in the area is impacted by the Sacramento and San Joaquin basins. The EIS relies on the notion that the SIP will solve the long-term air quality problem in the region. The EIS fails to disclose that the SIP has not resulted in attainment of federal ambient air quality standards for ozone in the region for the over 35 years that the Federal Clean Air Act has been in place. While the State and federal governments have adopted more than enough regulations to implement air pollution control technologies to reduce emissions from individual vehicles and individual industrial plants over that time, nevertheless, unrestrained growth (such as putting three casinos in one county) has added too many such polluters in close proximity, thus repeatedly overwhelming gains in emission control technology over the years. In the face of over three decades of air pollution mitigation failure, there is no basis for the EIS to cavalierly rely on the SIP to mitigate the project’s contribution to the regions cumulatively significant air quality impacts. NEPA requires that an agency disclose the history of success and failure of similar projects. (*NRDC v. Grant* (1973) 355 F.Supp.280; *Sierra club v. Morton* (1975) 510 F.2d 813.) Specifically with regard to the mitigation component of a project, NEPA requires that the agency discuss the expected efficacy of the mitigation, and provide factual support for this effectiveness. (*South Utah Wilderness Alliance v. Norton* (2003) 277 F.Supp2d 1169.) The Final EIS should explain that history has shown us that the SIP cannot be relied upon to achieve federal or state ambient air quality standards for ozone in the region.

P18-283

Greenhouse Gases

The DEIS refers to an outline of measures by the State Air Resources Board as evidence of efforts to reduce cumulative greenhouse gas emissions. However, the DEIS does not disclose in this section that this project will increase greenhouse gas emissions, and thereby contribute to the existing significant cumulative impact. Also, the Air Board's list of measures includes efforts to reduce vehicle miles traveled by concentrating development in urban areas. The proposed project makes no effort to do so. The ARB's emission reduction strategy will only work if all Californians embrace the measures and follow the guidelines. It is disingenuous for the EIS to rely on, for cumulative impact mitigation, the very ARB strategy that the project refuses to follow.

P18-284

Appendix A Environmental Data Report – Database Search

Executive Summary page 4. It is simply not believable that the sites listed could not be mapped due to poor or inadequate address information. Please explain why these well known local sites were not mapped.

P18-285

Appendix B Wastewater and Water Study

An EIS must be a document with scientific integrity. NEPA demands an unbiased evaluation of environmental effects. (*NRDC v. Callaway* (1975) 524 F.2d 79.) Sources of information must be footnoted. (40 CFR 1502.24.) Study methodologies and model limitations must be disclosed and explained. (*Lands Council v. Powell* (2004, 9th Cir.) 395 F.3d 1019, 1036-1037.) An agency must have analytical data to support a conclusion that an impact is insignificant. (*Oregon Natural Desert Association v. Singleton* (1998) 47 F.Supp.2d 1182, 1193-1194; *Idaho Sporting Congress v. Thomas* (1998, 9th Cir.) 137 F.3d 1146, 1151; *Blue Mountain Biodiversity Project v. Blackwood* (1998, 9th Cir.) 161 F.3d 1208, 1214.) In the Final EIS, please answer the questions below regarding data and methodologies.

P18-286

2.0 Projected Flows

Why are general assumptions being used? Are there no documented project facility designs from which to work?

P18-287

Please explain why the analysis begins with estimates on wastewater flows rather than available water usage information? I do not believe that wastewater flows are available and that water usage information is not. Please explain why water usage information is not available. Is this a standard method / practice in the industry to calculate water usage? If not, why was it used for the DEIS?

P18-288

2.1 Wastewater Flows

What facility programs were used to calculate the wastewater flows? What facility design documents were used?

P18-289

How accurate are the estimates obtained using this method and these facility programs? Is the accuracy based on facility designs?

P18-290

Why were assumed flows from other similar casinos used and not the actual flows? From what other similar casinos were "assumed" flows used? How similar were these casinos?

P18-291

Why is it not known whether the casino and hotel heating and air conditioning system will include cooling towers? Why is this critical design information not available?

P18-292

Is the size of cooling towers and amount of water they require known for other "similar" facilities?

P18-293

2.2 Water Demands

Table 2-6 – is the water demand for the Brine included here? If not please include and update the table.

P18-294

Why is it assumed that the proposed water storage tank will provide enough storage to handle the higher weekend water demands? Please provide analysis on the size of the tank vs. water demand? What if the proposed water storage tank will not handle the higher weekend water demands? NEPA requires that the agency discuss the expected efficacy of the mitigation, and provide factual support for this effectiveness. (*South Utah Wilderness Alliance v. Norton* (2003) 277 F.Supp2d 1169.)

P18-295

Is there any data available that supports the statement that similar facilities operating in California have historically recycled 40% of the wastewater flow for recycled water use? Please provide this data.

P18-296

3.5 Water Facilities

“Due to the limited amount of available water supply in proximity to the project site, a multitude of supply sources are anticipated to be required to meet the various alternatives’ water demands. The proposed sources of water for the project site include onsite wells and off site wells, as well as trucking water.”

How limited is amount of available water supply in proximity to the project site?

P18-297

What portion of the water demand will be met with on site wells?

What portion of the water demand will be met with off site wells?

What portion of the water demand will be met with trucked water?

3.5.1 Water Treatment Plant

The iron and manganese sludge will be disposed at what local sanitary landfill?

P18-298

Page 3-16 Does the Ione Band have any agreement with EBMUD for disposal of the brine?

P18-299

Water Storage Tank and Pump Station

Have the projects fire flow requirements been determined? If not, why not? If yes, please include the fire flow requirements in the Final EIS.

P18-300

Please provide tank sizes for no use of recycled water and for use of recycled water?

P18-301

Wastewater Facility

5.2.1 Membrane Boireactors

How many MBR's are in operation in California?

Do these MBR's comply with or meet CEQA and all other State standards for wastewater treatment?

P18-302

How reliable are MBR's? Please provide operation and maintenance history data from actual users. NEPA requires that the agency discuss the expected efficacy of the mitigation, and provide factual support for this effectiveness. (*South Utah Wilderness Alliance v. Norton* (2003) 277 F.Supp2d 1169.)

Page 5-6 Are the average day flows for other surrounding casinos actual flows, or assumptions, or estimates?

For comparison to this proposed casino project, what are the size of the casinos and casino hotels listed on page 5-6?

P18-303

Explain how the wastewater flows from Cache Creek are 10% more than this proposed casino / hotel?

Explain how the wastewater from Thunder Valley (a casino only) is only 25,000 gpd less than the wastewater flows for this proposed casino / hotel?

6.0 Conclusions

Table 6-1 Summary of Demands and Flows - According to the DEIS 119,520 gpd is the potable water demand for Phase II Alternative A using recycled water while this table indicates this demand to be 128,500 gpd. Please explain the misrepresentation of the potable water demand in the DEIS for use of recycled water as well as the demand without use of recycled water?

P18-304

Please explain all differences in the amounts of water demand required contained in Table 6-1 with the water demand presented in the main body of the DEIS.

Figure 6-1, Figure 6-2: Do these Flow Diagrams include the water loss from the Cooling Towers?

P18-305

Why is the amount of water to be trucked not included in the body of the DEIS while it is included here?

P18-306

How many trips required to truck 80,780 gpd?

P18-307

Appendix C Pumping Tests Sustainability Analysis for Wells H1, M1, and M3, and Evaluation of Water Quality

2.1 Hydrology/Geology

Page 4: These 96 wells are very likely located on the eastern side of Plymouth not the Western. Please check this and change as necessary. If these 96 wells include the wells of the community of Burke Ranch, are there any Well Logs available that indicate how many (if any) of these wells have needed to be deepened or new wells drilled by the property owners since 2003? Please include this data in the Final EIS.

P18-308

Have the wells in Burke Ranch been plotted? This is development of 5 to 7 acre parcels and a plot of these wells and their proximity to the project should be included.

P18-309

Please provide data to support the statement that approximately 50% of these wells are reported to produce more than 50 gpm? When were these wells drilled? When was the last time these wells were tested?

Is it possible that some of these wells no longer produce 50 gpm providing they did in the first place?

P18-310

How many of these wells produce 10 gpm or less?

3.1.6 Measurement of Discharge Rate

Are there no real time and cumulative flow meters calibrated above 50 gpm available? The data from the H1 well must be completed using a calibrated meter capable of measuring whatever flow the H1 well produces.

P18-311

How long did it take for the H1 well to pump 5 gallons? Please show this calculation.

P18-312

Was the device used to measure 5 gallons calibrated and was the timing device calibrated?

Table 3-4 indicates that the well M3 Discharge Rate test was performed at 60gpm for 188 mins and 70 gpm for 60 mins. At 3.1.6 it is stated that no meter calibrated above 50gpm was available, how was the 60 and 70 gpm rates for M3 determined?

P18-313

4.2 Recommended Long Term Well Yield

This approach assumes that sufficient precipitation will occur and that a significant percentage of recharge will reach the aquifer. It also assumes that the interconnected fracture network extends beyond the radius of influence created during the test, and that these fractures have sufficient storage to produce sustainable yields. However, these conditions may not be realized.

P18-314

What is the impact to the long term yield of M1, M3, and H1 if these conditions are not realized?

What is the impact to neighboring wells if these conditions are not realized?

Well M1, M3, H1 – what are the remaining degrees of uncertainty inherent these wells? The risk of this uncertainty must be disclosed. (*Northwest Indian Cemetery Protective Association v. Petersen* (1985, 9th Cir.) 764 F.2d 581.)

P18-315

Why are the Lower Limits not used as the recommended Long Term Yields for wells M1, M3, and H1?

Since 2004 what has prevented additional testing to determine the actual long term yields?

P18-316

Why wait until the first year of production to determine the actual long term yields when it could have been done anytime since 2004? Based on the data presented in the DEIS I believe it is impossible for the three wells (M1, M3, H1) to produce the 128,000 gpd required for this project.

P18-317

The need for additional wells can be assessed to meet the required water demands. The need for additional wells is obvious based on the data provided. No data has been presented that demonstrates that M1, M3, and H1 can meet the water demand needs or is the trucking of water not needed?

P18-318

5.0 Statement of Liability (dated October 20, 2004)

This Report was written to document testing activities related to estimating the long term yield of water from certain wells at the Site based on a limited number of observation points and limited duration tests. Further investigation, testing, and data analysis can reduce the inherent uncertainties associated with this type of testing. The Report is based on factual information obtained from Analytical Environmental Services, and others, that has been assumed to be correct, accurate, and complete. Applied Engineering does not guarantee the correctness, accuracy, or completeness of those data.

P18-319

Why is the number of observation points limited and duration of tests limited? Was there not enough time between 2004 and 2008 to conduct more testing of longer duration?

P18-320

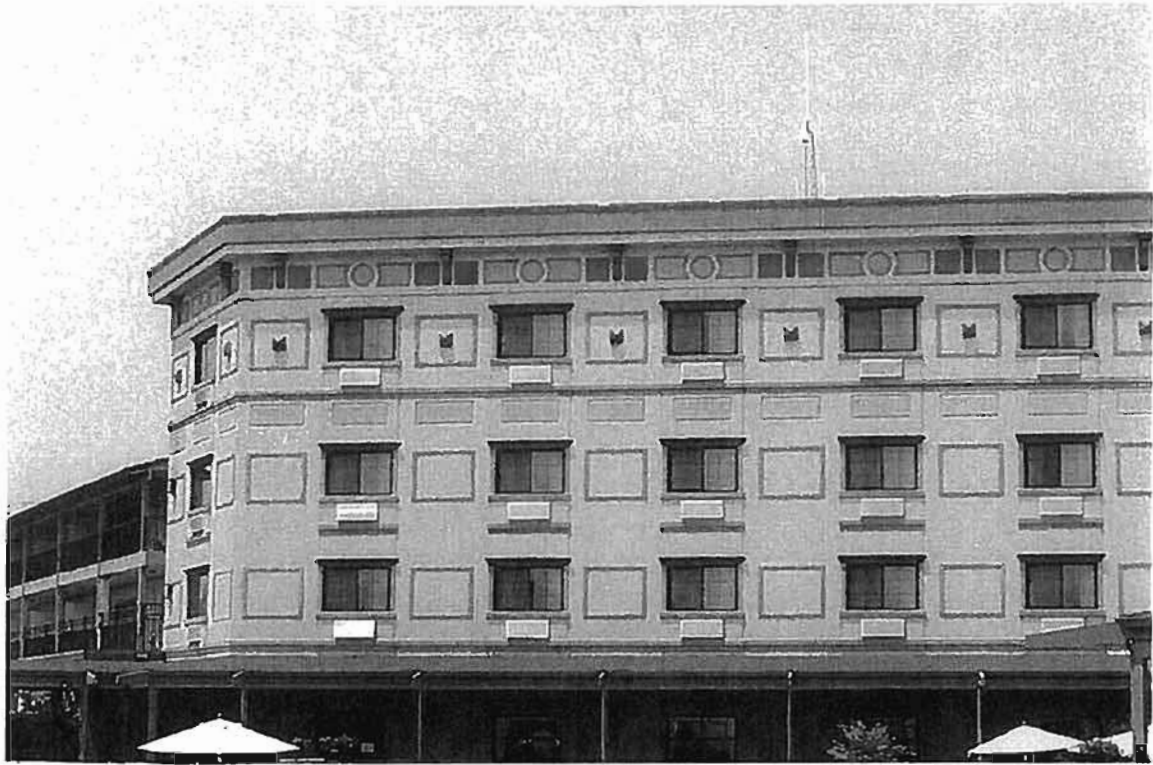
What are the inherent uncertainties associated with this type of testing? What is the level of uncertainty based on the limited observation points and limited duration tests used for this Report?

P18-321

Is there a Statement of Liability from Analytical Environmental Services? If not, why not?

P18-322

CASINO-SCALE OVERNIGHT LODGING



PLMOUTH-SCALE OVERNIGHT LODGING

APPENDIX M TRAFFIC STUDY

An EIS must be a document with scientific integrity. NEPA demands an unbiased evaluation of environmental effects. (*NRDC v. Callaway* (1975) 524 F.2d 79.) Sources of information must be footnoted. (40 CFR 1502.24.) Study methodologies and model limitations must be disclosed and explained. (*Lands Council v. Powell* (2004, 9th Cir.) 395 F.3d 1019, 1036-1037.) State data cannot be used in an impact analysis to support an agency conclusion. (*Lands Council v. Powell* (2004, 9th Cir) 395 F.3d 1019, 1035.) “A patently inaccurate factual contention can never support an agency’s determination that a project will have ‘no significant impact’ on the environment.” (*Ocean Advocates v. U.S. Army Corps of Engineers* (2005, 9th Cir.) 402 F.3d 846.) In the Final EIS, correct the errors in methodology noted below.

P18-323

The EIS said “Summary. Pg 1: There are no published trip generation rates for casinos by the transportation industry standard the Institute of Transportation Engineers (ITE). The generation rates used within were developed by Analytical Environmental Services (AES) through survey of eight existing casino in the region.”

- Why were the names and location of those casinos plus their roadway infrastructure not listed in appendix M? (They may have been listed in traffic study appendices A through AC but those documents were not provided.)
- Is the Tribe aware that the claim of no published generation rates is blatantly false? There was a study published in the ITE journal, *ITE Date: 5/1992 vol. 62, no. 5, titled, Trip generation rates for Las Vegas area hotel-casinos* By *Kenneth Ackeret and Robert Hosea*. A copy follows these comments.
- Why didn’t the tribe develop data on the relationship between traffic counts and casino size, hotel rooms, and employees? (The study clearly demonstrated a relationship between traffic counts and casino size, hotel rooms, and employees. The developed equation which correlated the traffic counts at 21 adjacent strip casinos may not be applicable to a single destination casino in a rural location, but it does validate the use of casino square footage as a valid predictor.
- Why didn’t the Tribe use the SANDAG method to develop traffic Counts? The SANDAG method is a well known industry standard based on the square footage of the gaming facility. This methodology has been validated in studies from the San Diego Association of Governments (SANDAG) from data derived from that area’s 12 Indian Gaming facilities. That generation rate is 100 trips per 1000sq. ft and 8 trips per hotel room.
- Why was the SANDAG method valid for the Buena Vista Casino but not The Lone casino? The SANDAG method was used in the Buena Vista traffic EIS and is in fact mentioned in Section 6 pg. 187 of Appendix M.)
- How can the Tribe discount the SANDAG method when it was validated by the Jackson Rancheria traffic data? The SANDAG method also predicted the actual traffic counts for the Jackson Rancheria within a hundred trips (data attached) and would seem to be the preferred methodology for this project.
- How does the Tribe explain the discrepancies in Traffic ADT’s using their methodology when compared to the relevant industry standard methodology? The following table illustrates the EIS under projection (tables 4-1 through 4-7) of expected traffic counts when compared to the SANDAG methodology.
- Is the Tribe deliberately underestimating the Traffic impact of this casino project in order to evade mitigation requirements?

P18-324

P18-325

P18-326

P18-327

P18-328

P18-329

P18-330

P18-331

Alternative	Casino size	Hotel size	AES Casino	AES Hotel	AES total	SANDAG Casino	SANDAG Hotel	SANDAG Total	under-estimate
A phase 1	120,000	none	8,149	0	8,149	12,000	0	12,000	-3,851
A phase 2	120,000	250 room	8,149	745	8,894	12,000	2,000	14,000	-5,106
B	100,750	250 room	6,875	745	7,620	10,075	2,000	12,075	-4,455
C	79,250	none	5,408	0	5,408	7,925	0	7,925	-2,517
D	123250 shop	none	5,292	0	5,292	n/a	n/a	n/a	n/a

Quote from Section 2. Pg. 15: "For this casino project, the highest project trips would occur during the weekday evening (PM) commute peak period. According to the 24-hour volume counts, the weekend peak period for a casino occurs on Saturdays also between the evening hours of 4-6 PM. These time periods are considered the peak periods because the project is expected to have the greatest impact on the local roadway network during these time periods."

- Why did the tribe fail to account for special events at the Amador County Fair and the Wineries in the Shenandoah Valley? The Amador County Transportation Commission maintains data for peak month ADT's which account for special event winery traffic and Amador County Fair ground events which on occasion can even exceed peak PM periods. P18-332
- Why didn't the EIS account for peak monthly ADT's? Amador County Transportation Commission peak monthly ADT's range between .4% (SR49 S SR16) and 25% (SR88 W SR124) higher with an average increase of 11% (RTP data). P18-333
- Is the Tribe unaware of the traffic problems associated with Amador County Fair and Winery special events? Data which does not account for peak month ADT's seriously understates the negative potential impact of Casino traffic and has the potential of severely impacting special events at the Amador County Fair and Amador County Wineries. P18-334
- Is the Tribe willing to mitigate the Amador County Fair for lost revenue for events that are dropped because of the negative effects of increased traffic? P18-335
- Is the Tribe willing to mitigate the wineries for lost revenue due to a decline in attendance at events that are negatively affected by increased traffic? P18-336
- Will the Tribe mitigate local businesses that make a significant amount of revenue based on attendance at these events? P18-337

Section 2, Pg.22: Level of service (LOS) and average daily traffic (ADT) are published for 5 locations and based on June 2004 data.

- SR 49 N. of Shenandoah Rd
- SR 49 S of SR16
- SR16 W of Old Sac Rd.
- SR124 S of SR16
- SR88 W of SR124

Comment Letter P18

- Why is there no explanation for the discrepancy between machine counts generated Daily traffic Volumes and the ADT's listed in the EIS Tables? Automated machine counts were conducted for the road segments in question and displayed in figure 2-3 as Existing daily traffic Volumes, but the ADT's listed are lower by 15%, 45%, 43%, 47%, and 43% respectively.) P18-338
- What methodology was used by the Tribe to reduce the daily Traffic volume counts to the published ADT's? According to phone conversations with Caltrans, reductions of this magnitude only make sense for extreme recreational areas like high sierra's which are seasonally affected, not for road counts in the foothill area. P18-339
- Why was there no explanation given to justify this questionable reduction which resulted in improved LOS's in 3 of the 5 segments analyzed? The EIS states the calculations were in the Appendices not provided. P18-340
- Why does the EIS not include data for traffic counts and ADT's for Latrobe road? Latrobe Road is a more direct and more frequently used route from SR50 to Plymouth than is SR49. P18-341
- Did Latrobe's poorer material condition relative to SR49 influence its omission? P18-342
- Why were traffic counts omitted from other intersecting roads and sources? Data also omits traffic generated within Plymouth (S of Shenandoah Road and N of SR16 / SR49 intersection) and the traffic entering SR16/SR49 from Fiddletown Road. There is a large volume of both Shenandoah Valley and Up-county traffic whose only realistic access to SR16 is from Fiddletown Road.) P18-343
- Was it the Tribe's intent to generate lower ADT's by omitting traffic from local Plymouth residences, Fiddletown Road traffic, and Latrobe Road traffic? P18-344
- Why is the data arbitrarily reduced by 3% for traffic that initially set out for the Ione casino but decided to go to the Jackson Rancheria instead? P18-345
- Other than lowering ADT's how can the change in destination from the Ione Casino to the Jackson Rancheria be justified? P18-346
- Why didn't the Tribe include an increase in traffic from a change in destination from the Jackson Rancheria to the Ione Casino? P18-347

Section 3, Pg.29/30:annual growth rate based on Caltrans historical data... traffic count data or historical data was as listed in the State's website for state routes. The ADT roadway segment volumes for 2006 EPEP (No Project)

Condition were calculated by applying a 2.2 percent annual growth rate to existing ADT roadway volumes.

Note EPAP=Existing Plus Approved Projects

- Why doesn't the Tribe's EIS use the actual traffic growth rates for the road segments in question instead of using 2.2% as an average? (Data received from Joe Avis (916-654-3072) research Manager at Caltrans indicates that assigning a 2.2% growth rate for ADT's to be significantly understated:
 - o Caltrans growth rate for SR 49 south of SR 16 is 3.9% for 2004-2006. P18-349
 - o Caltrans growth rate for SR 49 North of SR 16 is 3.08% for 2004-2006.
 - o Caltrans growth rate for SR 88 west of SR 124 is 2.83% for 2004-2006.)
- Where are the calculations justifying the 2.2% growth rate? Valid ADT's can only be generated by using current growth data for each segment. P18-350

Section 4, Pg.50: Trip distribution patterns to and from the project site were obtained from a zip code based origin and destination study for similar casinos in Northern California.

- What was the methodology and the specific road infrastructure that justified using the distribution patterns in the EIS? The only valid trip distribution pattern should be based on the Jackson Rancheria due to the unique Amador County road network and the relative geographic position of the large population centers. P18-351

Comment Letter P18

- Why were the location of the cited similar casinos not stipulated in appendix M?
- IS the Data listed in the mitigation tables realistic or purposely underestimated? Data listed in tables 4-8, 4-13, 4-18, 4-23, and 4-33 are significantly lower than what the more realistic SANDAG methodology would have produced.

P18-352

P18-353

Appendix M, Section 4 contains the intersection LOS's and the proposed mitigation fixes with their attendant LOS's for a predicted "no project" condition and five different project variations. This data is collated in chart form for both weekday and Saturday PM peak hour. For ease of discussion the attached chart (intersection matrix.xls) is a compilation of the data for worst movement weekday PM peak hour in charts 4-9, 4-11, 4-14, and 4-16

Matrix of data compiled from Charts 4-9,4-11, 4-14, & 4-16.
Weekday PM peak hour - worst movement

#	Intersection	2004 no proj	signal	2006 no proj	2006 Ph I	2006 mitigation	2009 no proj	2009 PhII
1	SR49 / Miller Road	A		A	A		A	A
2	SR 49 / Main Street	C		C	D	A - RTP & Light.	D	E
3	SR 49 / Popular Street	B		B	B		B	B
4	SR 49 / Empire Street	C		C	D	A - RTP & Light.	D	D
5	SR 49 / SR 16	D	Y-06	D	F	B - Caltrans Lt (done)	E	F
6	SR 16 / SR 124	B		B	C		C	C
7	SR 16 / Latrobe Road (Amador)	C		C	D	C - add lanes	C	D
8	SR 104 (Preston Ave) / SR 124	E		F	F	A - Signal Lt.	F	F
9	SR 104 (Main Street) / SR 124	C		C	D	A - Signal Lt.	C	E
10	SR 88 / SR 124	B		B	B		B	B
11	SR 88 / SR 12 (East)	D		E	F	B - Caltrans plan light	F	F
12	SR 88 / SR 12 (West)	F		F	F	C - Caltrans plan light	F	F
13	SR 88 / Kettleman Lane	C	Y	C	C		C	C
14	SR 49 / Pleasant Valley Road	C		C	D		D	D
15	SR 16 / lone Road	C		C	C		C	C
16	SR 16 / Murieta Pkwy South	B	Y	B	B		B	B
17	SR 16 / Murieta Parkway	C	Y	B	B		B	C
18	SR 16 / Stone House Road	E		E	F	D - add lanes	F	F
19	SR 16 / Latrobe Road (Sac)	D		D	E		E	F
20	SR 16 / Dilliard Road	B	Y	B	B		B	B
21	SR 16 / Sloughhouse Road	C		C	C		C	C
22	SR 16 / Grant Line Road	E	Y	E	F	E - add lanes	F	F
23	SR 16 / Sunrise Blvd	C	Y	C	D		D	D
24	SR 16 / Excelsior Road	F		F	F	B - Sac plan (done)	F	F
25	SR 16 / Bradshaw Road	C	Y	C	C		D	E

Appendix M-4

- Why were the following intersections omitted from the Tables?
 - SR 16 / Kiefer Blvd (serious congestion today because of K1-6 school at intersection) *major concern
 - SR 16 / Old Sacramento Rd. (alternate route out of Plymouth to SR 16 via Main Street)
 - SR 16 / Carbondale Rd. (access to Willow Springs development)
 - SR 16 / Greilich, Willow Creek, Welsh Pond, Forest Home, Long Gate, Michigan Bar Meiss, and other smaller roads some of which provide access to small developments.
 - SR 88 / Buena Vista Rd. & Jackson Valley Road (access to Buena Vista)
- Was the disregarding of major intersections on the studied arterials intentional?
- Why is no mitigation offered for two intersections listed in tables 4-9 and 4-14 for both the 2006 and 2009 EPAP Conditions have LOS degradation from level C to D in 2006 and a level D in 2009 (SR 49 / Pleasant Valley Road & SR 16 / Sunrise Blvd.)?
- How can the EIS claim mitigation for a SR 16 / Stone House rd. & SR 16 / Grant Line Rd. by referencing a 1993 Sacramento Co. general plan dated 1993 with no actual improvements actually being scheduled? The Sac. general plan actually suggest widening SR 16 to 4 lanes.
- Why are no details given for the mitigation of intersections SR 49 / Main Street and SR 49 / Empire Street other than the reference to the regional traffic Plan?
- Why is there no mitigation of SR 104 (Preston) / SR 124 on listed on pages 83 & 94? (charts show signal)
- Why are most mitigation efforts applied to intersections with no mention of the degradation to arterial movement that will ensue from signaling the mitigated intersections when large increases in ADT's is projected?
- Was this EIS provided to Sacramento, San Joaquin, and El Dorado Counties for their input on traffic flow?

CONCLUSION:

- Was the EIS Traffic Study actually a carefully prepared retro-analysis? The Appendix M Traffic Study appears to have evolved by a process of retro-analysis where the money allocated for mitigation was determined in advance and the data was then processed to achieve the desired result. How else to explain the undercount of casino trips, the discrepancy between traffic volume and ADT's, the omission of significant arterial roads and intersections and the reliance of unscheduled general plan improvements for mitigation?
- Appendix M is seriously flawed both in data collection and analysis. It seriously understates the potential traffic impacts for this proposed project and is essentially worthless as a tool for determining mitigation. Essentially, the Traffic Analysis needs to be redone using current data which includes all effected roads and intersections and a valid methodology (SANDAG) that does not significantly underestimate the potential traffic growth from this project.

VALIDATION OF SANDAG ESTIMATE

How do you know that the SANDAG projected traffic count for the proposed Plymouth casino is a valid number and not something concocted to make it look bad? The Jackson Rancheria has been around awhile, so let's use the same statistical analysis on projected and actual Rancheria ADT's as validation of the Plymouth numbers. Column I of table 2 is the measured ADT for Ridge Road and NY Ranch Road in 1990, the year before the Jackson Rancheria assumed it's current operating form. Column II of Table 2 is the projected ADT for 2003 using the average 3% growth rate without including the Rancheria's impact. Column III of Table 2 is the actual measured ADT for both roads which does take into account the Rancheria traffic. By comparing the projected and actual ADT's we find the difference to be almost exactly the SANDAG estimated 10,000 traffic volume increase based on a 100,000 sq. ft. casino. This exercise proves conclusively the accuracy of the traffic growth projections for the proposed casino in Plymouth. They should also cause you to question the motive of anyone who disputes their validity.

TABLE 2: RANCHERIA VALIDATION

P18-364

	I	II	III
Location	1990 actual ADT	2003 proj ADT	2003 actual ADT
NY Ranch Road	754	1107	6396
Ridge Road	6637	9748	14350
Totals	N/A	10855	20746

Actual 20746 - Projected 10855 = 9891*

*An actual ADT increase of 9891, when compared to the SANDAG estimated increase of 10,000 validates the projected numbers for Plymouth.

Trip generation rates for Las Vegas area hotel-casinos

Ackeret, Kenneth W. ; Hosea, Robert C., III

This study compiled existing driveway count data obtained and documented in various traffic impact reports prepared within the Las Vegas area, and used this information to prepare data plots and trip generation equations similar to those found in the ITE trip generation report. The study correlated the following independent variable characteristics to driveway count data from 1985 through 1990 for various properties: number of hotel rooms in the property; casino floor square footage; and average number of employees. Details of the data collection and data evaluation procedures are described, and the conclusions drawn from the study are set forth.

Date: 5/1992 vol. 62, no. 5

P18-365

Trip Generation Rates for Las Vegas Area Hotel-Casinos

KENNETH W. ACKERET AND ROBERT C. HOSEA III

The hotel-casinos of Las Vegas are known throughout the world. From the standpoint of size (number of rooms and casino square footage) and recreational attraction, this sort of development represents a unique land use for which trip generation rates have not been established or published. Thus, the evaluations of site traffic impacts for either new hotel-casinos or expansions to existing properties have been faced with the challenge of accurately predicting the number of vehicle trips that will be generated.

The goal of this study was to compile existing driveway count data obtained and documented in various traffic impact reports prepared within the Las Vegas area (Clark County, Nevada) and to use this information to prepare data plots and trip generation equations similar to those found in the ITE trip generation report.¹ To accomplish this task, the following independent variable characteristics were correlated to driveway count data from 1985 through 1990 for various hotel properties:

- Number of hotel rooms in the property
- Casino floor square footage
- Average number of employees

Data Collection

Manual driveway traffic counts and site characteristics shown in Table 1 were collected with the cooperation of the Clark County Department of Public Works, Traffic Management Division; the Uni-

versity of Nevada Las Vegas, Transportation Research Center; and from the records of SEA Consulting Engineers, as well as other traffic consultants in the Las Vegas area.^{2,3}

The compiled count data and property characteristics in Table 1 were divided into three groups. Properties were segregated into the following groups in an effort to identify any unique characteristics that may exist resulting from their location within the Las Vegas area.

Strip Hotels and Casinos (S). This category represents all properties located along the Las Vegas "strip," which is defined as that area along Las Vegas Boulevard (a total length of 5.2 miles or 8.4 km) between Sahara Avenue and Sunset Road. All of these properties are located within the unincorporated Las Vegas urban area. These properties are primarily an attraction for typical Las Vegas gaming tourists.

Outlying Areas (O). This category includes relatively small, rural hotel-casinos located outside of the Las Vegas metropolitan area, chiefly along Interstate 15, which links the Southern California area to Las Vegas.

Local Casinos (L). Off-strip hotel-

casinos with approximately 200 to 300 rooms are included in this group. These properties are generally located along arterial roadways within the Las Vegas urban area, and they primarily attract Las Vegas residents.

Data Evaluation

The data in Table 1 represent manual vehicle counts reported for access driveways to each hotel-casino property. The count observations were made during 15-minute intervals on weekdays during peak hour traffic (7 a.m. to 9 a.m. and 4 p.m. to 6 p.m.). The average weekday morning and afternoon peak hour used for these counts was that determined for the street traffic adjacent to each respective hotel-casino. Therefore, it is important to realize that the following evaluations do not necessarily reflect the peak-hour rates of the hotel-casino traffic generator.

In order to account for seasonal variations in the count data, the peak-hour volumes in Table 1 were adjusted to reflect a 100 percent room occupancy. This adjustment was made by dividing the driveway counts by the hotel occupancy rate on the day of the count. While these occupancy rates vary throughout holiday seasons, and especially during holiday periods, the average mid-week Las Vegas hotel occupancy rates have been relatively constant from year to year (81.4 percent for the 1988²³ calendar year and 81.6 percent for 1989²⁴).

Conversion Factors

To convert from	to	multiply by
sq ft	m ²	0.0929
mi	km	1.609

The evaluated vehicle trip data in Table 1 represent 17 different hotel-casinos. However, in order to increase the number of data points for evaluation, counts from two properties (the Stardust and Riviera hotel-casinos) that have undergone major casino floor expansions or room additions were used. With this latter data included, a total of 21 afternoon peak-hour observations were available for comparison to the independent variables referred to previously (casino floor space, number of hotel rooms, and average number of employees).

The information contained in Table 1 was evaluated using a spreadsheet program to plot the data, determine directional distributions, and perform linear regression analysis. The linear regression analysis was calculated using the following three formulas found in ITE's *Trip Generation*¹:

$$T = C_1 X + C_2 \quad (1)$$

$$1/T = C_1 1/X + C_2 \quad (2)$$

$$\text{Ln}(T) = C_1 \text{Ln}(X) + C_2 \quad (3)$$

where:

T = Average vehicle trip ends (dependent variable),

X = Number of hotel rooms, aver-

age number of employees, or casino square footage (independent variables), and

C_1, C_2 = Coefficients (determined from regression analysis).

Because of the limited number of hotel-casino counts available for the local and outlying hotel-casino categories, the data were evaluated for either "all hotels" or "strip hotels." The best-fit relationship was found for each independent variable by comparing the coefficients of determination, R^2 . As the value of R^2 approaches 1.0, the relationship between the number of trips and the independent variable(s) becomes more favorable. The resulting best-fit relationships are given in Table 2 for the single-variant relationships. The single-variant equations, directional distribution, and data plots for all hotels are presented in Figures 1 through 6 in a format similar to that found in the ITE trip generation report.¹ In addition, multi-variant regression analysis was performed on the data set for various combinations of independent variables. The best-fit relationship was found for the four combinations of the three independent

variables. These equations and associated R^2 values are presented in Table 3 for the multi-variant relationships.

To further supplement the single-variant regression analysis, an average trip rate was determined for the three independent variables. For comparison purposes, the rate equation was also plotted on Figures 1 through 6.

Conclusions

Based upon the available hotel-casino vehicle trip data, the analyses of the vehicle volumes, and the resulting single-variant and multi-variant trip generation equations, the following conclusions can be drawn concerning the trip generation rates for Las Vegas area hotel-casinos.

The single-variant relationships of the form $T = C_1 X + C_2$ had the best correlations. The variable incorporating the average number of employees was found to have the strongest correlation between the three independent variables evaluated. For general planning purposes, when the number of employees is known from social and economic projections for a given hotel-casino land use

Table 1. Hotel-casino trip and site characteristics.

Type	Hotel	Hotel Occupancy ^a (%)	Count	AM Peak Hour ^b			PM Peak Hour			Number of Hotel Rooms	Casino Floor Sq Ft	Avg. No. of Emp.
				In	Out	Total	In	Out	Total			
S	Caesars Palace ²	95	1989	724	361	1,085	876	857	1,733	1,500	93,000	3,000
S	Circus-Circus ³	100	1988	668	599	1,167	883	915	1,798	3,154	110,979	3,500
S	El Rancho ⁴	79	1987	—	—	—	171	154	325	438	31,794	250
S	Excalibur ^{5,6}	96	1990	—	—	—	859	1,527	2,386	4,032	105,540	4,000
S	Frontier ⁶	93	1989	225	160	385	263	230	493	176	53,825	1,500
L	Gold Coast ⁷	93	1988	404	227	631	961	716	1,677	297	71,000	2,030
O	Goldstrike ⁸	79	1990	—	—	—	157	126	283	300	27,608	500
S	Hacienda ⁹	91	1990	142	125	267	280	253	533	780	17,500	800
S	Imperial Palace ¹⁰	92	1985	231	173	404	257	362	619	1,492	35,788	1,400
L	King B ¹¹	61	1988	107	92	199	134	125	259	298	4,138	300
O	Nevada Landing ¹²	79	1990	—	—	—	161	139	300	300	35,700	600
S	Riviera ¹³	100	1986	—	—	—	275	223	498	1,196	40,000	1,615
S	Riviera ¹⁴	100	1986	—	—	—	229	241	470	1,196	75,350	1,100
S	Riviera ¹⁵	100	1988	508	322	830	496	437	932	2,136	75,350	2,000
S	Riviera ¹⁶	98	1990	427	213	640	491	512	1,003	2,136	75,350	2,000
S	Sahara ¹⁷	82	1990	—	—	—	403	325	728	1,500	26,956	1,600
L	Sam's Town ¹⁸	80	1987	—	—	—	704	699	1,403	204	62,884	1,150
S	Sands ¹⁹	92	1989	238	144	382	274	324	598	720	26,000	1,500
S	Stardust ²⁰	90	1986	355	299	654	448	524	972	1,365	18,500	1,900
S	Stardust ²¹	97	1989	392	344	736	533	578	1,111	1,302	49,993	2,000
S	Westward Ho ²²	99	1987	140	164	304	172	203	375	780	34,457	900

S = Strip Hotel & Casino; O = Outlying Area Hotel & Casino; L = Local Hotel & Casino.

Note: Numbers appearing after hotel name refer to reference citations.

^aHotel room occupancy at time of driveway counts as reported by owner.

^bAdjusted counts to 100 percent room occupancy.

^cPM peak hour from Monday, Labor Day 1990.

area, Figures 3 and 4 may be used in a manner similar to the methods applied in *Trip Generation* to determine the anticipated number of vehicle trip ends. In using Figures 3 and 4 it is important to recognize that the results are based upon 100 percent room occupancy and should therefore be adjusted to reflect the average room occupancy rate for the hotel-casino land use area being evaluated.

The evaluation of directional split data shows that the morning peak hour has a greater number of vehicles arriving than departing (58 percent enter, 42 percent exit), while during the afternoon peak hour the directional split is almost equal (49 percent enter, 51 percent exit).

Multi-variant relationships, including all three independent variables, resulted in the strongest correlations. The strip hotel data had the best overall relationships, with R^2 values of 0.949 (morning peak hour) and 0.929 (afternoon peak hour) for the three independent variables. Of all the relationships analyzed, those incorporating the independent variable of the average number of employees demonstrated the strongest correlations with respect to the anticipated number of vehicle trip ends. However, it is important to recognize that even though the average number of employees will result in the best single-variant and multi-variant correlations to the number of vehicle trip ends, this variable may be difficult to precisely determine from an owner during the early development stages of a hotel-casino project when a site impact report needs to be

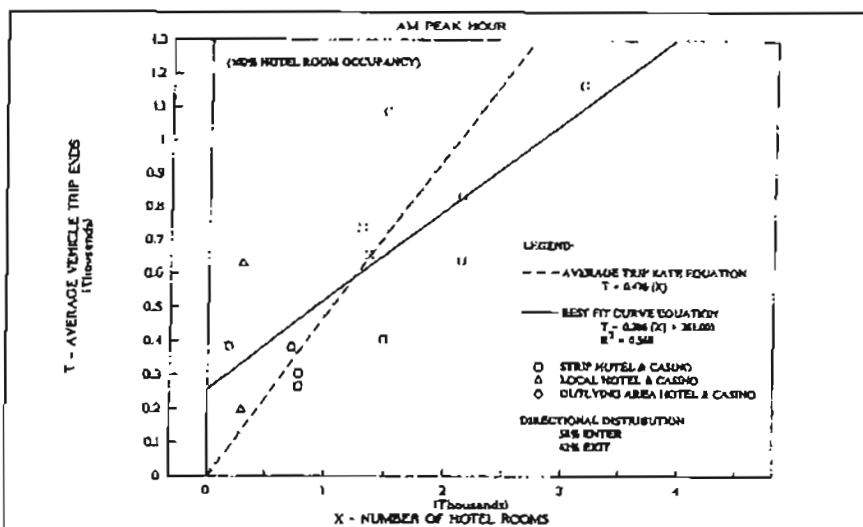


Figure 1. Average vehicle trip ends per hotel room, morning peak hour.

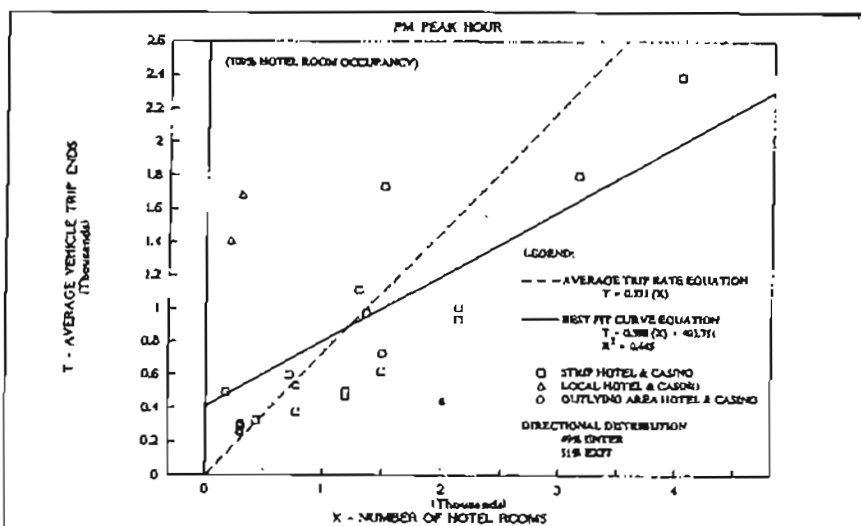


Figure 2. Average vehicle trip ends per hotel room, afternoon peak hour.

Table 2. Trip generation equations single variant relationships (100 percent hotel room occupancy).

Independent Variable	All Hotel-Casinos Average Vehicle Trip Ends (T)		Strip Hotel/Casinos Average Vehicle Trip Ends (T)	
	AM	PM	AM	PM
Trips Per Hotel Room (X)				
Rate Equation	$T = 0.476 (X)$	$T = 0.731 (X)$	$T = 0.441 (X)$	$T = 0.610 (X)$
Fitted Curve Equation	$T = 0.266 (X) + 261.001$	$T = 0.398 (X) + 401.711$	$T = 0.290 (X) + 213.221$	$T = 0.514 (X) + 143.206$
Coefficient of Determination (R^2)	0.568	0.445	0.608	0.745
Trips Per Employees (X)				
Rate Equation	$T = 0.337 (X)$	$T = 0.550 (X)$	$T = 0.334 (X)$	$T = 0.501 (X)$
Fitted Curve Equation	$T = 0.342 (X) - 10.334$	$T = 0.545 (X) + 9.205$	$T = 0.369 (X) - 64.984$	$T = 0.578 (X) - 139.629$
Coefficient of Determination (R^2)	0.927	0.799	0.935	0.923
Trips Per 1,000 square feet of Casino (X)				
Rate Equation	$T = 11.540 (X)$	$T = 17.258 (X)$	$T = 11.602 (X)$	$T = 16.744 (X)$
Fitted Curve Equation	$T = 8.216 (X) + 170.239$	$T = 15.905 (X) + 69.054$	$T = 8.406 (X) + 171.646$	$T = 14.727 (X) + 109.757$
Coefficient of Determination (R^2)	0.748	0.631	0.722	0.595

T = Trip ends at 100 percent room occupancy

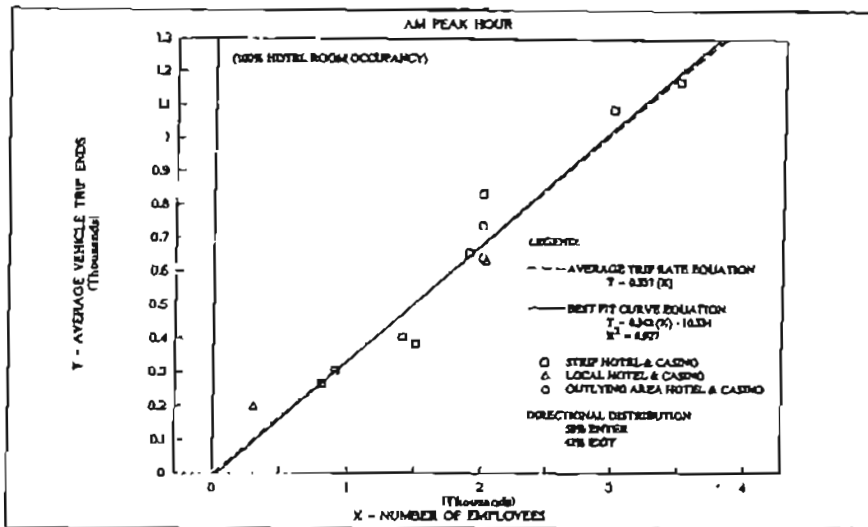


Figure 3. Average vehicle trip ends per hotel employee, morning peak hour.

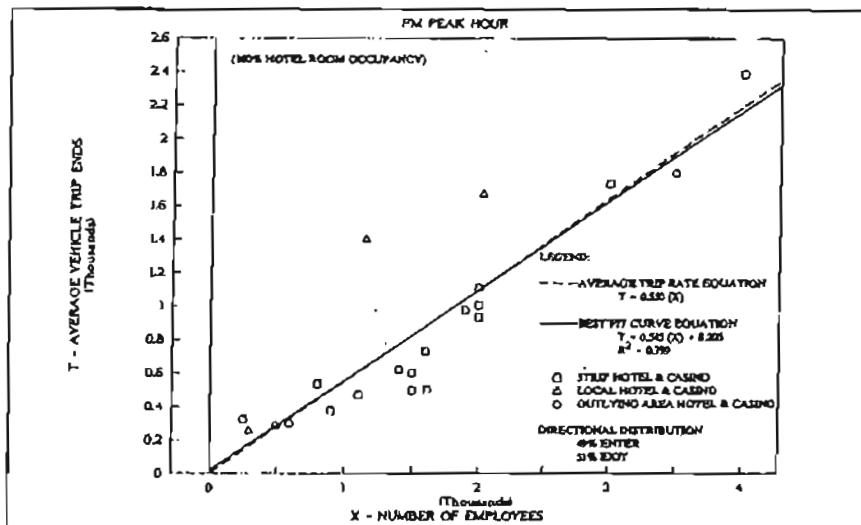


Figure 4. Average vehicle trip ends per hotel employee, afternoon peak hour.

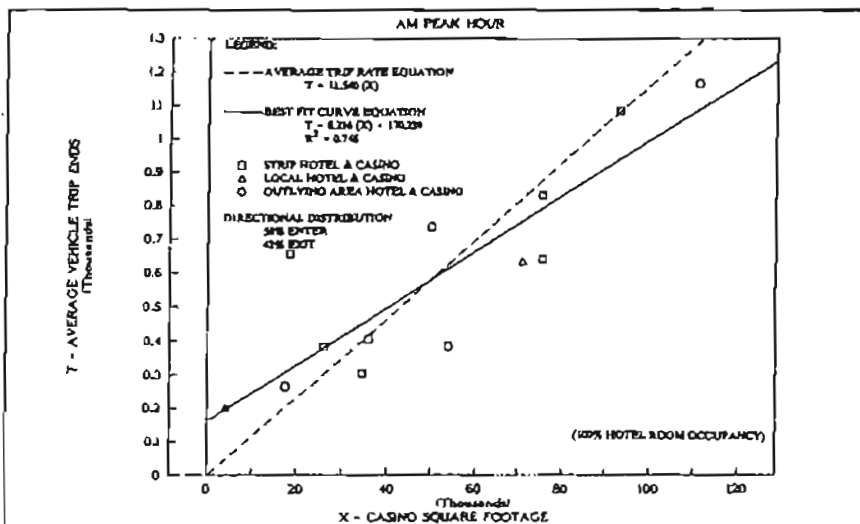


Figure 5. Average vehicle trip ends per 1,000 sq ft of casino floor area, a.m. peak hour.

prepared. Since the number of proposed hotel rooms and the casino floor space is more precisely known during the planning stages of either a new project or property expansion, it is recommended that vehicle trip-end projections for site impact reports be made based on these two more readily known variables, as given in Table 3. In using the equations contained in Table 3, it is important to recognize that the results are based on 100 percent room occupancy for the facility and must be adjusted to reflect the appropriate room occupancy rate for the project being evaluated.

Since the number of employees correlates so well with the number of trip ends for individual hotel-casinos, further study of this relationship is recommended as it relates to seasonal variations, hotel occupancy rates, and regional hotel-casino land use zones.

References

1. Institute of Transportation Engineers. *Trip Generation, 5th Edition*. Washington, DC: Institute of Transportation Engineers, 1990.
2. SEA, Incorporated. *The Forum at Caesars Traffic Study*. Las Vegas, NV: SEA, Incorporated, February 1990.
3. SEA, Incorporated. *Excalibur Hotel and Casino Traffic Study*. Las Vegas, NV: SEA, Incorporated, January 1989.
4. JHK and Associates. *El Rancho Casino Expansion Traffic Impact Study*. Phoenix, AZ: JHK and Associates, October 1987.
5. Greiner, Inc. Unpublished count data for Excalibur Hotel-Casino, 1990.
6. Superior Engineering Services. *Traffic Study for the Frontier Casino and Hotel Expansion*. Las Vegas, NV: Superior Engineering Services, November 1989.
7. Superior Engineering Services. *Traffic Study for the Gold Coast Hotel and Casino T25 Room Expansion*. Las Vegas, NV: Superior Engineering Services, May 1990.
8. SEA, Incorporated. *Goldstrike Hotel and Gambling Hall Expansion Traffic Study*. Las Vegas, NV: SEA, Incorporated, March 1990.
9. Martin and Martin, Inc. *Traffic Impact and Access Analysis—Hacienda Hotel Expansion*. Las Vegas, NV: Martin and Martin, Inc., January 1990.
10. G. C. Wallace, Inc. *Traffic Impact Study for Hotel Tower Addition—Imperial Palace Hotel and Casino*. Las Vegas, NV: G. C. Wallace, Inc., October 1985.
11. SEA, Incorporated. *King 8 Hotel and Casino, Part I Traffic Study*. Las Vegas, NV: SEA, Incorporated, May 1988.
12. SEA, Incorporated. *Oasis Hotel and Ca-*

Table 3. Trip generation equations Multi-variant Relationships (100 percent hotel room occupancy).

Independent Variables	All Hotel/Casinos Average Vehicle Trip Ends (T)		Strip Hotel/Casinos Average Vehicle Trip Ends (T)	
	AM	PM	AM	PM
	Trips Per Hotel Rooms (X), 1,000 square feet of Casino (Y)			
Fitted Curve Equation	$T = 0.116 (X) + 6.181 (Y) + 131.216$	$T = 0.147 (X) + 12.607 (Y) + 60.405$	$T = 0.128 (X) + 6.937 (Y) + 123.909$	$T = 0.386 (X) + 5.629 (Y) + 33.990$
Coefficient of Determination (R ²)	0.809	0.665	0.778	0.782
	Trips Per Hotel Rooms (X), Employees (Y)			
Fitted Curve Equation	$T = 0.047 (X) + 0.308 (Y) - 9.282$	$T = -0.160 (X) + 0.681 (Y) - 18.343$	$\ln(T) = 0.131 \ln(X) + 0.966 \ln(Y) - 1.791$	$T = 0.087 (X) + 0.503 (Y) - 132.638$
Coefficient of Determination (R ²)	0.936	0.620	0.948	0.929
	Trips Per Employees (X), 1,000 square feet of Casino (Y)			
Fitted Curve Equation	$T = 0.325 (X) + 0.529 (Y) - 6.648$	$T = 0.439 (X) + 4.326 (Y) - 43.152$	$T = 0.346 (X) + 0.707 (Y) - 59.229$	$T = 0.562 (X) + 0.656 (Y) - 145.676$
Coefficient of Determination (R ²)	0.928	0.815	0.936	0.924
	Trips Per Hotel Rooms (X), Employees (Y), 1,000 square feet of Casino (Z)			
Fitted Curve Equation	$T = 0.047 (X) + 0.296 (Y) + 0.396 (Z) - 6.511$	$T = 0.158 (X) + 0.576 (Y) + 4.271 (Z) - 68.771$	$\ln(T) = 0.132 \ln(X) + 0.913 \ln(Y) + 0.048 \ln(Z) - 1.591$	$T = 0.085 (X) + 0.500 (Y) + 0.175 (Z) - 134.264$
Coefficient of Determination (R ²)	0.937	0.836	0.949	0.929

T = Trip ends at 100 percent room occupancy.

- sino Traffic Study. Las Vegas, NV: SEA, Incorporated, May 1990.
13. SEA, Incorporated. *Traffic Impact Analysis—Riviera Hotel Addition*. Las Vegas, NV: SEA, Incorporated, February 1985.
 14. SEA, Incorporated. *Riviera Hotel-Casino—Hotel Expansion Traffic Study*. Las Vegas, NV: SEA, Incorporated, July 1986.
 15. SEA, Incorporated. *Riviera Hotel-Casino—Hotel Expansion Traffic Study (Update)*. Las Vegas, NV: SEA, Incorporated, July 1988.
 16. SEA, Incorporated. *Riviera Hotel-Casino—Hotel Expansion Traffic Study (Update)*. Las Vegas, NV: SEA, Incorporated, August 1990.
 17. Martin and Martin, Inc. *Traffic Impact and Access Analysis—Sahara Hotel Expansion*. Las Vegas, NV: Martin and Martin, Inc., January 1990.
 18. SEA, Incorporated. *Sam's Town Parking Garage Addition Traffic Study*. Las Vegas, NV: SEA, Incorporated, February 1987.
 19. SEA, Incorporated. Unpublished Count Data for Sands Hotel-Casino Traffic Study. Las Vegas, NV: SEA, Incorporated, 1989.
 20. SEA, Incorporated. *Stardust Hotel and Casino Remodeling Traffic Study*. Las Vegas, NV: SEA, Incorporated, December 1986.
 21. SEA, Incorporated. *Stardust Hotel and Casino Traffic Study*. Las Vegas, NV: SEA, Incorporated, November 1989.
 22. SEA, Incorporated. *Westward Ho Casino Traffic Study*. Las Vegas, NV: SEA, Incorporated, June 1987.
 23. Las Vegas Convention and Visitors Authority. *Las Vegas Marketing Bulletin 1988 Annual Summary*. Vol. 16, No. 68, March 15, 1989.
 24. Las Vegas Convention and Visitors Authority. *Las Vegas Marketing Bulletin 1989 Annual Summary*. Vol. 17, No. 72, March 15, 1990.

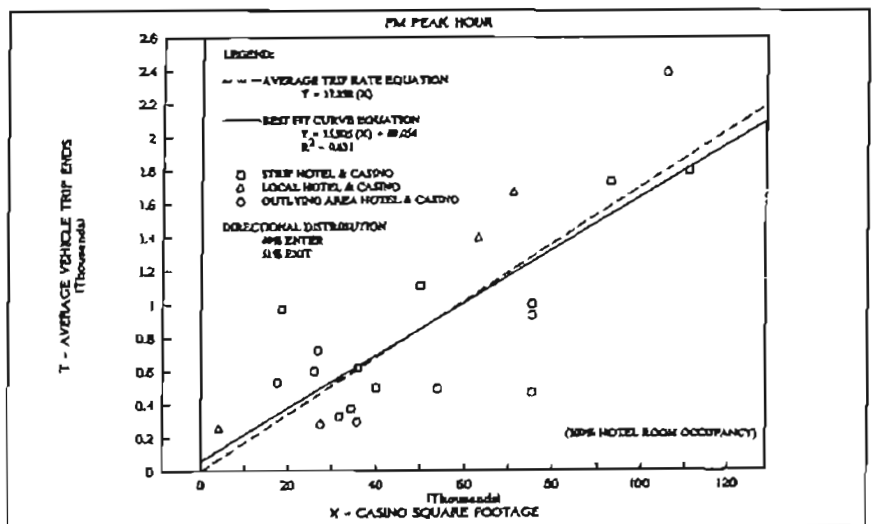


Figure 6. Average vehicle trip ends per 1,000 sq ft of casino floor area, afternoon peak hour.



Kenneth W. Ackereit, P.E., is the special projects manager and assistant director of operations for the Las Vegas office of

SEA Inc. Consulting Engineers. Over the past six years he has specialized in conducting traffic impact studies for Las Vegas hotel-casinos. He received his B.S. degree in civil engineering from the University of the Pacific, Stockton, California, and earned his master's degree from the University of Nevada, Las Vegas. Ackereit is an Associate Member of ITE.



Robert C. Hosea III, E.I.T., is a traffic analyst for SEA Inc. Consulting Engineers in Las Vegas, Nevada. He has a

B.S. in electrical engineering from Texas A&M University. He has conducted numerous traffic impact studies within the Las Vegas area for residential, commercial, and hotel-casino developments. Hosea is an Associate Member of ITE.

Dick

Here are our published AADT's for routes 16, 49, 88 and 124, years 2004-2006

District	Route	County	Postmile	Description	2005	2006	2004	Percent Change 2004 vs. 2006
10	18	AMA	9.083	JCT. RTE. 124 SOUTH CENTRAL HOUSE, JCT. RTE. 18	8700	8000	8900	-2.25%
10	49	AMA	14.723	WEST (South of Route 18) CENTRAL HOUSE, JCT. RTE. 16	8000	7900	7700	3.90%
10	49	AMA	15.723	WEST (North of Route 18) JCT. RTE. 124 NORTH (West of	8700	6800	8500	3.08%
10	88	AMA	5.527	Route 124)	10800	10800	10800	2.83%
10	124	AMA	10.335	WAILES STATION, JCT RTE 18 (West of Old Sacramento/Plymouth Road)	2200	2250	2200	0.00%
				Average				1.51%

Source: Traffic Volumes on California State Highways, 2004-2006
Web Location: <http://www.traffic-census.dot.ca.gov>

TOTAL P. 81

Appendix M-13

Appendix R Economic Impact Study

Was this document or a previous version an exhibit included in the fee to trust application submitted by the tribe in November 2006?

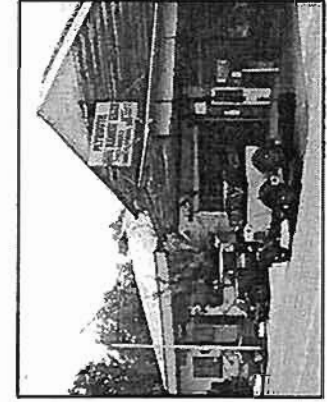
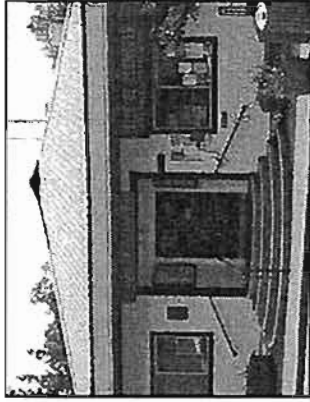
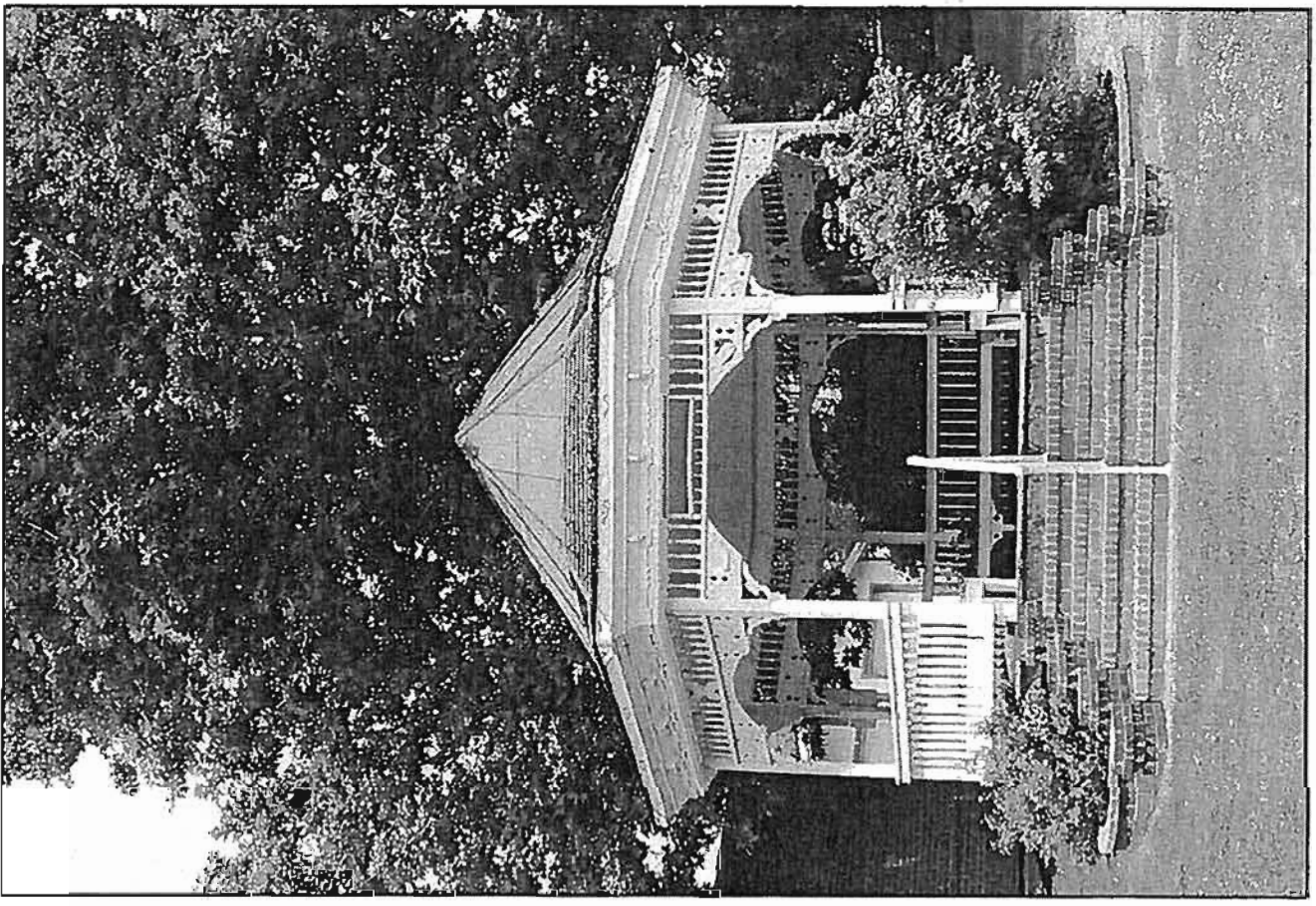
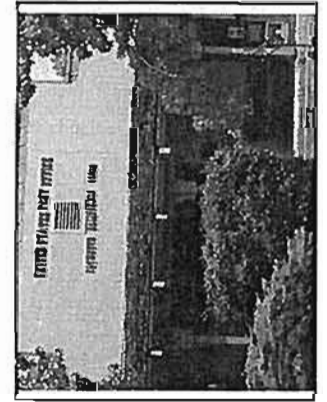
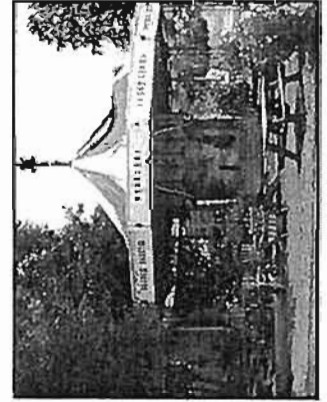
P18-366

Has this document or a previous version been included on a list of documents listed as part of the fee to trust application but that was withheld from public review and comment?

P18-367

Does the analysis of 3 and 4 year old data generally found in this DEIS meet the requirement of the gaming checklist found at Page 4 I. 151.10.g? If yes, please explain.

P18-368



A WALK DOWN MAIN STREET - PLYMOUTH, CALIFORNIA

IONE BAND OF MIWOK INDIANS



June 26, 2008

Dale Risling
Deputy Regional Director
Bureau of Indian Affairs
Cottage Way
Sacramento, Ca

RECEIVED-BIA

2008 JUN 30 AM 9:51

PACIFIC REGIONAL
OFFICE

Thank you for meeting with our Traditional Tribal Council, Joan, Barbara and myself on Wednesday, July 25, 2008. The tribe appreciates your time and consideration on this very important issue regarding the fee-to-trust application of the lone Band of Miwok led by Mathew Franklin. As we discussed, the following points of concern must be explained.

- On March 11, 1994, I submitted our tribal constitution and base rolls at the request of Ada Deer when she reaffirmed the political status of the lone Band of Miwok as a previously recognized tribe and placed the tribe on the list of federally recognized tribes.
 1. Question: What happened to our approved constitution by the tribe, September 19, 1990, accepted by the BIA March 22, 1994?
 2. Question: Why did our tribal approved constitution become apparently arbitrarily and capriciously disregarded by the BIA and apparently, replaced by an alleged tribal action 12 years later by individuals who are not affiliated to the lone Band of Miwok Indians.
 3. Question: How did the alleged tribal action of March 12, 2002 circumvent the original tribal action of September 19, 1990 and by what authority? This action violates our tribal constitution, our traditional tribal laws and federal statutes as it interferes in our tribal government.
 4. Questions: What happened to the tribal enrollment ordinances and tribal base rolls approved by the tribe August 27, 1991, accepted by the BIA March 22, 1994?
 5. Question: By what authority did the BIA disregard the tribal base rolls approved by a tribal action more than 11 years earlier and why did unaffiliated individuals not appearing on the tribal base rolls, not meeting the criteria for enrollment, become members of the lone Band of Miwok Indians 11 years later?
 6. Question: How did this alleged tribal action circumvent the original tribal action of August 27, 1991 and by what authority?
- The 2006 Carl Artman opinion states that the lone Band in 1992 experienced a "manifest of termination", therefore qualifies as a "restored tribe", but where is the evidence?
 1. Question: Is the BIA using the Artman opinion to promote the fee-to-trust application while alleging the lone Band of Miwok Indians is a "restored tribe"?
 2. Please provide the evidence to support Mr. Artman's allegations of "restored status".
- The BIA claims the lone Band is a 1934 Indian Reorganization Act tribal government yet, where is the documentation the a Secretarial election was allegedly conducted by the BIA under the law?
 1. As we understand the Administrative Procedures Act, the BIA is required to publish the intent to organize under the IRA along with potential voters list in the federal register as to allow for due process for challenge. Question: Where is the evidence that the BIA and the newly created group followed the A.P.A.?
- In 2007, Scott Keep issued a legal brief in the case of Muwekma v. Kempthorne stating the lone Band was always a federally recognized tribe living on trust land and not similar to the Ohlone-Muwekma.

P19-01

3015 JACKSON VLY. RD. IONE, CA. 95640
209.274.2348, FAX: 209.274.4536
EMAIL: IONEBANDMIWOK@SBCGLOBAL.NET

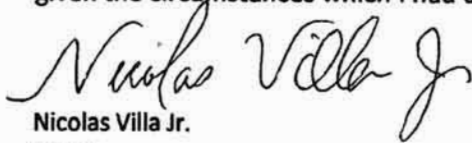
Comment Letter P19

1. Question: Why has the BIA ignored the statement by the DOI to the Federal Court, under penalty of perjury, as to the true facts of the status of the tribe and our trust land base?
2. Question: How can the BIA allege that the lone Band of Miwok Indians is a restored tribe, when, in fact, the lone Band has never been terminated? The fact that the lone Band of Miwok Indians has never been terminated appears in the *Muwekma v. Kempthorne* brief under the signature of Scott Keep, BIA Solicitor, and dated April 27, 2007.

We request that your office contact Ms. Paula Hart, Director, Indian Gaming, BIA Central Office Washington, D.C. to request an extension of time as to allow the BIA the opportunity to complete, with the assistance of the Historic lone Band of Miwok Indians, a forensic internal investigation into this matter.

It is of the utmost importance that all the questions be answered and documentation provided to the Historic Tribal Government. It would be a great travesty to allow the character of our historic, ancient tribal government, peoples and land be set aside on behalf of unrelated individuals who have attained control over our tribal government, our rights & privileges as a federally recognized tribe, the desecration of our burial grounds and culture under the color of BIA authority in the name of Indian gaming.

We look forward to meeting with you on Monday June 30, 2008 to present our written comments to the fee-to-trust application. We are providing the same material to Paula Hart via Federal Express on Monday, June 30, 2008 with the formal request for an extension of time given the circumstances which I had discussed with both yourself and Ms. Hart



Nicolas Villa Jr.
Chief
Historic Tribal Government
lone Band of Miwok Indians

P19-01
cont.

IONE BAND OF MIWOK INDIANS



June 29, 2008

Ms. Paula Hart
Office of Indian Gaming Management
1849 C Street, NW. MS. 4600
Washington, D.C. 20240

Dear Ms. Hart:

I would like to thank you once again for meeting with me to discuss the concerns of our Historic Tribal Council regarding the fee-to-trust application submitted on behalf of the Ione Band of Miwok Indians by individuals purporting that the Ione Band is a "restored" tribe and a "landless" tribe. The Ione Band is not a "restored" tribe nor has it ever been landless.

The Historic Tribal Council did meet on June 25, 2008 with Deputy Regional Director; Dale Risling as the Pacific Regional Director, Dale Morris, is on sabbatical and Ms. Amy Dutchske, Acting Regional Director, has a personal interest in the outcome of the fee-to-trust application. As I stated during our meeting at your office in Washington, D.C., Ms. Dutschke and her family were never members of the Ione Band of Miwok Indians and have no political, cultural or blood ties to my tribe.

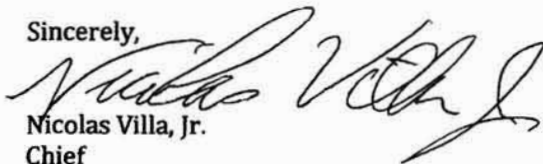
I am providing you a copy of the Historic Tribal Council's response and comments on the DEIS. The Historic Tribal Council has scheduled a meeting June 30, 2008 with Mr. Risling to hand carry our response. We have included a copy of the formal request we made to the Pacific Regional Office for a forensic internal investigation into the issues outlined. The Historic Tribal Council has requested that the Pacific Regional Office extend the comment period until this specific forensic internal investigation has been completed.

As promised by Mr. Risling, we understand that he did contact you and that you were not against a 30-day extension for the comment period. However, Mr. Risling did call us to inform us that the Regional Director had denied and extension on the comment period to Congressman Dan Lungren. It is unclear exactly who the Regional Director was that made the decision.

It would seem beneficial to the Pacific Regional Office, given the fact that neither the Pacific Regional Office nor the Central California Agency have clean hands in this matter and the many violations of the Administrative Procedures Act to which the BIA Central California Agency and the Regional Office failed to follow during the BIA forced re-organization of our tribe resulting in the placement of undocumented, unaffiliated individuals on to our rolls and in control of our tribal government, tribal funds and the controlling of the outcome of tribal elections, to provide an extension on the comment period as requested.

Should you have any questions or require more documentation, please contact me at 209.274.2348; cell: 916.203.5320.

Sincerely,



Nicolas Villa, Jr.
Chief

3015 JACKSON VLY. RD. IONE, CA. 95640
209.274.2348, FAX: 209.274.4536
EMAIL: IONEBANDMIWOK@SBCGLOBAL.NET

P19-02

Response & Objection
Regarding:
Draft Environmental Impact
Statement (DEIS)
Fee to Trust Application
Proposed by the Bureau of Indian
Affairs
On behalf of
Franklin-led band of Miwoks
Posing as the lone Band of Miwok
Indians, an historic federally recognized
Indian Tribe

Prepared by:

Nicolas Villa, Jr. Chief & lone Band of Miwok Indians, Tribal Council

On behalf of the Historic lone Band of Miwok Indians

Jackson Valley Reservation/lone Rancheria/Reservation

3015 Jackson Valley Road, lone, CA. 95640

209.274.2348: email: ionebandmiwok@sbcglobal.net

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SUMMARY ON THE IONE MIWOK AND NEIGHBORS, 1995, by Al Logan Slagle

INTRODUCTION

The modern Ione Band of Miwok Indians derive from a loose aggregation of Utian-speaking groups that occupied a wide band in central California from the Marin and Sonoma Counties north of the San Francisco Bay and Sacramento River, extending beyond the Yosemite Valley into eastern Nevada, as far north as present Tehama County and as far south as the San Joaquin Valley. Generally, the Miwok groups fall only roughly under the following divisions: Coastal (Tomales and Bodega Bay, in Marin, Mendocino and Sonoma County); Bay (Mount Diablo to the Sacramento Delta, in Contra Costa and Sacramento Counties), Lake (Lake and Yolo County); Plains (Cosumnes and Mokelumne river drainages, in Sacramento, Amador and San Joaquin County); and the Northern Sierra, Southern Sierra, and Eastern Sierra Miwoks in the foothills and peaks of the Sierras. The Western and Sierra Miwok languages became separate over 2,500 years ago, while the Plains and Sierra Miwok languages separated at the beginning of the Common Era. The Ione Band of Miwok Indians is a Plains Miwok tribe composed of the remaining lines of the Mokelumne, Lala and Locolumne bands.

The population of the Ione Band of Miwok Indians was 72 in September, 1904, and again in 1905 and 1906, Special Indian Agent C. E. Kelsey enumerated their population at fewer than 102 persons at Jackson Reservation and in or near aboriginal villages at Ione and Buena Vista. The 1910 U.S. Decennial Census identified about 100 living in distinct communities. In 1915, Special Indian Agent John J. Terrell identified 101 at the same sites. Kelsey's successors continually monitored the population and condition of Miwok bands and tribes through the 1930s, and Cook found about 100 in 1930. By 1951, the California Senate's Interim Committee on California Indian Affairs found only 109 on or near the Ione and Buena Vista rancherias. The 1990 U.S. Decennial Census and other recent Indian Health and State of California OEO Office estimates found about 50 at or near Ione Rancheria.

The Spanish explorers encountered Eastern Sierra Miwoks in the late 17th century in California in 1848, the Plains Miwok groups in particular were the early objects of Spanish and Mexican colonization and proselytization efforts in areas surrounding the Roman Catholic mission at San Jose in 1811. Mortality from disease and slaughter greatly reduced their population. Plains Miwoks under the leadership of hereditary patrilineal leaders known as Headmen or Captains, including Ha Pipia, Estanislao, the Maximo brothers, Pol-Tuck, and their Mokelumne, Lala and Locolumne relations fought the invaders in the 1820s and 1830s, and attacked Mexican coastal settlements with the support of their Miwok and Yokuts neighbors. These activities played a role in the secularization of the missions, and the Ione Miwoks aided the U.S. in the war with Mexico.

The gold rush and agricultural development brought waves of settlers into Miwok territories after 1850. U.S. treaty commissioners signed the Treaty of Camp Cosumnes, on September 18, 1851 with Pol-Tuck, the Band's Headman. The treaty ceded most Miwok lands, while reserving several parcels for the Ione Band of Miwok Indians' permanent use. When the U.S. Senate refused to ratify the treaty, American settlers indentured or enslaved hundreds of Miwoks, and murdered or drove away others. Survivors sought employment in timber, fishing, mining, ranching, farming and other industries, where many continue to labor. Plains Miwoks became farm workers, ranchers and farmers. Over 200 Plains and Southern Sierra Miwoks worked for miners by 1860. As the Miwoks' aboriginal Kuksu spiritual organizations mutated or deteriorated, Ghost Dance prophets like Chiplichu of Pleasanton passed through the Ione area between 1872 to the 1920s, and there remain notable surviving examples of the phenomenon, and its influence, among the Miwok rancherias. In 1924, as part of a Big Time celebration, the Ione Band burned an effigy of the "Digger Indian," an old anti-Indian stereotype, near their roundhouse.

Traditional songs, dances, a gambling game (a form of hand game played with bone markers or sticks to the accompaniment of singers) and other ceremonial activities remain among particular bands and rancherias. Weaving and beading, making of traditional garments and implements for ceremonial purposes, for sale, and as gifts persist, particularly in the counties of Marin, Sonoma, Mendocino, Amador, Calaveras, Tuolumne and Mariposa. The Winter and Spring commemorations of the hibernation and awakening of the Bear Spirit, and the Goose Dance near the Winter Solstice are significant examples of surviving ceremonial activities. A dancehouse is still under construction at the Ione Reservation, and others have been constructed, destroyed and rebuilt at Grinding Rock State Historical Park (Chaw'se), nearby.

The Northern Sierra Mewuk Language Program has aided in the preservation of surviving Miwok language skills with the aid of elders like the Ione Band of Miwok Indians' Captain Nicolas Villa, Sr. The Mariposa-Amador-Tuolumne-Calaveras Indian Health Board and Tuolumne Indian Health Center at Tuolumne Rancheria serve primarily Miwok Indians in the four named county areas.

INDIAN PROPERTY RIGHTS OF THE IONE BAND OF MIWOK INDIANS

The Ione Band of Miwok Indians never has been landless, as a matter of law. On March 3, 1893, the U.S. established the Jackson Reservation for them by Executive Order. The U. S. put the Richey / Buena Vista Rancheria into trust for them after 1904, and attempted unavailingly to clear up red tape in order to put the core land base (Ione Rancheria) into trust between 1904 and 1941. John J. Terrell's May 17, 1915 special census of the 101 Ione and vicinity Indians included in the Ione Band of Miwok Indians settlements at Ione, Jackson, and Richey. Terrell recommended acquisition of each of these named villages of the Band, and later included the Band's population living nearby at Buena Vista. The Buena Vista Rancheria was restored as a part of the settlement of the Tillie Hardwick case in 1984, and the Jackson Rancheria was restored in the Maud Kelley case [Record Group 75, Records of the Department of the Interior/BIA, Central Classified Files, 1907-1939, 108465-14-310, Box 28, Parts 1 (Miscellaneous) and 8 (Ione--Richey--Jackson--Buena Vista), May 3, 1915-August 28, 1923.]

Assistant Secretary for the Department of Interior Bo Sweeney issued an Authority instrument of clear legal effect, dated May 18, 1916, to Special Indian Agent for California John J. Terrell, granting him "authority to expend, during the fiscal year 1916 from 'Purchase of Lands for Landless Indians in California,'" the sum of \$2,000.00 to buy the Ione Rancheria for the Ione Band. In characterizing the "Object" or purpose of the purchase, Sweeney stipulated the \$2,000.00 was to be used:

In the purchase of 40 acres of land in Amador County (described by metes and bounds) from the Ione Coal & Iron Company, for the use of 101 homeless California Indians, designated as the Ione Band, at not to exceed \$50 per acre, . . . PAYMENT TO BE MADE BY THE INDIAN OFFICE AFTER GOOD AND SUFFICIENT TITLE, FREE FROM ALL ENCUMBRANCES, HAS BEEN PLACED ON RECORD AS BEING IN THE UNITED STATES.

The object of the Department's actions was to acknowledge the existence of a previously-recognized tribe and to provide for it.

The core community of the Ione Band continues to live on Ione Rancheria or Reservation (called "Yungbutee" in their language), which Special Indian Agent John J. Terrell called, "their ancient Indian village at Ione" in various field reports to the Commissioner between 1915 and 1917. Terrell found their case for land acquisition the most urgent and compelling of all the landless California tribes' cases, recalling that the Department of Interior always treated the Band as recognized, always dealt with its hereditary leaders or elected leaders on the tribe's behalf.

The Ione Band took their Ione Rancheria in adverse possession action after generations of BIA foot-dragging in 1972, whereupon the Commissioner promised to put it in trust, and ordered the Sacramento Area Director to help them prepare for an IRA election to approve their Constitution and Bylaws and approved Roll. Yet today, and since 1978, the Department has reported that the Ione Band is unacknowledged, and must go through their process.

In Sen. Doc. No. 131, 58th Cong., 2d Sess., 1904, 1-16 (reprinted in Robert Heizer's Federal Concern about Conditions of California Indians 1853 to 1913: Eight Documents (Socorro: Ballena, 1975), the "Memorial of the Northern California Indian Association, Praying that Lands be Allotted to the Landless Indians of the Northern Part of the State of California," by President Edwards and Secretary Kelsey, the Association cited the Ione Band as one of the remaining intact California Indian tribes. Secretary C.E. Kelsey became the Special Indian Agent assigned to California, and conducted censuses and research into the unmet needs of landless California Indians, continuing his research. He supported the creation of land bases for landless bands of Indians wherever they lived, preferably in their own aboriginal territory, to substitute for the resolutions and aboriginal territories. He attached a schedule to his report showing the location and population of each Indian settlement of which they had knowledge, and under Amador County, cited a number of Moquelumnan linguistic stock groups. The population in each area was shown, thus:

Buena Vista	45 {IONE}
Franklin	30
Gilbert	65
Ione	10 {IONE}
Jackson	40 Have 320 acres of land of United States. {IONE}
Julian	20
Pigeon Creek	10
Union	20 {IONE}
Plymouth	25 {IONE}

The report was referred January 21, 1904 to the Committee on Indian Affairs, and January 28, 1904, ordered to be

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printed on motion by Mr. Bard, from Committee on Indian Affairs.

On June 10, 1927, Sacramento BIA Superintendent L. A. Dorrington reported the continuing existence of the same neighborhoods of the Ione Band at Ione, Jackson and Buena Vista. The U.S. Congress or Bureau of Indian Affairs terminated intergovernmental relations with most of the Miwok rancherias between 1934 and 1972. With few exceptions, these entities have obtained restoration of their status since 1984. Three of these formerly-acknowledged primarily-Miwok rancherias (Nevada City, Strawberry Valley and Wilton) remain terminated.

On 22 March 1994, Ada E. Deer, Assistant Secretary of the Department of the Interior for Indian Affairs, formally met with the Ione Band of Miwok Indians to discuss the clarification of their status. Under power delegated to her from the Secretary of the Department of the Interior (See: 209 Department of the Interior Manual 8), commemorated her recollections of meeting earlier with Chief Nicolas Villa, Jr., and said in pertinent part: In that meeting I agreed to clarify the United States' political relationship of the Ione Band of Miwok, as well as Mr. Louis Bruce's 1972 letter regarding the tribe's political status and its historic land base. . . .

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cont.

D. C., on Friday, 29 April 1994 at 2:30 P. M., where the President received Chief Villa and some 230 other "Tribal Leaders," as Heads of State. (Letter of Invitation from the White House to Chief Nicolas Villa, Chief of the Ione Band of Miwok Indians.)

On 24 February 1919, an "Abstract of Title to the Unsold Portion of the Arroyo Seco Rancho in the County of Amador State of California, with particular reference to that portion thereof occupied by Indians and contemplated to be purchased for the use and occupancy of Indians by the U.S., From the time of issuance of Letters Patent upon said land, to the present date," was issued by "M. E. Fontenrose, Searcher of Records, Amador Co., Cal." On page 20 is the following note:

Within the limits of the said survey certain subdivisational tracts had been disposed of public lands, one of which viz: the South West 1/4 of Sec. 11, T. 5 N. R. 8 East, containing 160 acres, was located with Military Bounty Land Warrant No. 76988, Act of March 3d, 1855, by Edward Masterson, on the 6th day of December, 1858, and a patent for said tract was issued to him dated Feb. 9, 1861, before the locus of the said survey was reported to the General Land Office.

NOW KNOW YE, That the United States of America in consideration for the premises, and pursuant to the provisions of the Act of Congress aforesaid of 3d March, 1851, have GIVEN AND GRANTED, and by these presents do GIVE AND GRANT unto the said JOSEPH MORA MOSS, HORACE W. CARPENTIER, EDWARD F. BEALE AND HERMAN WOHLER, and to their heirs the tract of land embraced and described in the foregoing survey; but with the STIPULATION that in virtue of the 15th Section of said Act, the confirmation of this said claim and this Patent "SHALL NOT AFFECT THE INTERESTS OF THIRD PERSONS", and with the further STIPULATION according to the terms of the final judicial decree, of "saving to all prior grantees of the said Andres Pico if any such there should be, their rights under" this "Patent unimpaired and to the same effect and extent as if said Patent had been issued to the said confirmee Andres Pico." . . . IN TESTIMONY WHEREOF, I, Abraham Lincoln, President of the United States of America, have caused these Letters to be made PATENT, and the Seal of the General Land Office to be hereunto affixed.

Dated August 29, 1863.

(SEAL G.L.O.)

(Signed)

Abraham Lincoln

By W. O. Stoddard, Secretary.

Countersigned: I. N. Granger, Recorder of the General Land Office. Recorded Vol. 4, Pages 434 to 447 inclusive. This exception, being "a part of the unsold residue of the ARROYO SECO RANCHO, described as that portion thereof 'proposed to be sold to the United States as an Indian Reservation', from the date of the issuance of United States Patent therefor, on 29 August 1863, to the date hereof," is the subject property / Ione Reservation. President Lincoln signed the Deed nearly twelve years after the California Land Commission completed the process of confirming land claims under the Act of March 3, 1851, ch. 41, 9 Stat. 631.

On 16 August 1923, T. G. Negrich, Amador Co. Dist. Attorney, responding to an inquiry from Superintendent Miller as to the tenure of the Ione Band of Miwok Indians at the Ione Rancheria, informed Miller regarding the history of the tribe:

Concerning the length of time the Indians have lived on the disputed tract, the information I can gather is that they have been there for as far back as the white settlers can remember. Most people put it over 100 years. Whether this is so or not I cannot say and do not care to be quoted, except as basing this information upon what has been told me. In view of the fact that in the tract there is an Indian cemetery, that fact alone would justify the conclusion that they have lived there for a great many years. [Letter, 16 August 1923, T. G. Negrich, Amador Co. Dist. Attorney to Greenville Agency Superintendent Edgar K. Miller in Record Group 75, Records of the Bureau of Indian Affairs, in Record Group 75, Records of the Bureau of Indian Affairs, Central Classified Files, 1907-1939, Roseburg, 310, in File 108.465-14.]

Recorded deeds in Amador County dating to at least 1925 reflect that the Ione Reservation always has been an Indian Reservation, hence Indian Country as defined at 18 U.S.C. Section 1151 (a), regardless of its federal trust status. The subject property, described below, is tribal Indian land and tribal trust property, and is subject to Federal and tribal jurisdiction, and concurrent jurisdiction only within the meaning of P.L. 280, IGRA, and the like:

Beginning at the point of intersection of the center line of the County Road to Jackson, with the westerly line of the fifty-two acre tract of land owned by Anthony Meath, Armando Dellaringa, Rocco Dellaringa and Albert Dellaringa, as recorded in Book 130, Official Records, Amador County, California, page 98; thence following the center line of said County Road, North sixty-five degrees, fifty minutes West (N. 65 deg. 50' W.) One thousand seven hundred twenty-five (1725) feet to a point; thence at right angles, North twenty-four degrees, ten minutes East (N.24 deg. 10" E) One thousand seventy-two (1072) feet to a point; thence at right angles, South sixty-five degrees, fifty minutes East (S. 65 deg. 50'E) One thousand five hundred thirty-one (1531) feet to the West boundary of the said property of

Anthony Meath, Armando Dellaringa, Rocco Dellaringa and Albert Dellaringa; thence following said boundary line, South fourteen degrees, eight minutes West (S. 14 deg. 08' W) One thousand eighty-seven (1087) feet to the point of beginning.

The Ione Band of Miwok Indians acquired beneficial ownership of the forty acre parcel in the name of the Ione Band of Miwok Indians and held clear title to the tract in a Quiet Title Order in the Villa v. Moffat case, dated 31 October 1972. This is the property located at 2911 Jackson Valley Road, Ione, California, hereinabove referred to as "the Ione Rancheria."

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JURISDICTIONAL BOUNDARIES OF THE IONE BAND OF MIWOK INDIANS

Attached to this report are other maps of the wider area, showing the modern territorial limits of the Ione Band of Miwok Indians, in which acquisition of land in trust and economic development enterprises should encounter no impediment.

The aboriginal boundaries of the Ione Band of Miwok Indians included the Ione Reservation itself, as described above, as well as other territories north towards Tuolumne County, extending northwest to Sacramento County, southwest to Mt. Diablo in Contra Costa County, south towards San Joaquin, Calaveras and Stanislaus counties, and east to Mariposa County. (See: MAPS I-VI, Ione territory). The Ione Band of Miwok Indians has asserted its original and concurrent jurisdiction over this entire territory under P.L. 101-601, 25 U.S.C. Section 2002 (Native American Graves Protection and Repatriation Act of November 16, 1990), and under the National Historic Preservation Act of 1966 (as amended):

1. On April 4, 1991, citing NAGPRA, the Tribe contracted to protect cultural resources in the Buckeye Ranch Project (Golf Course and Nature Preserve) in San Joaquin County (Letter, January 13, 1992, Ione Band of Miwok Indians to San Joaquin County Board of Supervisors).
2. On March 2, 1993, the Ione Band cited NAGPRA in asserting jurisdiction over a section of the area through which the PGT/PGE Pipeline Project was under construction (M.P. 318, M.P. 427.3) (Letter, March 2, 1993, to Secretary Lois D. Cashell, Federal Energy Regulatory Commission).
3. On April 28, 1993, citing NHPA, the Tribe asserted jurisdiction over the sites CA-CCO-147 and CA-CCO-593 in the Delta Wetlands Project, Holland Tract, Woodward Island and Bouldin Island, on the southeast (San Joaquin County) border of Contra Costa County, some eight miles east of Antioch (Letter, May 4, 1993, John Holson to Ione Band of Miwok Indians). MAPS OF HOLLAND TRACT / DELTA WETLANDS PROJECT.
4. On February 15, 1994, the City of Ione contracted with the Tribe to monitor the project site at Castle Oaks (at State 104 and Castle Oaks Drive in Amador County) for the purposes of cultural preservation under NAGPRA. MAP, PROJECT SITE.
5. On November 30, 1994, the Ione Band asserted jurisdiction over the Los Vaqueros Dam Project in Contra Costa County (Letter, December 2, 1994, Lynne Bowman, Administrative Secretary, Contra Costa Water District Construction Department, to Ione Band of Miwok Indians, conveying signed consulting services agreement relating to archaeological monitoring services required under NAGPRA). MAP V.

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The attached maps indicate these sites within the territory of the Ione Band of Miwok Indians. The Ione Band of Miwok Indians has established precedents in asserting jurisdiction within its aboriginal boundaries as the federally-acknowledged tribal sovereign in that region.

FEDERAL DOCUMENTS RELATING TO TERRITORIAL CLAIMS OF THE IONE BAND OF MIWOK INDIANS

1. Record Group 75, Records of the Bureau of Indian Affairs, Central Classified Files, 1907-1939, Roseburg, 310, Part I, File # 310-42198-16, relating to clearing title to the subject property / Ione Reservation as a federal trust Indian land base, in Record Group 75, Records of the Bureau of Indian Affairs, Central Classified Files, 1907-1939, Roseburg, 310, files 57752-14-310 - 108.465-14, Box # 27, NARC, Wash., D.C. This is the Sacramento area related file containing correspondence on the general plan for Ione Band's land acquisition.
2. Record Group 75, Records of the Bureau of Indian Affairs, Central Classified Files, 1907-1939, Roseburg, 310, Part I, file no. 7510-30-81612, "Sacramento," (hereafter, "Sacramento"), in file 108.465-14-310, NARC. Correspondence and documents on Ione Band's land acquisition.
3. Record Group 75, Records of the Bureau of Indian Affairs, Central Classified Files, 1907-1939, file #

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49751-308-1926, Sacramento, 308, NARC, Wash., D.C., containing documents relating to the acquisition in trust of the Buena Vista Rancheria for members of the Ione Indians.

4. Record Group 75, Records of the Bureau of Indian Affairs. Entry 121. Central Classified Files, 1907-1939. 8,033 ft. Digger Agency 1907-1925. (000-939.) Digger 255-1915; file # 339-63792-1912, Sacramento, NARC, Wash., D.C., containing documents relating to the decline of the Digger Agency, leading to the formation of adjacent land bases, at Ione and Buena Vista.

Particular documents from these files prove the continuing territorial claims of the Ione Band of Miwok Indians

:

1. Letter, File # 310-42198-16, to Assistant Secretary of the Interior [Bo Sweeney], of 2 May 1916, signed by the C. F. Hauke Acting Assistant Commissioner, covering partially executed deed, abstract of title in two volumes, plat of survey in connection with the desired purchase of 40 acres in Amador County, at the price of \$2,000 from the Ione Coal & Iron Company, for the use of 101 homeless California Indians, designated as the Ione Band enclosed in Record Group 75, Records of the Bureau of Indian Affairs, Central Classified Files, 1907-1939, Roseburg, 310, files 57752-14-310 - 108.465-14, Box # 27, National Archives (NARC), Wash., D.C.

2. Letter, File # 310-42198-16, Authority for "Memorandum to Purchase Division," of 4 May 1916, signed by the Langley, Chief, Land Division, enclosed in Record Group 75, Records of the Bureau of Indian Affairs, Central Classified Files, 1907-1939, Roseburg, 310, files 57752-14-310 - 108.465-14, Box # 27, National Archives (NARC), Wash., D.C.

3. Letter, File # 310-42198-16, Authority for "Purchase of Lands for Landless Indians in California," of 18 May 1916, signed by the Assistant Secretary of the Interior, Bo Sweeney, enclosed in Record Group 75, Records of the Bureau of Indian Affairs, Central Classified Files, 1907-1939, Roseburg, 310, files 57752-14-310 - 108.465-14, Box # 27 National Archives (NARC), Wash., D.C.

4. Entire File # 310-42198-16, relating to clearing title to the subject property / Ione Reservation as a federal trust Indian land base, in Record Group 75, Records of the Bureau of Indian Affairs, Central Classified Files, 1907-1939, Roseburg, 310, files 57752-14-310 - 108.465-14, Box # 27, NARC, Wash., D.C.

5. Entire File Record Group 75, Records of the Bureau of Indian Affairs, Central Classified Files, 1907-1939, Roseburg, 310, Part I, file no. 7510-30-81612, "Sacramento," (hereafter, "Sacramento"), in file 108.465-14-310, NARC.

6. Letter, 27 March 1915, Second Assistant Commissioner C. F. Hauke, to Special Indian Asbury, covering copy of Letter of 24 March 1915, Commissioner Cato Sells to Special Indian Agent-California John J. Terrell, in Sacramento General File, Record Group 75, Records of the Bureau of Indian Affairs, Central Classified Files, 1907-1939, Roseburg, 310, Part I, "Sacramento," in file 108.465-14-310, NARC.

7. Letter, 2 May 1915, Special Indian Agent John J. Terrell to Hon. Cato Sells, Commissioner of Indian Affairs, 4, ff., in Sacramento General File, Record Group 75, Records of the Bureau of Indian Affairs, Central Classified Files, 1907-1939, Roseburg, 310, Part I, "Sacramento," file no. 81818-19195-310 in file 108.465-14-310, NARC.

8. Letter, 20 April 1915, Special Indian Agent John J. Terrell to Hon. Cato Sells, Commissioner of Indian Affairs, 4, ff., in Sacramento General File, Record Group 75, Records of the Bureau of Indian Affairs, Central Classified Files, 1907-1939, Roseburg, 310, Part I, "Sacramento," file no. 81818-19195-310 in file 108.465-14-310, NARC.

9. Letter, 11 May 1915, Special Indian Agent John J. Terrell to Hon. Cato Sells, Commissioner of Indian Affairs, transmitting copy of Ione census, Record Group 75, Records of the Bureau of Indian Affairs, Central Classified Files, 1907-1939, Roseburg, 310, "Ione," file # 54777, in file 108.465-14-310, NARC.

10. Letter, 3 July 1916, Interior - Solicitor Alexander T. Vogelsang, approved by Sweeney and submitted to the Interior - Secretary, Record Group 75, Records of the Bureau of Indian Affairs, Central Classified Files, 1907-1939, Roseburg, 310, in file 108.465-14.

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11. Letter, 14 July 1916, Chief Clerk C. F. Hauke to the John J. Terrell, Record Group 75, Records of the Bureau of Indian Affairs, Central Classified Files, 1907-1939, Roseburg, 310, in file 108.465-14.

12. Letter, 10 July 1916, Solicitor Vogelsang to Interior - Secretary, Record Group 75, Records of the Bureau of Indian Affairs, Central Classified Files, 1907-1939, Roseburg, 310, in file 108.465-14.

13. Letter, 4 January 1917, Chief Clerk C.F. Hauke and Assistant Secretary of the Interior Bo Sweeney advised the Interior -Secretary Record Group 75, Records of the Bureau of Indian Affairs, Central Classified Files, 1907-1939, Roseburg, 310, in file 108.465-14.

14. Letter, 16 January 1917 from Chief Clerk C. F. Hauke to Special Commissioner for Indians of California Terrell, Record Group 75, Records of the Bureau of Indian Affairs, Central Classified Files, 1907-1939, Roseburg, 310, in file 108.465-14.

15. Letter, 5 February 1917 from Special Commissioner for Indians of California Terrell to "Mr. Albert Clifford, Indian," Record Group 75, Records of the Bureau of Indian Affairs, Central Classified Files, 1907-1939, Roseburg, 310, in file 108.465-14; SEE also: filed concurrently herewith, Affidavit of Nic Villa, Jr.

16. 24 February 1919 "Abstract of Title to the Unsold Portion of the Arroyo Seco Rancho in the County of Amador State of California, with particular reference to that portion thereof occupied by Indians and contemplated to be purchased for the use and occupancy of Indians by the United States, From the time of issuance of Letters Patent upon said land, to the present date," issued by "M. E. Fontenrose, Searcher of Records, Amador Co., Cal."

17. Letter, 28 March 1919, from Interior - Solicitor Vogelsang, to Interior - Secretary, in Record Group 75, Records of the Bureau of Indian Affairs, Central Classified Files, 1907-1939, Roseburg, 310, in File 108.465-14.

18. Letter, dated 4 April 1919, from Chief Interior Clerk C. F. Hauke to Greenville Agency Superintendent Edgar K. Miller, in Record Group 75, Records of the Bureau of Indian Affairs, Central Classified Files, 1907-1939, Roseburg, 310, in File 108.465-14.

19. Letter, dated 2 June 1922, Greenville Superintendent Edgar K. Miller to the Commissioner of Indian Affairs, in Record Group 75, Records of the Bureau of Indian Affairs, Central Classified Files, 1907-1939, Roseburg, 310, in File 108.465-14.

20. Letter, dated 19 October 1922, Chief Interior Clerk Hauke to Greenville Superintendent Miller, in Record Group 75, Records of the Bureau of Indian Affairs, Central Classified Files, 1907-1939, Roseburg, 310, in File 108.465-14.

21. "Message from the President of the United States, Communicating 18 Treaties Made with Indians in California, of the Following Tribes, Viz: . . . J. Culu, Yassi, &c., September 18, 1851 [Treaty of Forks of Cosumnes River]." Record Group 75, Records of the Bureau of Indian Affairs, Documents Relating to the Negotiation of Ratified and Unratified Treaties with Various Tribes of Indians, 1801-69, Roll 8, Unratified Treaties, 1821-1865, National Archives, National Archives and Records Service, GSA, Wash., D.C., 1960, T494.

22. Crichton v. Shelton, Decs. Sec. General Land Office. Relating to the Public Lands, August 30, pp. 205, ff. (1904), Decs. Sec. General Land Office. Relating to the Public Lands, August 30, 205, 211 (1904).

23. Memorandum, "Cramer et al v. United States," dated May, 1923, the Interior - Solicitor to Commissioner Cato Sells, Record Group 75, Records of the Bureau of Indian Affairs, Central Classified Files, 1907-1939, Roseburg, 310, in File 108.465-14.

24. Letter, dated 12 June 1923, Assistant Commissioner E. B. Meritt to Greenville Agency Superintendent Edgar K. Miller, in Record Group 75, Records of the Bureau of Indian Affairs, Central Classified Files, 1907-1939, Roseburg, 310, in File 108.465-14.

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25. Letter, 16 August 1923, T. G. Negrich, Amador Co. Dist. Attorney to Greenville Agency Superintendent Edgar K. Miller in Record Group 75, Records of the Bureau of Indian Affairs, in Record Group 75, Records of the Bureau of Indian Affairs, Central Classified Files, 1907-1939, Roseburg, 310, in File 108.465-14.

The Ione Band of Miwoks were treated as "Indians of California" as individual claimants in Thompson, Fuller, Bellas, et al. v. United States (Docket No. 31) and Risling, Masten, and Dornbach v. United States (Docket No. 37), Indian Claims Commission, July 31, 1959, according to certain exhibits offered in these consolidated actions. Exhibits appear in Robert F. Heizer, Ed., The California Indians vs. The United States of America (HR 34497). Ballena Press Publications in Archaeology, Ethnology and History No. 12 (Ballena: Socorro, N. M., 1978), at RH Ex. Nos.:

1. Community Land Ownership: RH Ex. No. 28, Merriam (1907), p. 343; No. 53, Gifford (1926), pp. 390-391.
2. Boundaries and Territories: RH Ex. 163, Merriam (1940), p. 24 and map.
3. Defense of Boundaries by Indians: RH Ex. 111, Aginsky (1943) p. 434; 18, Henshaw (1890), pp. 469-470; 33, Clark (1910), pp. 21-22; 125, Heizer and Whipple (1944), p. 300.
4. Locating and Marking Territories: RH Ex. 18, Henshaw (1890), pp. 469-470; 55, Hearings 69th Cong. (Merriam, 1926), p. 365; 33, Clark (1910), pp. 21-22.
5. Use of All Lands and Resources in Territory, Case Examples: RH Ex. 77, Barrett and Gifford (1933), pp. 129, 134-135; 79, Heizer and Whipple (1951), p. 79; 164, Jepson (1925); 185, Bennyhoff (n.d.)
6. Pre-1846-8 Tribal and Village Locations: RH Ex. 10, De Mofras (1844); 176, Schenck and Dawson (1929); 117, Heizer (1951), p. 30; 171 and 1172, Fenenga (1949); 175 and 176, Gifford and Schenck (1926) and Schenck and Dawson (1929); 177, Cook and Treganza (1950); 178, Cook and Heizer; 179, Heizer, Lathrap and Meighan (1950); 125, Heizer and Whipple (1951), pp. 163, 168.
7. Indian Attachment to Homelands: RH Ex. 187, Sutter (1856).
8. Recollections of Informants of Traditions and Pre-1850 Cultural Details: RH Ex. 15, Powers (1877), p. 350 (other cites available).

These elements represented to the ethnographers evidence of the exercise of aspects of sovereignty within the Ione Band's aboriginal territory. The selective listing of citations indicates the opinion of various scholars that the Ione Band of Miwoks was an historical tribe. The claims were brought on behalf of the Indians of California, as an unorganized group or class of California Indians as individuals, under Section 10 of the Act of August 13, 1946 prescribed, for the lack of currently federally acknowledged Indian tribes to act as plaintiffs. The California Indians based the right to sue under the Act of May 18, 1928, 45 Stat. 602, giving an exclusive right to sue on behalf of all lands in California, defining Indians of California as those living in California on June 1, 1852, and their descendants living on May 18, 1928. Later amendments eliminated residence restrictions in the 1928 Act, and included non-resident descendants of these, and non-resident descendants of those living in California on June 1, 1852 (Acts of June 30, 1948, 62 Stat. 1166, and May 24, 1950, 64 Stat. 189.)

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cont.



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20448

SEP 20 1994

Memorandum

To: Deputy Commissioner of Indian Affairs
All Central Office Directors
All BIA Area Directors

From: Ada E. Deer, *Ada E. Deer*
Assistant Secretary - Indian Affairs

Subject: Amendment of the Indian Reorganization Act

On June 14, 1994, all Central and Area Office Directors of the Bureau of Indian Affairs (BIA) received a memorandum from the Director, Office of Congressional and Legislative Affairs. The memorandum, a copy of which is attached, notified BIA personnel of Public Law 103-263, an Act "To make certain technical corrections" and addressed the "historic, non-historic" issue.

Section 5 of the Act amends section 18 of the Act of June 18, 1934 (IRA) (25 U.S.C. 476) by adding subsections (f) and (g) to address the development of a distinction within the Department between "created" and "historic" Tribes. This subsection precludes the Department and any other agency from promulgating regulations or any other actions which draw distinctions between federally recognized Tribes regarding the extent of their inherent governmental powers. Basically, this Act represents an "equal footing" doctrine for Tribes in that they all have the same sovereignty and political relationship with the United States regardless of the means by which they were recognized or the method of their governmental organization. Subsection (f) refers to the IRA primarily because such distinctions were often made in the course of reviewing Tribes' constitutions and amendments received under that Act. Recall that in 1988 Congress passed an amendment to the IRA to streamline and expedite the BIA's review of proposed constitutions and amendments. Once again, this law requires the BIA to act as facilitator for the Tribes' political process in this regard.

Specifically, the amendment, signed into law by President Clinton on May 31, 1994, overrules a 1936 Solicitor's Opinion which concluded that, in authorizing the approval of Tribes' constitutions under Section 18 of the Indian Reorganization Act of 1934, 25 U.S.C. subsection 476, Congress distinguished between the governmental powers which may be exercised by, respectively, what have come to be known as "historic" Tribes on one hand, and "non-historic" or "created" Tribes of adult Indian communities on the other. The amendment has the effect of nullifying that opinion.

Therefore, you are hereby instructed to place no reliance on the 1936 Solicitor's Opinion in any future dealings with Tribes in any respect. In addition, I am directing the BIA immediately to send a separate notification of this change to all Tribes previously deemed "created."

MEMORANDUM

To: The Honorable James Cason
Deputy Secretary of Interior
From: Nicolas Villa, Jr.
Chief, Ione Band of Miwok Indians
Date: April 21, 2008
Re: Federal Register Notice, April 18, 2008, Department of Interior Draft Environmental Statement for the Ione Band of Miwok Indians' Proposed 228.04-Acre Fee-To-Trust Land Transfer and Casino Project Amador County, CA.

We have begun the process of reviewing the Draft Environmental Statement (DEIS) for the proposed fee to trust application by individuals purporting to be the tribal council of the Ione Band of Miwok Indians. The public hearing will be held May 21, 2008 from 6 p.m. to 9 p.m. or until the last public comment is received. Written comments on the DEIS must arrive by July 2, 2008 to the Director of the Pacific Regional Office, Sacramento, CA. This demonstrates that exigent circumstances exist.

Facts as stated within the DEIS by the Department of Interior, BIA, as lead Agency:

The lead agency and list of preparers states that the Pacific Regional Office Director, Clay Gregory is responsible for the content in the DEIS along with other staff members of the Pacific Regional Office, to include the Environmental Consultants from Analytical Environmental Services. (Attached)

Page (i) **EXECUTIVE SUMMARY, DEIS "Introduction"**, the BIA states: "The Tribe is governed by a General Council with the day-to-day government conducted by a 5-member tribal council, as authorized in the Tribal Constitution which was passed by the General Council on March 12, 2002. The Tribal Constitution was approved by the Department of Interior, Bureau of Indian Affairs (BIA) on September 6, 2002." (Attached)

SECTION 1.0 "Introduction", this same statement is shortened, but repeated: "the Constitution was approved by the General Council on March 12, 2002 and the Department of Interior, BIA on September 6, 2002." (Attached)

This statement, in its entirety, is contrary to the actions to which the BIA had claimed have taken in July 2002. The BIA had stated that it was proceeding with an alleged tribally called Secretarial supervised election. On July 29, 2002 in the presence of the former House Resource Committee Minority Leader, Mr. Nic J. Rahall, the BIA provided us, for the first time, a copy of individuals they claimed were certified to vote in a Secretarial supervised constitutional election. That document was certified by the BIA dated July 19, 2002 (Attached), more than four months after the purported March 12, 2002 General Council action.

At the time of Mr. Rahall's formal inquiry (Attached, Dated, August 1, 2002), the BIA provided a response from the Assistant Secretary to Mr. Rahall, (Attached, Dated August 6, 2002) that the BIA scheduled the election for August 10, 2002 citing their authority for such an action. The BIA stated that although they were in possession of the protest from Nicolas Villa, Jr. Chief of the Ione Band of Miwok Indians, the BIA stated that Mr. Villa was not permitted to protest the list because he chose not to include himself as an eligible voter. The BIA, with federal funds, proceeded to conduct the election without following the Administrative Procedures Act (APA) while failing to publish, as required by the

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P19-09

APA, the proposed constitution and the proposed list of individuals eligible to vote. The failure by the BIA to publish the BIA action failed to provide due process to challenge the list of eligible voters or the proposed constitution.

After reviewing the "list of eligible voters" provided to us on July 29, 2002, we immediately protested that the individual who had certified the list on behalf of the BIA had included several members of her family and a conflict existed. Carol Rogers Davis, an employee of the BIA Central California Agency and the BIA's Chairman of the election would and has gained personally from the outcome of the alleged BIA Secretarial election. The BIA alleged that it had removed Carol Rogers Davis and replaced her with Raymond Fry, another BIA employee, Pacific Regional Office. No evidence exist that Mr. Fry had not replaced Ms. Davis nor was her certification of "list of eligible voters" ever reviewed. However, the BIA insisted that Mr. Fry oversaw the Secretarial election as the representative of the BIA and the Secretary of Interior.

The BIA monitored Secretarial supervised election was held at the local VFW hall with individuals unknown to our tribe entering and leaving the VFW building in lone for single purpose of voting on the BIA Secretarial election for a "new" tribal constitution. We were unable to confirm that the BIA was actually present at the August 10, 2002 election. On September 6, 2002, the BIA issued a Certificate of Approval (Attached) validating the outcome of the Secretarial supervised election citing their authority to do so. This is the same document to which the BIA points out in the DEIS as their "approval of the General Council" action of March 12, 2002. However, the September 6, 2002 Certificate of Approval does not mention the alleged General Council action of March 12, 2002.

P19-09
cont.

The information contained in the DEIS states that the Constitution was approved by the General Council on March 12, 2002 and not as a result of a special Secretarial supervised election as identified on the Certificate of Approval, dated September 6, 2002.

At the time status correction, March 22, 1994, the Assistant Secretary was provided and did approve the tribal constitution, dated September 19, 1990, (Attached) and the tribal base rolls, executed August 27, 1991. (Attached)

No legal action was ever taken by the tribe to nullify the September 19, 1990 tribal constitution approved by a tribal action nor was any legal action ever taken to nullify the tribal base rolls, dated August 27, 1991. Therefore, the "historic" tribe retains superior claim to the original tribal constitution and the original rolls approved by the BIA March 22, 1994. The "historic" tribe has continued to conduct business to best of our ability given the circumstances surrounding the issues at hand.

The BIA has chosen to make the claim that the current constitution to which it refers in the DEIS document was a tribal action. There is no evidence that such a tribal action took place and there is no evidence that the individuals claiming to have approved the March 12, 2002 constitution were qualified to vote in any election prior to or since that date.

To: The Honorable James Cason
Deputy Secretary of Interior
From: Nicolas Villa, Jr.
Chief, lone Band of Miwok Indians
Dated: April 30, 2008
Re: Federal Register Notice, April 18, 2008, Department of Interior Draft Environmental Statement for the lone Band of Miwok Indians' Proposed 228.04-Acres Fee-To-Trust Transfer and Casino Project Amador County, CA.

During our review of the Draft Environmental Statement (DEIS) for the proposed fee to trust application by individuals purporting to be the tribal council of the lone Band of Miwok Indians there appeared the false allegation that the lone Band of Miwok Indians is a "landless tribe" as stated by Carl Artman, then, Associate Solicitor and at the time of publication of the DEIS, Assistant Secretary of Interior, BIA. Mr. Artman signed off the publication of the DEIS, January 22, 2008.

Facts as stated within the DEIS by the Department of Interior, BIA, as lead agency.

The lead agency and list of preparers states that the Pacific Regional Office, Clay Gregory is responsible for the content in the DEIS along with other staff members of the Pacific Regional Office, to include the Environmental Consultants from Analytical Environmental Services. It is apparent Mr. Gregory relied upon the false allegation prepared by Carl Artman referring to the lone Band as a landless and restored tribe.

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Page (i) EXECUTIVE SUMMARY, DEIS "Introduction", the BIA states: "The Tribe presently has no land in trust and is eligible to acquire land for reservation purposes."

Page 1-1 SECTION 1.0 "Introduction", this same above statement is shortened: "The Tribe has no trust land" while leaving out the fact the tribe has land. The BIA refers to **Appendix A** which includes the Louis Bruce acknowledgement of the Tribe's Federal recognition and agreed to accept land into trust on behalf of the "landless" Tribe". The BIA included the 1994 letter from Ada Deer, Assistant Secretary, reaffirming the BIA's commitment to bring land into trust while recognizing the continued recognition of the Tribe. The BIA states in the DEIS: "In 2006, the BIA determined that the Tribe is eligible to have lands taken into trust as its initial reservation pursuant to 25 U.S.C § 465", but the opinion written by then Associate Solicitor, Carl Artman, to which the BIA has made reference in the DEIS has been omitted from the DEIS.

The question as to why the omission of the Carl Artman opinion (Attached) by the BIA may demonstrate the BIA's concern to the alleged "restored" "landless" status to which Carl Artman claims exist. The other possibility is that the BIA has concealed the Artman opinion as to not be challenged to the fabrication of facts and legalese created by a lawyer to serve up the illusion that the lone Band was terminated by some illegal action of the BIA in 1992 and restored in 1994 and the false allegations that the Tribe has no land. The facts are that the Tribe was never terminated, therefore never restored and that the Tribe is not landless. The BIA records support those facts.

P19-11

On April 27, 2007, the Associate Solicitor, BIA, and the Assistant US Attorney filed a brief in the United States District Court, Washington, D.C. regarding Muwekma v. Kempthorne, (Attached) stating that the lone Band of Miwok Indians has always had land and that the land is "trust" land. The brief continues that the lone Band was never terminated and therefore never restored citing the fact that the Tribe's

status had been corrected in 1994 due to a BIA error and, in part, that decision to correct the status had been made as a result of the continuing occupation and control over its tribal land base, the Lone Reservation [aka Jackson Valley Reservation]. The Solicitor's brief of April 27, 2007 has been omitted by the BIA most likely because it contradicts the allegations of the Carl Artman opinion and the efforts of the BIA to push through land into trust for the group purporting to be the Lone Band of Miwok Indians as a "restored" "landless" tribe bypassing regulations under Section 20 within Indian Gaming Regulatory Act.

In addition to omitting the 2006 Artman opinion and Solicitors brief of April 27, 2007, Muwekma v. Kempthorne, the BIA omitted the letter of April 29, 1935 (Attached) to Commissioner of Indian Affairs from Field Representative, Roy Nash. The letter is discussing land held by either executive order or Secretarial authority for certain tribes of California during the attempt to organize tribes under the Indian Reorganization Act of 1934. The letter states, "See Act of January 30, 1897, and Executive Order of August 6, 1917, and the tract at Jackson, California, containing 330 acres, which was purchased under the Act of March 3, 1895, and 40 acres were reserved by order of Secretary dated Oct. 28, 1908"

At that time, the Lone Reservation or Rancheria, the Jackson Rancheria and the Buena Vista Rancheria [aka, Ritchey Rancheria] were all considered trust land for the Lone Band of Miwok Indians and identified as such.

The BIA failed to include the federal court order of November 19, 1991 which dismissed all individual claims against the Lone Reservation while the Court referred to the land as aboriginal territory of the Tribe.

P19-11
cont.

[Federal Register: April 18, 2008 (Volume 73, Number 76)]

[Notices]

[Page 21150-21151]

From the Federal Register Online via GPO Access [wais.access.gpo.gov]

[DOCID:fr18ap08-85]

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DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Draft Environmental Impact Statement for the Ione Band of Miwok
Indians' Proposed 228.04-Acre Fee-To-Trust Land Transfer and Casino
Project, Amador County, CA

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice advises the public that the Bureau of Indian Affairs (BIA) as lead agency, with the Ione Band of Miwok Indians (Tribe), National Indian Gaming Commission, City of Plymouth, California, and U.S. Environmental Protection Agency (EPA), intends to file a Draft Environmental Impact Statement (DEIS) with the EPA for the proposed 228.04 acre trust acquisition and construction of casino project to be located within the City of Plymouth in Amador County, California and that the DEIS is now available for public review. This notice provides a 75-day public comment period and thereby grants a 30-day extension to the normal 45-day public comment period. This notice also announces a public hearing to receive comments on the DEIS.

DATES: Written comments on the DEIS must arrive by July 2, 2008. The public hearing will be held May 21, 2008, from 6 p.m. to 9 p.m., or until the last public comment is received.

ADDRESSES: You may mail or hand carry written comments to Dale Risling, Deputy Regional Director, Pacific Regional Office, Bureau of Indian Affairs, 2800 Cottage Way, Sacramento, California 95825. Please include your name, return address, and the caption, "DEIS Comments, Ione Band of Miwok Indians' Casino Project," on the first page of your written comments.

The public hearing will be at the Amador County Fairgrounds, 18621 Sherwood and School Streets, Plymouth, California.

The DEIS is available for review at the Amador County Library, Jackson Main Library, 530 Sutter Street, Jackson, California 95642 and at the City Clerk, Plymouth City Hall, 9426 Main Street, Plymouth, California 95669. General information for the Amador County Library, Jackson Main Library, may be obtained by calling (209) 223-6400. General information for the City Clerk, Plymouth City Hall, may be obtained by calling (209) 245-6941.

If you would like to obtain a copy of the DEIS, please write or call John Rydzik, Chief of the Division of Environmental, Cultural

Resource Management and Safety, at the BIA address above or the telephone number provided below. An electronic version of the DEIS may be viewed at <http://www.ioncwis.com>.

FOR FURTHER INFORMATION CONTACT: John Rydzik, (916) 978-6042.

SUPPLEMENTARY INFORMATION: The Tribe has requested that the BIA take into Federal trust 228.04 acres of land currently held in fee by the Tribe, on which the Tribe proposes to construct a casino, a hotel, parking areas and other facilities. The proposed project is located in the City of Plymouth in Amador County, California. The project site is located immediately east of State Highway 49 and is within 2 1/2 miles of State Highway 16. The project site consists of 12 parcels of land totaling 228.04 acres. Eight of the 12 parcels (10.28 acres) are located within the City of Plymouth, while the remaining four parcels, approximately 218 acres, are located on unincorporated land within Amador County.

Phase I of the proposed action includes the development of a 120,000 square foot casino complex, which would consist of a porte cochere, main gaming hall, food and beverage services, retail space and administration space. Approximately 65,000 square feet of this building space would be devoted to the main gaming hall, while the balance of the facility would include administration space, small retail shops, food/beverage facilities and a small gift and art shop. This entire complex would be built on land currently within the City of Plymouth. Primary access to the casino complex would be via State Highway 49.

Phase II of the proposed action consists of the construction of a hotel (250 rooms maximum), which would include small conference style facilities, together with food and beverage services. The proposed hotel would also be fitted with a dual plumbing system for the use of potable and recycled water. In addition, site parking would be increased to supply adequate parking for hotel and conference patrons. The hotel is anticipated to be operational no sooner than the middle of year 3-4 of the project. Primary vehicle access to the hotel would be provided by the main casino and surface-parking driveway.

A range of project alternatives is considered in the DEIS, including: (1) Preferred casino and hotel; (2) reduced casino and hotel; (3) reduced casino, no hotel; (4) regional shopping development; and (5) no action. Environmental issues addressed in the DEIS include land resources, water resources, air quality, biological resources, cultural resources, socioeconomic conditions, resource use patterns, public services, other values including noise, hazards and hazardous materials and visual resources and environmental justice, cumulative effects, indirect effects, growth inducing effects and mitigation measures. Input from the public, including that from public scoping meetings the BIA held November 19, 2003, and February 4, 2004, at the Amador County Fairgrounds in Plymouth, California, was included in the development of these alternatives and issues.

Public Comment Availability

Comments, including names and addresses of respondents, will be available for public review at the BIA address shown in the ADDRESSES section, during business hours: 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment--including your

personal identifying information--may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority

This notice is published in accordance with section 1503.1 of the Council of Environmental Quality Regulations (40 CFR, parts 1500 through 1508) implementing the procedural requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4371 et seq.), Department of the Interior Manual (516 DM 1-6), and is in the exercise of authority delegated to the Assistant Secretary--Indian Affairs by 209 DM 8.1.

[[Page 21151]]

Dated: January 22, 2008.
Carl J. Artman,
Assistant Secretary--Indian Affairs.
[FR Doc. E8-8334 Filed 4-17-08; 8:45 am]

BILLING CODE 4310-W7-P

SECTION 7.0

LIST OF PREPARERS

7.1 LEAD AGENCY

Bureau of Indian Affairs

Pacific Region

Clay Gregory, Acting Regional Director

John Rydzik, Acting Chief, Division of Environmental & Cultural Resources,
Management & Safety

Pat O'Mallan, Environmental Protection Specialist

Kevin Bearquiver, Realty Specialist

Dan Hall, Regional Archaeologist

David Wooten, Endangered Species Coordinator

Northern California Agency

Javin Moore, Self-determination Specialist

7.2 ENVIRONMENTAL CONSULTANTS

Analytical Environmental Services

David Zweig, P.E., Principal

Trent Wilson

Dana Hirschberg

Barbara Stabell

Shelley McGinnis, Ph. D.

Glenn Mayfield

Ryan Jolley

Pete Connelly

Erin Quinn

EXECUTIVE SUMMARY

DRAFT ENVIRONMENTAL IMPACT STATEMENT

INTRODUCTION

The Lone Band of Miwok Indians (hereafter, the "Tribe") consists of approximately 652 members, of which approximately 350 are voting members. The Tribe is governed by a General Council with the day-to-day governance conducted by a 5-member tribal council, as authorized in the Tribal Constitution, which was passed by the General Council on March 12, 2002. The Tribal Constitution was approved by the Department of the Interior, Bureau of Indian Affairs (BIA) on September 6, 2002. The Tribe presently has no land in trust and is eligible to acquire land for reservation purposes. In 1972, BIA Commissioner Louis Bruce acknowledged the Tribe's federal recognition and agreed to accept land into trust on behalf of the Tribe. In 1994, BIA Assistant Secretary Ada Deer reaffirmed the Bureau's commitment to bring land into trust and declare a reservation for the Tribe. These letters are provided in Appendix A.

The Tribe proposes that 228.04 acres of land be taken into trust and that a casino, event center, hotel and other facilities supporting the casino be constructed on the property. The gaming facility will be managed by a professional management company on behalf of the Tribal Government pursuant to the terms of a Management Agreement to be approved by the National Indian Gaming Commission (NIGC). The BIA serves as the Lead Agency for National Environmental Policy Act (NEPA) compliance, with the NIGC, U.S. Environmental Protection Agency (USEPA), and City of Plymouth acting as Cooperating Agencies.

This Draft Environmental Impact Statement (Draft EIS) was prepared to assess the environmental consequences of the Tribe's application to have the BIA take the land into Federal trust for the purposes set forth in the five alternatives discussed herein (including the alternative to take no action) and to have the NIGC approve a gaming-related Management Contract to develop and operate the proposed alternative. The Draft EIS addresses the foreseeable consequences of the Federal actions, including the development and operation of one of four related commercial alternatives. The effects of these development alternatives are analyzed within this Draft EIS.

The Tribe would enter into a Tribal-State Compact, as required by the Indian Gaming Regulatory Act (IGRA) to govern the conduct of Class III gaming activities, or comply with procedures

SECTION 1.0

INTRODUCTION

1.1 INTRODUCTION

The Ione Band of Miwok Indians (Tribe) is a federally recognized Indian Tribe with approximately 652 members, of whom approximately 350 are voting members. The Tribe is governed by a General Council with day-to-day governance conducted by a 5-member Tribal Council, as authorized in the Tribal Constitution. The Constitution was approved by the General Council on March 12, 2002 and the Department of the Interior, Bureau of Indian Affairs (BIA) on September 6, 2002.

The Tribe has no trust land. The Tribe proposes that the BIA accept land into trust for the Tribe for gaming purposes to address the needs of the Tribe for economic development and diversification. In 1972, BIA Commissioner Louis Bruce acknowledged the Tribe's Federal recognition and agreed to accept land into trust on behalf of the landless Tribe. In 1994, BIA Assistant Secretary Ada Deer reaffirmed the Bureau's commitment to bring land into trust and declare a reservation for the Tribe. In 2006, the BIA determined that the Tribe is eligible to have lands taken into trust as its initial reservation pursuant to 25 U.S.C. § 465. The purpose of the Proposed Action is to take substantive action to meet the Tribe's need for land which the BIA has committed to fulfill. BIA letters regarding this issue are provided in Appendix A.

This document serves as the Draft Environmental Impact Statement (Draft EIS) pursuant to the National Environmental Policy Act (NEPA). This Draft EIS addresses the environmental effects of the BIA, acting as lead agency, taking 228.04± acres of land into Federal trust for the Tribe and the National Indian Gaming Commission (NIGC), acting as cooperating agency, approving a management contract for conducting gaming on the trust land leading to the foreseeable consequences of commercial development of the site.

1.1.1 PROJECT LOCATION

The Tribe has requested that the BIA accept in trust for the Tribe 12 contiguous parcels of land, comprising a 228.04± acre project site located in the northwest part of Amador County approximately 35 miles east of the City of Sacramento, and approximately 17 miles south of the City of Placerville (Figure 1-1). The project site is located immediately adjacent and east of



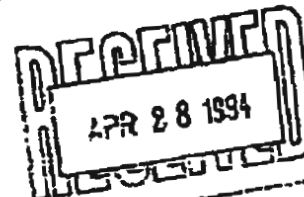
United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, D.C. 20240



MAR 22 1994

The Honorable Nicholas Villa, Jr.
Chief, Ione Band of Miwok
P.O. Box 1152
Ione, California 95640



Dear Mr. Villa,

I am writing regarding our meeting on October 28, 1993 and subsequent discussions with Congressman Doolittle. In that meeting I agreed to clarify the United States' political relationship of the Ione Band of Miwok, as well as Mr. Louis Bruce's 1972 letter regarding the tribe's political status and its historic land base.

Upon review of the matter, I am now reaffirming the portion of Commissioner Bruce's letter which reads:

The Secretary also recognizes that obtaining a tribal community land base for the Ione Band is a part of his policy of Indian self-determination and cultural identification. *** Federal recognition was evidently extended to the Ione Band of Indians at the time that the Ione land purchase was contemplated. *** As the Commissioner of Indian Affairs, I therefore, hereby agree to accept by relinquishment of title or gift the following described parcel of land to be held in trust for the Ione Band of Miwok Indians. (See Bruce letter attached)

As Assistant Secretary of Indian Affairs I hereby agree to accept the parcel of land designated in the Bruce letter to be held in trust as territory of the Tribe. As I stated during the October meeting, the Tribe will henceforth be included on the list of "Indian Entities Recognized and Eligible to Receive Services from the United States Bureau of Indian Affairs," last published in the Federal Register on October 21, 1993.

I am hereby directing the Bureau of Indian Affairs and specifically the Sacramento Area Office to deal with the tribe accordingly. The Bureau will maintain contact with the tribe to address the relevant details. I extend my personal congratulations and look forward to working with you and your people.

Ada E. Deer

Ada E. Deer
Assistant Secretary - Indian Affairs

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

MUWEKMA OHLONE TRIBE,)

Plaintiff,)

v.)

DIRK KEMPTHORNE,)
Secretary of the Interior, et al.)

Defendants.)

No. 1:03 CV 1231 (RBW)

**DEFENDANTS' REPLY IN SUPPORT OF DEFENDANTS' CROSS-MOTION FOR
SUMMARY JUDGMENT**

I. Introduction

Defendants Dirk Kempthorne, Secretary of the Interior and Carl J. Artman, Assistant Secretary-Indian Affairs' ("Defendants") Cross-Motion for Summary Judgment explained that no basis existed for exempting Plaintiff Muwekma Ohlone Tribe ("Plaintiff") from the federal acknowledgment process. Plaintiff's Reply compares itself to the Lower Lake Rancheria ("Lower Lake") and the Ione Band of Miwok ("Ione"); however, it is not similarly situated to these two Indian tribes.

Although Ione and Lower Lake were exempted from the regulatory process of federal tribal acknowledgment, there is no alternative standard for acknowledgment outside of that process. Plaintiff's Reply seeks to create a standard for exemptions from the existing acknowledgment process, but its alleged standard is not found in both the Ione and Lower Lake decisions. Those two decisions emphasized correcting an administrative error on behalf of groups that had either trust land or collective rights to land and a history of dealings with the federal government. These factors of collective rights to land and federal dealings provided a rational basis for these actions outside of the regulatory process because they were factors historically used to demonstrate continuous tribal existence which, according to the Department of the Interior's ("Department") long-held position, is essential in determining federal acknowledgment.

Plaintiff lacks these critical factors. A pattern of federal dealings with Ione and Lower Lake existed. In comparison, there is no evidence that Plaintiff had a relationship with the federal government at any time after 1927. Unlike Ione and Lower Lake, Plaintiff also cannot demonstrate that it possesses collective rights in tribal lands. Indeed, a geographical settlement

at the Verona railroad station no longer existed after 1915. Plaintiff's status also was not affected by a specific administrative error relating to the loss or acquisition of lands to be held in trust by the United States. Because Plaintiff lacks these critical factors, its situation is not similar to that of Lower Lake and Ione and it was properly evaluated within the federal acknowledgment process.

Accordingly, Plaintiff's claim that Defendants violated the Equal Protection Clause and Administrative Procedure Act ("APA") should be rejected and Defendants' Cross-Motion for Summary Judgment should be granted.

II. Defendants Provided a Detailed and Rational Explanation for its Treatment of Plaintiff.

Defendants have provided a detailed and rational explanation on why no basis existed for exempting Plaintiff from the process set out in the federal acknowledgment regulations both in their twenty-one page, single-spaced, Supplement and in their Motion. In its Reply, Plaintiff suggests that it does not have the burden of proving Defendants' actions were arbitrary and capricious pursuant to the Administrative Procedure Act ("APA"). Pl.'s Reply (Dkt. No. 63) at 2. By the same token, Plaintiff argues that it is not required to negate every conceivable rational basis for Defendants' decision pursuant to the Equal Protection Clause. *Id.* Defendants, however, have clearly met the Court's requirement that they provide "a detailed explanation of the reasons for its refusal to waive the Part 83 procedures when evaluating [Plaintiff's] request for federal tribal recognition" Ct.'s Order of September 21, 2006 at 31. Because Plaintiff is challenging the explanation provided by Defendants, the burden now lies with Plaintiff to sustain its Equal Protection Clause and APA claim.

Plaintiff cannot make the requisite showing in order to obtain summary judgment

regarding its claims. *American Towers, Inc. v. Williams*, 146 F. Supp. 2d 27, 30-31 (D.D.C. 2001), *aff'd*, 50 Fed. Appx. 448 (D.C. Cir. 2002) (regarding Equal Protection Clause claims “the burden is on the one attacking the government’s action to negative every conceivable [rational] basis which might support it, whether or not the basis has a foundation in the record.”) (citations omitted); Ct.’s Order of September 21, 2006, 14 (“The party challenging agency action has the burden to prove that the action was arbitrary, capricious, or otherwise unlawful.”) (citation omitted). Plaintiff is not similarly situated to Lower Lake and Ione. Defendants also applied the proper evidentiary standards to Plaintiff. Moreover, Defendants had a rational basis for evaluating Plaintiff within the federal acknowledgment process. As detailed below and in Defendants’ earlier filings, Defendants are entitled to summary judgment on all of Plaintiff’s claims.

A. Plaintiff is Not Similarly Situated to Lower Lake and Ione.

Plaintiff cannot demonstrate that it is similarly situated to Lower Lake and Ione. Unlike these two Indian tribes, Plaintiff lacks a long-standing governmental relationship with the United States. Plaintiff also offers no evidence that it possesses collective rights in land. Accordingly, Defendants’ Motion should be granted.

1. Plaintiff Lacks a Long-Standing Governmental Relationship with the United States.

Defendants’ Motion set forth the pattern of federal dealings with Lower Lake and Ione, which provided evidence of their long-standing and continuing governmental relationship with the United States. Defs.’ Mot. (Dkt. No. 61) at 8-13 (discussing events in 1916, 1927, 1935, 1947, 1952, 1953, 1956, and 1980 that evidenced such a pattern regarding Lower Lake and events in the 1910’s-1920’s, 1927, 1933, 1941, 1970, and 1972 that evidenced such a pattern

regarding Ione). Defendants' Motion detailed that Plaintiff could not exhibit such a pattern. Indeed, "there is no evidence . . . that a Muwekma group had a relationship with the federal government at any time after 1927." Defs.' Ex. 1 to Defs.' Mot. (Dkt. No. 61) at 6. Plaintiff did not have a long-standing governmental relationship with the United States; thus, it is not similarly situated to Lower Lake and Ione. The lack of such evidence regarding Plaintiff also makes clear that there was no basis for exempting Plaintiff from the requirements of the federal acknowledgment regulations.

Plaintiff's Reply attempts to diminish the significance of the federal dealings with Lower Lake and Ione, however, these attempts fail. For example, Plaintiff claims that the supplemental administrative record contains no evidence of contact between Defendants and Lower Lake between 1956 and 1995. Pl.'s Reply (Dkt. No. 63) at 7-8. The supplemental record, however, contains a 1980 reference by the Bureau of Indian Affairs ("BIA") to Lower Lake, which Plaintiff, itself, cites in its Motion for Summary Judgment. Pl.'s Mot. (Dkt. No. 60) at 26, n. 78; *see also* Supp. A.R. Doc. 191, I (noting that Lower Lake was described as having a government to government relationship with the United States in 1980 and BIA considered including Lower Lake on the list of entities acknowledged to have such a relationship).⁴ Plaintiff also questions the significance of Defendants' attempts to take land into trust for Ione. Pl.'s Reply (Dkt. No. 63) at 7. These attempts, however, demonstrate that Defendants had a relationship with Ione and recognized obligations to this entity.

While the supplemental administrative record contains evidence of multiple federal

⁴ With the exception of Supp. A.R. Doc. 60, Defendants submitted copies of the relevant documents from the supplemental administrative record in conjunction with its Cross-Motion for Summary Judgment. Supp. A.R. Doc. 60 is attached to this filing.

dealings with Lower Lake and Ione, comparable evidence does not exist regarding Plaintiff. As noted above, there is no evidence of any federal dealings with Plaintiff at any time after 1927. Moreover, in 1936, the BIA "stated that it did not have a relationship with [Plaintiff's] ancestors." Defs.' Ex. 1 to Defs.' Mot. (Dkt. No. 61) at 6; *see also* Supp. A.R. Doc. 49 (informing Plaintiff's ancestor that her family was not entitled to relief from the BIA, because they did "not have ward status"); Supp. A.R. Doc. 50 (noting that Plaintiff's ancestor is not eligible for any aid from Federal funds, because she did not have ward status; and, further noting that she would have the same status as any other citizen seeking aid through state and county welfare agencies). Plaintiff makes no attempt to address this evidence. Instead, Plaintiff's Reply merely reasserts its position without engaging Defendants' evaluation in its final determination of Plaintiff's arguments and its evidence in any substantive manner. *See, e.g.*, Pl.'s Reply (Dkt. No. 63) at 9 (citing in support of its claims enrollment in the California Claims Act of May 18, 1928 and the enrollment of three children in BIA schools). Defendants have explained the reasons for rejecting Plaintiff's claims and for finding its submissions insufficient. Indeed, Plaintiff's assertions about an Indian claims enrollment process and education at BIA schools were fully evaluated in the final determination and rejected. *See, e.g.*, Defs.' Mot. (Dkt. No. 61) at 13 (noting that enrollment in the claims process did not require current tribal affiliation and that the children were admitted to the schools based on their individual characteristics). Thus, it is clear that Plaintiff cannot point to a pattern of federal dealings to support its claim. Accordingly, Plaintiff it is not similarly situated to Lower Lake and Ione; and, its claims should be dismissed.

2. Plaintiff Lacks Collective Rights in Lands.

Defendants' Motion also explained that, unlike Lower Lake and Ione, Plaintiff lacks collective rights in lands. Defs.' Mot. (Dkt. No. 61) at 13-17; *see also id.* 14 (detailing that the United States held land in trust on behalf of Lower Lake for forty years); *id.* at 14- 15 (explaining the efforts made by the Department of the Interior ("Department") to obtain land for Ione and noting that the members of Ione successfully quieted title to land); *id.* at 15 (stating that the United States has never held land in trust for Plaintiff and that after 1927 there is no available evidence that the United States ever considered obtaining land for a Verona group); Defs.' Ex. 1 to Defs.' Mot. (Dkt. No. 61) at 5 ("a geographical settlement at the Verona railroad station . . . no longer existed after 1915"). Plaintiff's lack of collective rights in land clearly demonstrates that it is not similarly situated to Lower Lake and Ione. Moreover, it shows that no basis existed for exempting Plaintiff from the process set out in the federal acknowledgment regulations.

Plaintiff tries to dismiss the significance of the critical distinction regarding collective rights in land, however, these attempts are unavailing. As Defendants explained in their Motion, the purchase of trust land for Lower Lake demonstrates that the United States recognized an obligation to this Indian tribe as its beneficiaries. In addition, Ione's common land base, which it successfully quieted title to, demonstrates that Ione's members lived in a centralized geographic location. This sort of evidence has historically been utilized by Defendants, in order to determine tribal status.² As set out below, if such evidence is present it is accorded great weight pursuant to the federal acknowledgment regulations. The fact that Lower Lake and Ione possessed collective rights in land provided evidence that these Indian tribes are continuously

² See Felix S. Cohen, *Felix S. Cohen's Handbook of Federal Indian Law*, 271 (1942 ed.); *Felix S. Cohen's Handbook of Federal Indian Law*, 13 (1982 ed.).

existing political entities. Plaintiff lacked this critical evidence demonstrating that it also is a continuously existing political entity entitled to federal acknowledgment.

It is important to note that Plaintiff's Reply improperly conflates the concepts of possessing collective rights in land and possessing trust land. Pl.'s Reply (Dkt. No. 63) at 10 (claiming that Ione was not treated as having collective rights in tribal lands, because land was not taken into trust on its behalf until 2006). Possessing tribal trust land does imply that a group has collective rights in land. Not all situations involving collective rights in land, however, involve tribal trust land. For example, Ione possessed collective rights in land even before land was taken into trust on its behalf. Defs.' Mot. (Dkt. No. 61) at 14-15. Indeed, the Ione were not, as Plaintiff suggests, merely individual Indians living in a California town. The Band lived on an Indian Rancheria, composed almost exclusively of Indian residents, who worked on a ranch that was contiguous to the Rancheria. This land is the same property where they have lived continuously and collectively until the present.³ Accordingly, Plaintiff's attempt to suggest that Ione did not possess collective rights in land misses the mark.

Plaintiff's attempt to diminish this distinction in regards to Lower Lake also fails. In discussing Lower Lake, Plaintiff claims that "no one lived on the Rancheria land for 30 years." Pl.'s Reply (Dkt. No. 63) at 11. Documentation in the supplemental administrative record,

³ See, e.g., Supp. A.R. Doc. 17, 37; Supp. A.R. Doc. 33, 1, 10; Supp. A.R. Doc. 52, 1; Supp. A.R. Doc. 60; Supp. A.R. Doc. 62, 3, 10-14;. Examination of the findings in the final determination regarding Plaintiff makes even more clear the distinctions between Plaintiff, Lower Lake, and Ione. For example, Plaintiff's members are widely distributed in southeastern San Francisco Bay and San Jose, California. Defs.' Mot. (Dkt. No. 40) at 17. Indeed, Plaintiff's members live among several million non-Muwekma. *Id.*; see also *Miami Nation of Indians of Indiana, Inc. v. Department of the Interior*, ("Indiana Miami"), 255 F.3d 342, 346 (7th Cir. 2001).

however, “suggests that there were at least 20 Indians residing on the Lower Lake Rancheria.” Supp. A.R. Doc. 243, 3. *See also id.* (discussing a list of 36 Indians that intended to make their home on the Rancheria); Def.’s Resp. to Pl.’s Statement of Material Facts, ¶ 22 (disputing Plaintiff’s characterization of documents regarding Lower Lake).

Plaintiff makes repeated assertions that issues related to collective rights in lands are not raised in the Lower Lake and Ione decisions. Pl.’s Reply (Dkt. No. 63) at 12, 18, 19. In fact, both decisions clearly reflect that this was a relevant factor underlying the action taken by the Assistant Secretary. Defs.’ Ex. 1 to Defs.’ Mot. (Dkt. No. 61) at 4-8. In the Lower Lake decision, the Assistant Secretary indicated that he was acting to correct a misinterpretation by the BIA of the effect of the sale of the trust land of the Lower Lake Rancheria in 1956. Supp. A.R. Doc. 250, 3. In the Ione decision, the Assistant Secretary stated that she was acting to correct a failure to complete an acquisition of land to be held in trust authorized by the Commissioner of Indian Affairs in 1972. Supp. A.R. Doc. 162.

Plaintiff also suggests that the collective rights in land factor has no relevance to the federal acknowledgment determinations or exemptions from the regulatory process. Pl.’s Reply (Dkt. No. 63) at 12-13. While Plaintiff is correct that having collective rights in land is not required for acknowledgment, such collective rights or tribal trust lands, where and when they are demonstrated are given great weight by the federal acknowledgment regulations. *See e.g.*, 25 C.F.R. 83.7(c)(2)(i). In addition, the federal acknowledgment regulations place significance on living in an exclusive geographical settlement. *See* 25 C.F.R. 83.7(b)(2)(i).⁴

⁴ If Plaintiff had shown that they met either of these sections of the criteria during any period, they would have met the community and political requirements during that period. Although Plaintiff did not demonstrate either of these factors, it still could have met the requirements of

Because Plaintiff lacks collective rights in land, it is not similarly situated to Lower Lake and Ione. Plaintiff's attempts to explain away this critical distinction should not be permitted. Because collective use or ownership of land was historically considered an appropriate factor in favor of federal acknowledgment, it provided a rational basis for exempting Lower Lake and Ione from the federal acknowledgment process. Likewise, the lack of trust land or collectively owned land is a rational basis for not granting Plaintiff an exemption from the regulatory process. Accordingly, Plaintiff's claims should be dismissed.

3. Plaintiff's Alleged Similarities are Unavailing.

Plaintiff's Reply claims that it "has made a substantial evidentiary showing of similar situation." Pl.'s Reply (Dkt. No. 63) at 14-15. In reality, however, Plaintiff offers nothing new to advance its claims. Defendants' Motion analyzed each of the alleged similarities relied upon by Plaintiff and explained their insignificance. For example, Defendants' Motion pointed out that Plaintiff's claims relied on factors that are similar to many Indian groups in California. Defs.' Mot. (Dkt. No. 61) at 17-19 (noting that many groups were subjected to the historical circumstances in California, that over 70 groups from California are in the midst of completing the acknowledgment process, and that at least 8 groups claim Ohlone or Costanoan origins). Defendants noted that neither Lower Lake nor Ione were excepted from the regulatory process on the basis of the mere existence of a previous relationship with the United States. *Id.* at 18. Plaintiff states that the most important similarity between itself and Lower Lake and Ione is "the absence of any act of Congress, the courts, or administrative action terminating the [groups]."

the acknowledgment regulations with other evidence. The Department determined that it did not do so. The Department did not decline to acknowledge Plaintiff, because it lacked collective rights in land.

Pl.'s Reply (Dkt. No. 63) at 15. Because recognized Indian tribes can cease to exist, Defendants explained that this factor was not determinative of its decisions. Defs.' Mot. (Dkt. No. 61) at 18-19 (citing *Indiana Miami*, 255 F.3d 342 (7th Cir. 2001); *Mashpee Tribe v. New Seabury Corp.*, 592 F.2d 575, 587 (1st Cir. 1979)). Defendants further reiterated that "the Lower Lake and Ione decisions emphasized circumstances that reveal differences between [Plaintiff] and those two groups, not similarities shared by the three groups." Defs.' Ex. 1 to Defs.' Mot. (Dkt. No. 61) at 5. Plaintiff should not be permitted to merely rely on factors that are shared by many other groups to make their claims. Plaintiff cannot demonstrate that it meets the key factors present regarding Lower Lake and Ione. Namely, a long-standing governmental relationship with the United States and collective rights in lands. Consequently, its claims should be dismissed.

B. Defendants Applied the Proper Evidentiary Standards to Plaintiff

Defendants' Motion also made clear that Defendants applied the proper evidentiary standards to Plaintiff. Defs.' Mot. (Dkt. No. 61) at 19-21. Defendants explained that an evaluation of the evidentiary burden cannot simply be reduced to comparing the number of pages of documentation entities are required to submit. Defendants contended that requiring groups to make a showing of collective land rights in conjunction with a pattern of long-standing federal dealings ended by a specific administrative error, as was utilized in the Lower Lake and Ione decisions, might be an even more difficult evidentiary burden to satisfy than the one contained in the federal acknowledgment regulations. In footnote 32, Plaintiff makes the conclusory statement that "the Lower Lake and Ione decisions were based on vastly less documentation than a Part 83 petition, as well as a more sparsely documented showing of political activity and federal relationship than required of [Plaintiff]." Pl.'s Reply (Dkt. No. 63) at 18, n. 32. Plaintiff

makes no attempt to address Defendants' arguments. Moreover, as seen above, Plaintiff did not provide comparable evidence to Lower Lake and Ione. Thus, Plaintiff's earlier suggestion that the Assistant Secretary applied a lower evidentiary burden to Lower Lake and Ione must be disregarded.

C. Defendants had a Rational Basis for Evaluating Plaintiff Within the Federal Acknowledgment Process.

Defendants' Motion demonstrated that Defendants had a very clear rational basis for evaluating Plaintiff within the process set out in the federal acknowledgment regulations. Defs.' Mot. (Dkt. No. 61) at 21-25. Defendants' Motion detailed why Plaintiff's previous acknowledgment did not provide sufficient basis for exempting Plaintiff from this process. Defendants explained that if Plaintiff was acknowledged merely on the basis of its limited previous federal acknowledgment which began in 1914 and ended in 1927, then this action would constitute an unconstitutional racial classification. *Id.* at 22-23 (discussing *Morton v. Mancari*, 417 U.S. 535 (1974); *United Houma Nation v. Babbitt*, 1997 WL 403425 (D.D.C. 1997); *Indiana Miami*, 112 F. Supp. 2d 742 (N.D. Ind. 2000); *United Tribe of Shawnee Indians v. United States*, 253 F.3d 543 (10th Cir. 2001); *United States v. Washington*, 641 F.2d 1368 (9th Cir. 1981)).

Plaintiff offers little to refute Defendants' argument regarding impermissible racial classifications and the timing of Plaintiff's requests. *See, e.g.*, Pl.'s Reply (Dkt. No. 63) at 22 (claiming without authority that "it is impossible for Interior to make an impermissible racial-based classification in recognizing or reaffirming the existence of a political entity.") *cf.*, *United States v. Sandoval*, 231 U.S. 28, 46 (1913) (after noting Congress's broad powers over Indians, the Court stated "it is not meant by this that Congress may bring a community or body of people

within the range of this power by arbitrarily calling them an Indian tribe, but only that in respect of distinctly Indian communities the questions whether, to what extent, and for what time they shall be recognized and dealt with as dependent tribes requiring the guardianship and protection of the United States are to be determined by Congress, and not by the courts.”). Defendants detailed that their decision was in keeping with caselaw, the federal acknowledgment regulations, the Lower Lake and Ione decisions, and the timing of Plaintiff’s requests to be exempted from the process. Defs.’ Mot. (Dkt. No. 61) at 21-25.

Plaintiff’s Reply primarily concentrates, instead on its attempts to set forth an alternative standard for acknowledgment. See Pl.’s Reply (Dkt. No. 63) at 15-18 (discussing the alleged standard it identifies as the “reaffirmation standard”). Plaintiff, however, utilizes only the Lower Lake decision to define this standard. This alleged standard cannot be found in the Ione decision. In addition, the alleged standard created by Plaintiff involving previous acknowledgment “within the lifetime of current members” cannot be found in either the Lower Lake or Ione decisions. *Id.* at 17. Plaintiff’s attempt to require the “Department to demonstrate that the tribe is or was terminated” is also inappropriate. *Id.* Plaintiff can point to nothing requiring the Department to show that petitioners do not exist. The federal acknowledgment regulations require that the petitioning group demonstrate continued existence. Furthermore, the requirement – suggested by Plaintiff – would lead to the logical inconsistency of requiring the Department to prove a negative. Plaintiff’s argument that the Department must show termination or abandonment was squarely rejected by the Seventh Circuit in *Indiana Miami*. 255 F 3d at 350.

In any event, the Lower Lake and Ione decisions do not articulate an alternative standard

for acknowledgment. Rather, both decisions show that considerations in keeping with the necessity of demonstrating continuity of tribal existence led to Defendants' actions regarding Lower Lake and Ione. Plaintiff's efforts to draw the Court into fabricating a "standard" for reaffirmation out of these two admittedly brief decisions recognizing a longstanding relationship with the United States, communal interest in land and correcting an administrative error, stand in stark contrast to the Department's efforts to develop general regulations through notice and public comment. *See* 43 Fed. Reg. 39,361 (Sept. 5, 1978); *Indiana Miami*, 887 F. Supp. 1158, 1161-62 (N.D. Ind. 1995). Consequently, Plaintiff's attempts to create an alternative standard for acknowledgment should be rejected.

Plaintiff's efforts to portray Defendants' arguments as post hoc rationalization are also unpersuasive. Pl.'s Reply (Dkt. No. 63) at 18-21. Plaintiff challenges Defendants' Supplement. This Supplement, however, was provided in compliance with the Court's Order of September 21, 2006. In its Supplement, in accordance with their special expertise in the determination of acknowledgment of Indian tribes, Defendants provided a detailed and rational explanation why no basis existed for exempting Plaintiff from the federal acknowledgment process. Indeed, this Supplement is not a post hoc rationalization. Rather, it is a distillation of the long-standing policy considerations that governed Defendants' decisions regarding Lower Lake, Ione, and Plaintiff. The decision documents regarding Lower Lake and Ione are relatively brief, however, Plaintiff has offered no serious argument that these decisions should not be viewed within the context of the explanation set forth in Defendants' Supplement. Defendants' position in its Supplement and this litigation are entirely consistent with the federal acknowledgment regulations and Defendants' long-held view that the essential requirement for acknowledgment

Secretary's findings in the highly detailed final determination should be upheld.²

Plaintiff also summarily claims that its assertions regarding the final determination support its allegations regarding violations of 5 U.S.C. § 554(d). *Id.* Because this case involves a review of agency action not based on a record developed in an evidentiary hearing, the procedural requirements of § 554 do not apply. *No Oilport! v. Carter*, 520 F. Supp. 334, 371 (W.D. Wash. 1981).

As Defendants detailed in their Motion and earlier filings, Plaintiff's first cause of action exceeds the six year statute of limitations set out in 28 U.S.C. § 2401(a). Defs.' Mot. (Dkt. No. 61) at 26. Plaintiff asserts that its present claims could not have accrued until the time of the final determination. Pl.'s Reply (Dkt. No. 63) at 25. Defendants, however, have explained that numerous events have occurred that placed (or should have placed) Plaintiff on notice regarding its lack of federal acknowledgment more than six years ago. Defs.' Reply (Dkt. No. 43) at 9 (citing the comprehensive 1952 congressional survey of Indian tribes, the Department's 1972 published list of Indian tribes and Indian groups, and the 1979 Federal Register list and ensuing lists; none of which mentioned Plaintiff). Plaintiff contends that omission from these lists does not constitute an express repudiation, however, Plaintiff offers no authority for this argument. In each of these instances, it is clear that Defendants maintained the position that it did not view Plaintiff as entitled to a government to government relationship with the United States.

Defendants' Motion pointed out that Plaintiff has failed to identify a fiduciary duty which

² Plaintiff's Reply also includes arguments which contradict one another. For example, Plaintiff claims that Defendants failed to consider that there were historical "time periods for which evidence is demonstrably limited or not available." Pl.'s Reply (Dkt. No. 63) at 24. This argument contradicts Plaintiff's assertion that it "presented substantial evidence satisfying all seven of the criteria." *Id.* at 23.

requires Defendants to list Plaintiff as a federally recognized Indian tribe or provide its members with the benefits and services that are connected to acknowledgment. Defs.' Mot. (Dkt. No. 61) at 26. "An Indian tribe cannot force the government to take a specific action unless a treaty, statute or agreement imposes, expressly or by implication, that duty." *Shoshone Bannock Tribe*, 56 F.3d 1476, 1482 (D.C. Cir. 1995). Plaintiff cites 25 U.S.C. § 2, however, this general statute certainly does not contain the requisite unambiguous provision requiring Plaintiff's recognition as a federally recognized Indian tribe.

Defendants' Motion explained that Plaintiff was not deprived of due process of law. Defs.' Mot. (Dkt. No. 61). Defendants asserted that Plaintiff does not possess the requisite "legitimate claim of entitlement" triggering the due process guarantee. Plaintiff cites *Greene v. Lujan*, 1992 WL 533059 (W.D. Wash. Feb. 25, 1992), in order to argue that it possesses this necessary claim of entitlement. As Defendants noted previously, the *Greene* court focused on the loss of benefits by individual Samish in making its findings. Defs.' Reply (Dkt. No. 43) at 27. Plaintiff has not presented evidence that any of its members have lost benefits that would trigger the due process guarantee.

Defendants' Motion also summarized the extensive process that it afforded Plaintiff. Defs.' Mot. (Dkt. No. 61) at 27. Plaintiff's Reply offers nothing to suggest that it did not receive the benefits of Defendants' lengthy review process, the technical assistance letters sent to Plaintiff, the over 250 page proposed finding detailing the areas in which Plaintiff needed to submit additional evidence, and the formal meeting allowing Plaintiff's members and researchers to receive guidance from Defendants' experts. Plaintiff also does not dispute that Defendants provided six months for Plaintiff to submit such evidence, comments, and arguments. Indeed,

Respectfully submitted,

MATTHEW J. MCKEOWN
Acting Assistant Attorney General
United States Department of Justice

Dated this 27th day of April, 2007.

/s/ Sara E. Culley
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**Constitution of the
Ione Band of Miwok Indians
Dated: September 19, 1990**

D.

**CONSTITUTION
OF THE
IONE BAND OF MIWOK INDIANS**

We, the members of the Ione Band of Miwok Indians, as political successors to the tribe known as the Ione Band of Miwok Indians, also called the Tribe of the Ione Reservation, consisting of the Locolumne and Mokolumne and associated Miwok Peoples who reserved to the use and enjoyment of themselves and their descendants that ancient Miwok Indian homeland called YUNGBUTEE (Where-the-Birds-Sleep), in order to enhance our tribal organization and government, to develop our community resources, to administer justice, and to promote the economic and social welfare of ourselves and our descendants, to secure our aboriginal land and any and all natural resources therein, and to preserve our culture and institutions, do hereby ordain and establish this constitution and bylaws as a guide for the deliberations of our council in its administration of tribal affairs.

ARTICLE I – JURISDICTION

Section 1. The territorial jurisdiction of the Ione Band of Miwok Indians, hereinafter referred to as the Ione Band of Miwok Indians, or "Band," shall extend to all tribally held lands including the Territorial jurisdiction composed of the Ione Reservation at the date of the ratification of this Constitution, and shall also extend to all lands hereafter acquired by or for the Ione Band of Miwok Indians.

[NOTE: The Band's intent and common understanding is that these additional lands subject to the Ione Band of Miwok Indians' title should include the Buena Vista Rancheria, and probably the Jackson Rancheria.]

ARTICLE II - MEMBERSHIP

Section 1. The membership of the Ione Band of Miwok Indians shall consist of all persons on the roll of the Ione Band of Miwok Indians at the date of the approval of this Constitution, and thereafter, shall consist of all persons approved for membership under a current Tribal Enrollment and Membership ordinance.

Section 2. The Ione Band of Miwok Indians Tribal Council shall have the power, by an affirmative vote of two-thirds (2/3), to adopt any person as an honorary member of the Band, provided: That such honorary membership shall not entitle any such person to share in the distribution of any assets derived from tribal resources; hold an elective office with the Band; or have tribal voting privileges.

Section 3. The Ione Band of Miwok Indians Tribal Council shall have the power to promulgate ordinances governing the establishment of an Enrollment and Membership Committee, and enrollment and membership procedures, loss of membership, and the adoption of honorary members after the date of the election approving this constitution; provided, that:

- (a) a Base Roll naming all living members shall be prepared by the Band's Enrollment and Membership Committee hereafter, which shall be subject to the approval of a majority of the duly qualified adult voting members in an appropriate resolution on the same date as, or prior to the date of, the election by which the Band adopts this constitution,

listing dates and places of births, parentage, marriages, current addresses and other appropriate identifying information; and, provided further, that:

- (b) records regarding enrollment and membership shall be maintained current and reviewed and updated no less frequently than once a year, with corrections and amendments to the roll to be duly recorded in keeping with the current Tribal Enrollment and Membership Ordinance.

Section 4. No person enrolled with, affiliated with, or recognized as a member of another Indian Band or group (with the exception of other Miwok Bands, Bands, Tribal Groups or Rancherias), or any person who has relinquished in writing his or her right to membership in the Ione Band of Miwok Indians, or to its predecessor entities, shall be eligible for membership in the Ione Band of Miwok Indians, except with the approval in a special resolution of a majority of the adult voting members of the Ione Band of Miwok Indians.

ARTICLE III - GOVERNING BODY

Section 1. The supreme governing body of the Ione Band of Miwok Indians shall consist of a council known as the Ione Band of Miwok Indians Tribal Council. This council shall be composed of seven (7) members, including an Executive Council consisting of a Chairman, Vice-Chairman, and Secretary-Treasurer elected on a slate of candidates Secretary-Treasurer chosen from within or outside the council but within the tribal membership. All seven (7) Ione Band of Miwok Indians Tribal Council members shall be enrolled members of the Ione Band of Miwok Indians, eighteen (18) years of age or older, who are registered to vote in tribal elections.

Section 2. Except as provided elsewhere in this constitution, all Ione Band of Miwok Indians Tribal Council members shall hold office for a term of four years or until successors have been elected and seated.

ARTICLE IV - DUTIES OF OFFICERS

Section 1. The Chairman of the Ione Band of Miwok Indians Tribal Council shall preside over all meetings of the Ione Band of Miwok Indians Tribal Council and shall be an ex officio member of any of its committees, perform all duties of the Chairman, and exercise any authority delegated to him, including but not limited to the execution of any contracts, leases or other documents approved by the Tribal Council. He shall have general supervisory authority over all other officers, employees, agents and committees of the Band and assure that their duties are properly performed. He shall be the Band's official representative and agent when the Tribal Council is not in session.

Section 2. The Vice-Chairman shall assist the Chairman when called on to do so, and in the absence of the Chairman shall preside, and when so presiding shall have the privileges, duties, and responsibilities of the Chairman.

Section 3. As Ione Band of Miwok Indians Tribal Council Secretary the Secretary-Treasurer shall forward a copy of the minutes of all meetings, and of any newly adopted resolutions and ordinances, to the Superintendent in charge of the Central California Agency in a timely manner.

In his/her capacity as Treasurer of the Ione Band of Miwok Indians Tribal Council, the duties of the Secretary-Treasurer shall be as follows: the Treasurer shall accept, receive, receipt for, preserve, and safeguard all funds in the custody of the Ione Band of Miwok Indians Tribal Council, whether same be tribal funds or special funds for which the Ione Band of Miwok Indians Tribal Council is acting as trustee or custodian. The Treasurer shall deposit all such funds in such bank or elsewhere, which shall be a bank selected by the Tribal Council where depositors' funds are insured by the Federal Deposit Insurance Corporation, as directed by the Ione Band of Miwok Indians Tribal Council, and the Treasurer shall report all receipts and expenditures and accounts and the nature of all funds in his possession, or custody, at each meeting, to the Ione Band of Miwok Indians Tribal Council in writing, or at any time he/she is requested to do so by the Ione Band of Miwok Indians Tribal Council. All records shall be available for inspection by any member of the Ione Band of Miwok Indians and by authorized representatives of the Bureau of Indian Affairs. All disbursements shall be made by check in accordance with resolutions of the Tribal Council, and shall be co-signed by the Chairperson or Vice-Chairperson in the absence of the Chairperson. The Secretary-Treasurer shall file a bond satisfactory to the Tribal Council when it is of the opinion that sufficient funds have accumulated in the Tribal Treasury. The Tribal Council shall authorize payment of the annual bond premium from the Tribal Council funds.

ARTICLE V - SEATING OF COUNCIL MEMBERS

Section 1. Those persons selected to serve on the Ione Band of Miwok Indians Tribal Council shall be installed at the first regular meeting of the Ione Band of Miwok Indians Tribal Council following their election.

Section 2. Each member of the Ione Band of Miwok Indians Tribal Council and each officer or subordinate officer, elected or appointed hereunder, shall take an oath of office prior to assuming the duties thereof, by which oath he shall pledge himself to support and defend the Constitution of the United States and the Constitution and Bylaws of the Ione Band of Miwok Indians.

OATH: "I, _____, do solemnly swear that I will support and defend the Constitution of the United States against all enemies; that I will carry out faithfully and impartially the duties of my office to the best of my ability; that I will cooperate, promote, and protect the best interests of my Band, in accordance with the Constitution and Bylaws of the Ione Band of Miwok Indians".

ARTICLE VI - MEETINGS

Section 1. Regular meetings of the Ione Band of Miwok Indians Tribal Council shall be held quarterly and on the third Saturday. Section 2. Special meetings may be called by the Chairman or a majority of the Ione Band of Miwok Indians Tribal Council, and when so called, the Ione Band of Miwok Indians

Tribal Council shall have the power to transact business as in the regular meetings. Such meetings may be on any date set at the pleasure of the Tribal Council, as in the case of a holiday or emergency, subject to ten (10) days' written or verbal notice given to all Tribal Council members, and shall be open to all tribal members.

ARTICLE VII - QUORUM

Section 1. No business shall be transacted by the Ione Band of Miwok Indians Tribal Council unless a quorum of three (3) council members is present. Should both the Chairman and Vice-Chairman be absent, a temporary chairman shall be appointed from among the councilmen present.

ARTICLE VIII - ORDER OF BUSINESS

Section 1. Order of Business;

- (a) Call to order
- (b) Roll Call
- Ⓣ) Reading of the minutes of last meeting
- (d) Unfinished business
- (e) Reports
- (f) New Business
- (g) Adjournment

ARTICLE IX - SALARIES AND EXPENSES

Section 1. The Ione Band of Miwok Indians Tribal Council may prescribe such salaries and expenses for officers or members of the Ione Band of Miwok Indians Tribal Council as it deems advisable, from such funds as may be available.

ARTICLE X - ORDINANCES AND RESOLUTIONS

Section 1. All final decisions of the Ione Band of Miwok Indians Tribal Council on matters of general and permanent interest to the members of the Band shall be embodied in ordinances.

Section 2. All final decisions of the Ione Band of Miwok Indians Tribal Council on matters of temporary interest or relating especially to particular individuals or officials, shall be embodied in resolutions. All Ione Band of Miwok Indians Tribal Council legislation, minutes of Ione Band of Miwok Indians Tribal Council meetings, and tribal financial records shall be open to inspection by any member of the Ione Band of Miwok Indians, at such times as found convenient to the Council.

Section 3. All questions of procedure (such as acceptance of committee reports or invitations to outsiders to speak) shall be decided by action of the Ione Band of Miwok Indians Tribal Council or by the ruling of the Chairman if no objection is heard. In all ordinances, resolutions, or motions, the Ione

Band of Miwok Indians Tribal Council may act by majority vote, but all matters of importance shall be fully discussed and a reasonable attempt shall be made to secure unanimous agreement.

Section 4. Every resolution shall begin with the words "Be it resolved by the Ione Band of Miwok Indians Tribal Council".

Section 5. Every ordinance or resolution shall contain the authority (statute, tribal constitution, etc.) for the Ione Band of Miwok Indians Tribal Council's legislative action.

ARTICLE XI - NOMINATION AND ELECTIONS

Section 1. The first general election of all council members under this constitution shall be held within sixty (60) days from the date of the constitution's approval. The election shall be conducted under the direction of an Election Board appointed by the existing Ione Band of Miwok Indians Tribal Council and in accordance with ordinances prescribed by the Band effective on the date of ratification of this constitution as needed in addition to the following:

(a) the candidate receiving the highest number of votes for the respective offices shall be declared elected. Newly elected officers shall assume their respective offices and duties immediately upon being elected. In case an election results in a tie vote, the Chairperson shall order a new election for the offices in question, which election shall be held within thirty (30) days. The same candidates shall be candidates for the subsequent election.

(b) All elections of officers shall be conducted by the tribal spokesman, and voting will be by secret ballot, with the name of each candidate and the office he seeks shown thereon. ☉ Absentee ballots shall be furnished upon request to members who will be unable to attend any regular election meeting, or the subsequent election meeting following a tie vote cast at the biennial election, in ample time for the ballots to be returned and included in the tally of ballots cast at the election meeting, but shall not be furnished in the case of vacancies or removals.

Section 2. In the first election under this constitution, the Chairperson, Vice-Chairperson, Secretary-Treasurer and four other Council Members shall stand for election. The Chairperson, Secretary-Treasurer and two other Council members who take office upon the first election shall assume office for a period to run four years. The Vice-Chairperson and two other Council members who take office upon the first election shall assume office for a period to run two years. The four Council Members other than the Chairperson, Vice-Chairperson, and Secretary-Treasurer shall serve terms of four years or two years depending on the number of votes cast each receives respectively in support of his or her individual candidacy, and in the event of any tie, based on a run-off election called under Section 1 (a) of this Article.

Section 3. Except as otherwise provided by herein or by tribal ordinance, all tribal elections under this constitution to fill vacancies in the offices of Chairperson, Vice-Chairperson, Secretary-Treasurer, or

other Council Members whose terms have expired, shall be held on the first Tuesday in November, and on every fourth year, simultaneous with National Election Day, whereupon those elected shall serve a term of four years and until a successor is duly elected. Each election after the adoption of this constitution shall be called, conducted, and certified in accordance with an election ordinance enacted by the Ione Band of Miwok Indians Tribal Council.

Section 4. All members of the Ione Band of Miwok Indians who are eighteen (18) years of age or older, whose domicile has been the reservation of the Ione Band of Miwok Indians for at least one calendar year prior to an election, shall be eligible to vote in that election.

Section 5. Voting in every election shall be by secret ballot.

Section 6. Election Board - The Tribal Council shall appoint an Election Board whose three (3) members shall serve for three (3) year staggered terms of office. Election Board members shall be subject to removal from office only for cause in the manner set forth in this Constitution. The Election Board shall be responsible for impartially carrying out the provisions of the election ordinance described in this Article. No person who holds any elective or appointive tribal office, or who is a candidate for such office, shall serve on the Election Board.

Section 7. The Tribal Council shall enact an election ordinance, consistent with this constitution, setting out the procedures to be followed in conducting each of the various types of tribal elections called for in this constitution. The ordinance shall include mandatory provisions for secret balloting, voter registration, maintaining a current list of qualified voters, absentee voting, screening of prospective candidates, and settling of election disputes. Further, the ordinance shall spell out the procedure and format to be used whenever it is necessary to submit petitions and describe how such petitions are to be determined valid.

ARTICLE XII - VACANCIES AND REMOVAL FROM OFFICE

Section 1. If a Ione Band of Miwok Indians Tribal Councilman or tribal officer shall die, resign from the Ione Tribe of Miwok Indians Tribal Council or tribal membership, be removed from office by the Ione Band of Miwok Indians Tribal Council or be recalled, the Ione Band of Miwok Indians Tribal Council shall declare the office vacant. If the office is vacated by a representative on the Tribal Council, the Tribal Council shall appoint a successor to fill the unexpired term. All vacancies shall be filled within 30 days from the date they are vacated unless they occur within thirty (30) days of the regular election for filling that particular office. Ten (10) days notice of this special election shall be given to all council members.

Section 2. Not more than ten (10) days after a vote of two-thirds (2/3) of the Tribal Council to remove from office of an elected official for improper conduct or gross neglect of duty, or after receipt of a petition based on similar grounds requesting the removal from office of an elected official, which petition shall set forth the specific reasons for which removal is sought and shall be signed by not less than fifty-one (51) percent of the duly qualified voters, the Chairperson shall call a general council meeting to hear the charges against the official. It shall at the same time notify the official in writing of the charges against him or her, and of the date, hours and place of the general council meeting at which time he or she may

appear and answer those charges. After the official has had full opportunity to be heard by the Tribal Council, the Tribal Council, by secret ballot, shall vote on the question of the official's removal. At least 51% of the Tribal Council, must vote for removal in order for the officer to be removed, and the officer in question shall not be eligible to vote on the question of removal. Such Tribal Council meeting shall be held within thirty (30) days of the date that a valid petition for removal action is filed with the Tribal Council.

ARTICLE XIII - POWERS AND DUTIES OF THE TRIBAL COUNCIL

Section 1. Enumerated Powers - The Ione Band of Miwok Indians Tribal Council shall exercise the following powers, subject only to any mandatory limitations imposed by the Statutes or the Constitution of the United States.

- (a) To consult and negotiate with the Federal, State, and local governments, and to contract and execute contracts and agreements with these and other associations, corporations, or individuals on behalf of the Band.
- (b) To employ legal counsel with approval of the Secretary of Interior.
- (c) To approve or veto any sale, disposition, lease or encumbrance of tribal lands, interests in lands, or other tribal assets of the Band.
- (d) To consult with the Secretary of the Interior with regard to all appropriation estimates or federal projects for the benefit of the Ione Band of Miwok Indians prior to the submission of such estimates to the Office of Management and Budget and the Bureau of the Budget and to Congress.
- (e) To administer all lands and assets and manage all economic affairs, planning, and enterprises of the Ione Band of Miwok Indians.
- (f) To promulgate and enforce ordinances governing the conduct of members of the Ione Band of Miwok Indians; providing for the manner of making, holding, and revoking assignments of tribal land or interest therein; governing enrollment procedures, loss of membership, and the adoption of members; providing for the levying of taxes and fees; providing for criminal and civil justice, zoning and regulatory authority, and for public health and safety; providing for the licensing of non-members coming upon tribal land for the purpose of cultural activities, hunting, fishing, trading, or other business; and for exclusion from tribal lands of persons not so licensed; and establishing agencies for law enforcement on tribal lands.
- (g) To create and regulate subordinate organizations for economic and public purposes and to delegate to such organizations, or to any subordinate boards, officials of the Band, or to the community councils, any of the foregoing powers, reserving the right to review any action by virtue of such delegated power.
- (h) To adopt resolutions not inconsistent with this constitution and bylaws, regulating the procedure of the Ione Band of Miwok Indians Tribal Council itself and of other tribal

agencies, tribal officers, or tribal organizations of the Ione Band of Miwok Indians of Indians, and exercising such duties as are conferred upon the Ione Band of Miwok Indians Tribal Council by the attached bylaws.

- (i) To prepare an annual budget and appropriate available tribal funds for public purposes, subject to the approval of the Secretary of the Interior. Thirty (30) days prior to the Ione Band of Miwok Indians Tribal Councils' submission of the Band's annual budget, the community councils shall submit their proposed budgets to the Ione Band of Miwok Indians Tribal Council for review.

Section 2. Future Powers - The Ione Band of Miwok Indians Tribal Council may exercise such further powers as may in the future be delegated to the Ione Band of Miwok Indians Tribal Council by members of the Band or by the Secretary of the Interior or any other duly authorized official or agency of the State of Federal Government.

Section 3. Reserved Powers, Savings and Severability - Any rights and powers heretofore vested in the Ione Band of Miwok Indians but not expressly referred to in this constitution shall not be abridged, but may be exercised by the people of the Ione Band of Miwok Indians through the adoption of appropriate resolutions or ordinances. All enactments of the Band adopted before the effective date of this Constitution shall continue in effect to the extent that they are consistent with this Constitution. If any provision(s) of this Constitution, or of any resolution or ordinance promulgated under this Constitution, shall be declared invalid by a court of competent jurisdiction, the invalid provision(s) shall be severed and the remaining provision(s) shall continue in full force and effect.

ARTICLE XIV - TRIBAL LANDS

All matters regarding the acquisition and use of land by and for the Ione Band of Miwok Indians shall be decided through appropriate tribal ordinance or resolution from time to time.

ARTICLE XV - REFERENDUM, INITIATIVE AND RECALL

Section 1. Referendum - The Ione Band of Miwok Indians Tribal Council shall, upon the receipt of a petition signed by at least eleven (11) eligible voters of the Ione Band of Miwok Indians submit any enacted or proposed resolution to a referendum of the eligible voters. The decision of a majority of the voters shall prevail. The decision of a majority of the voters voting in the referendum shall be binding on the Ione Band of Miwok Indians Tribal Council; providing, that at least 30% of those entitled to vote shall vote in the referendum. The Ione Band of Miwok Indians Tribal Council shall call and hold the referendum within 30 days from the date of receipt of a valid petition; and shall prescribe the manner in which it is to be conducted.

Section 2. Initiative - The members of the Ione Band of Miwok Indians reserve the power to propose

tribal legislation. Any proposed initiative measure shall be presented to the Ione Band of Miwok Indians Tribal Council accompanied by a petition signed by not less than eleven (11) eligible voters of the Ione Band of Miwok Indians. Upon receipt of such a petition, the Ione Band of Miwok Indians Tribal Council shall within 30 days thereafter call and hold a special election for the purpose of allowing the members of the Band to vote on the initiative measure. The decision of a majority of the voters voting in such election shall be binding on the Ione Band of Miwok Indians Tribal Council, provided that at least 30% of those entitled to vote shall vote in the referendum.

Section 3. Recall - Any Ione Band of Miwok Indians Tribal Council member may be recalled by the eligible voters of the Band who are residents. They may accomplish a recall by requesting recall action from the Ione Band of Miwok Indians Tribal Council in a valid petition signed by a majority of the eligible Ione Band of Miwok Indians voting residents. A valid petition shall state the complaint against their representative and shall ask for his or her recall from office. Upon receipt of a valid petition, the Tribal Council shall act to recall the accused. A person recalled from the Ione Band of Miwok Indians Tribal Council is not by this action automatically recalled from his seat on other committees or offices not directly related to the elected office from which he or she has been recalled, but may serve until the Tribal Council by appropriate action nullifies or rescinds such appointment(s).

ARTICLE XVI – AMENDMENTS

Section 1. This constitution and bylaws may be further amended by a majority of the qualified voters of the Ione Band of Miwok Indians voting in an election called for that purpose.

Section 2. It shall be the duty of the Ione Band of Miwok Indians Tribal Council to call an election on any proposed amendment upon receipt of a petition signed by at least twenty-five (25) percent of the eligible voters of the Ione Band of Miwok Indians, or upon a resolution supporting such election by two-thirds of the Ione Band of Miwok Indians Tribal Council.

ARTICLE XVII - BILL OF RIGHTS

All members of the Ione Band of Miwok Indians shall have equal rights equal protection, and equal opportunity to participate in the economic resources, tribal assets, and activities of the Ione Band of Miwok Indians. No member of the Ione Band of Miwok Indians shall be denied any of the constitutional rights or guarantees enjoyed by other citizens of the United States, as provided in the Indian Civil Rights Act of 1968, including but not limited to freedom of religion, speech, and conscience; and the right to orderly association or assembly; the right to petition for action on the redress of grievances and due process of law.

ARTICLE XVIII – ADOPTION

This Constitution and Bylaws shall be in full force and effect whenever a majority of the adult voters of the Ione Band of Miwok Indians voting in an election called by the Tribe, in which at least thirty (30) percent of the eligible voters shall vote

CERTIFICATE OF RESULTS OF ELECTION

The approval of this constitution shall be upon the majority of the vote of the tribal council and general council of the tribe this date, September 19, 1990, as certified by 18 in favor, 0 object, 0 abstention.

S/. Nicolas Villa, Jr.
Chief
Ione, CA
September 19, 1990

S/. Barbara E. Hill
Secretary
Ione, CA
September 19, 1990

IONE Band OF MIWOK INDIANS LAND ORDINANCE

Section 1. Allotted lands, including heirship lands, held in trust by the United States for members of the Ione Band of Miwok Indians, shall continue to be held as heretofore by their present owners. The right of the individual Indian to hold or to part with his land, as under existing law, shall not be abrogated by anything contained in this constitution, but the owner of restricted land may with approval of the Secretary of the Interior, voluntarily convey his land to the Ione Band of Miwok Indians, either in exchange for a money payment or in exchange for standard assignment covering the same or other land, as hereinafter provided.

Section 2. The unallotted lands of the Ione Band of Miwok Indians and lands which may hereafter be acquired by the Ione Band of Miwok Indians or by the United States in trust for the Ione Band of Miwok Indians shall be held as tribal lands. Tribal lands shall not be allotted to individual Indians but may be assigned to members of the Ione Band of Miwok Indians, or leased, exchanged for other lands of equal value, or otherwise used by the Band, as hereinafter provided.

Section 3. Tribal lands may be leased by the Ione Band of Miwok Indians Tribal Council, for such periods of time as are permitted by law. The following provisions shall govern:

- (b) In the leasing of tribal lands, preference shall be given first to Indian cooperative associations, and secondly, to individual Indians who are members of the Ione Band of Miwok Indians.
- (c) At the discretion of the Tribal Council, non-members enjoying tenure on Ione Band of Miwok Indians tribal lands on the date of approval of this constitution may be given the opportunity to lease the land they presently occupy and use, in accordance with the regulations established by the Secretary of the Interior; provided, that these provisions shall not affect existing approved lease contracts; and provided further, that they are not individuals who, voluntarily or for cause, ever have been removed from the Tribal Roll of the Ione Band of Miwok Indians or of its predecessors, unless they voluntarily have reestablished tribal membership. Persons in these category who do not choose to lease the tribal land will be given 120 days from the date of written notification by certified letter by the Ione Band of Miwok Indians Tribal Council to remove all improvements other than real property. At the end of the 120 day period any improvements not removed will become tribal property.
- (d) With the exception of those persons provided for in (b) above, no lease of tribal land to non-members shall be made by the Ione Band of Miwok Indians Tribal Council unless it shall appear that no Indian cooperative association or individual member of the Band is able and willing to use the land and to pay a reasonable fee for such use.
- (e) Grazing or agricultural permits covering tribal land may be issued by the Ione Band of Miwok Indians Tribal Council, with the approval of the Secretary of the Interior, in accordance with the Secretary's Rules and Regulations.

Section 4. In any assignment of tribal lands preference shall be given first to members of the Band who are heads of families and are entirely landless, and, secondly, to heads of families who have received assignments consisting of less than an economic or usable unit. Assignment made under this section shall be for the primary purpose of establishing homes for landless Ione Band of Miwok Indians, and shall be known as Standard Assignments.

Section 5. If any members of the Band holding a Standard Assignment of land shall, for a period of one year, fail to use the land so assigned, the assignment may be cancelled by the Ione Band of Miwok Indians Tribal Council after due notice and an opportunity to be heard, and the said land may be reassigned in accordance with the provisions of Section 4 of this Article. Upon the death of any Indian holding a Standard Assignment, his heirs or other individuals designated by him, by will or by written request, shall have preference in the reassignment of the land, provided such persons are members of the Ione Band of Miwok Indians who would be eligible to receive a Standard Assignment, except that where the heirs include minors who are eligible for membership in the Ione Band of Miwok Indians, a surviving parent or guardian, regardless of whether or not they themselves are eligible for membership, may receive the assignment on behalf of the minors.

Section 6. All applications for assignment of tribal land shall be filed with the Secretary of the Ione Band of Miwok Indians Tribal Council. All applications shall be filed and processed in accordance with an assignment ordinance enacted by the Ione Band of Miwok Indians Tribal Council.

IONE BAND OF INDIANS
IONE RESERVATION/BUENA VISTA RANCHERIA
JACKSON RANCHERIA

ORDINANCE # 91001
ENROLLMENT/CLASSIFICATION

1. STATUS CLARIFICATION:

The Ione Band of Indians, aka, the Ione Band of Miwok Indians Mokelumne Tribe, Locolumne Tribe and any other historic or pre-historic name reference, is a federally recognized tribal sovereign entity under the Authority of the Secretary of Interior, dated May 17, 1916 constitutes the Tribe.

1.1 The Tribe has jurisdiction over its members, the Ione Reservation known as Yum-buut-tee, Buena Vista Rancheria as well as other land bases identified as tribal territory or aboriginal land throughout history.

2. PUBLICATION OF ELIGIBILITY LIST:

The eligibility list to be published on or about the first day of July each year beginning September 1, 1991 and each year thereafter.

3. CLASS I MEMBERSHIP:

All members under this classification are entitled to all privileges including housing, education, health services, any services provided by the United States Government as well as the Tribal Government.

3.1 Class I members are the only members entitled to voting privileges-one man, one vote. To vote, the member must be over the age 18 years and meet all residential requirements as outlined in the Tribal Constitution or other wise specified by a 2/3 majority vote.

3.3 Class I members are:

Nicolas Villa, Sr.-Captain
Bernice Villa
Nicolas Villa, Jr.-Chairman
Joan Villa-Tribal Administrator
Loren Hill-Vice-Chairman
Logan Hill
Barbara Hill-Secretary/Treasurer
Lisa Hill

James Wayne Pulskamp
Donald Villa, Sr.
Brian Villa
Glen Villa, Sr.
Kathy Villa
Glen Villa, Jr.
Brenda Villa
Patricia Villa
Noaa Jean Hendricks
Dennis Hendricks
Kathryn Ramey
David Ramey
David Andrew Ramey
Audrina Harrison
George Gurion, Jr.
Alfred Phillip Harrison
Raymond Rudy Harrison
Lydia Norma Jean Harrison
Shelly Morla
John Ray Morla, Sr.
John Ray Morla, Jr.
Clarence Albert Morla
Robert Joseph Morla
Susan Morning Dove Morla
Mary Effie Lorine Morla
Kevin Patrick Morla
Angel Lil Fawn Morla
Steven Little Bear Morla
Muriel Mike
Connie Ann Blue
Trina Marie Mike
Donald Villa, Jr.
Michael Garner
Meagan Ann Garner
Gregory Garner
Matthew Garner

3.4 Enrollment is closed at this time, except for births to the enrolled members.

4. CLASS II MEMBERSHIP:

The following members are entitled to all privileges as members to include housing, education, health services without land base rights, unless specified.

4.1 No per capita payment from the Federal Government or Tribal Government unless specifically determined by 2/3 majority of eligible voting Tribal members.

4.2 No voting privileges are extended

4.3 Class II members are:

Ramon Villa, Jr.
Lucille Lucero
Adeline Ybright

4.4 Enrollment Closed at this time, except for births to the above enrolled members.

5. CLASS III MEMBERSHIP:

Members classified under this determination are entitled to health and education services only.

- 5.1 Open enrollment on Class III membership will be from September 1, 1992 to October 1, 1992. No other membership classification is open at this time. Applicants must prove decendancy of the Ione Band of Indians from 1928-29 rolls. A \$25.00 processing fee will be charged for each application at the time of application (non-refundable). No person(s) shall be eligible that has resigned voluntarily or been terminated by the General Council. General Council will make all final decisions of determination of applicant(s). Person(s) denied membership will have 10 calendar days to appeal the decision.
- 5.2 To appeal the decision, the person(s) applying must put in writing to the Tribal Secretary reasons for dispute within 10 calendar days from receipt of denial.
- 5.3 Tribal Secretary will place appeal on the Tribal Council calendar to be heard within 30 days before the General Council from the date of receipt of appeal. It is the responsibility of the appealing party to contact the Secretary for the date of appeal the hearing.
- 5.4 Failure to appear before the Council for appeal, will cause denial of membership without further appeal.
- 5.5 90 day notice will be given in the form of publication should any class of membership open for purpose of enrollment. The responsibility for notice remains entirely on the applicant.
- 5.6 TO RECEIVE ANY SERVICES OR PER CAPITA PAYMENT, YOU MUST APPEAR ON THE LIST OF TRIBAL ELIGIBILITY. NO EXCEPTIONS WILL BE PERMITTED. LISTS WILL BE UPDATED AS NEEDED AND AGREED UPON BY 2/3 MAJORITY

OF THE ELIGIBLE VOTING MEMBERS.

CERTIFICATION

The above ordinance was approved and adopted by at least 2/3 majority vote on August 27, 1991 as required by the Traditional Tribal Law and Tribal Constitutional Law of the Tribe.

PRESENT	<u>16</u>
IN FAVOR	<u>16</u>
AGAINST	<u>0</u>
ABSTAINED	<u>0</u>

Nicolas Villa Jr
Nicolas Villa, Jr.-Chairman
Ione Band of Indians

Loren Hill
Loren Hill-Vice-Chairman
Ione Band of Indians

Barbara Hill
Barbara Hill-Secretary/Treasurer
Ione Band of Indians

Nicolas Villa Sr Captain
Nicolas Villa, Sr.-Captain
Ione Band of Indians

CERTIFICATE OF APPROVAL

The Constitution of the Ione Band of Miwok Indians of California, which was adopted by the qualified voters of the Band on August 10, 2002, is hereby approved pursuant to the authority delegated to the Secretary of the Interior by the Act of June 18, 1934 (48 Stat. 984), as amended and delegated to the Deputy Commissioner of Indian Affairs by 230 D.M. 2.4 and redelegated to me by Memorandum of Agreement dated August 16, 1994.

Acting

Casimir J. Davis
Regional Director

SEP 06 2002

Date

OPTIONAL FORM NO. 1068

2/1100

FAX TRANSMITTAL

of pages 14

To: Peter

From: F. Davis

Dept. Agency

Phone: (916) 928-1006

Fax: (916) 859-9976

Form 10

5010-108-01-01-2500

5010-101

GENERAL SERVICES ADMINISTRATION

**CONSTITUTION
OF THE
IONE BAND OF MIWOK INDIANS OF CALIFORNIA**

PREAMBLE

We, the members of the Ione Band of Miwok Indians historically located near Ione, California, a Federally Recognized tribe, reaffirmed by Assistant Secretary Ada Deer on March 22, 1994, in order to preserve and protect our tribal customs, to promote our social and economic welfare, to protect and conserve our tribal resources, to protect our rights and freedoms as individuals by administering justice and in an overall effort to govern the affairs of this tribe, do establish this Constitution to secure to ourselves and our descendants the rights, powers and privileges inherent in our sovereign status.

ARTICLE I - NAME

The name of this tribal entity shall be the Ione Band of Miwok Indians of California, hereafter, referred to as the "Tribe."

ARTICLE II - TERRITORY AND JURISDICTION

Section 1. Territory. The Territory of the Tribe consists of the following lands: a) all lands now held or previously held or hereafter acquired by the Tribe; b) all lands held in trust by the United States for the benefit of the Tribe; and c) upon the establishment of a reservation for the Tribe, all lands within the exterior boundaries of such reservation, whether or not owned by the Tribe, and notwithstanding the issuance of any patent in fee, right-of-way or easement.

Section 2. Jurisdiction. The jurisdiction of the Tribe extends to all of its members wherever located, to all persons throughout its territory, and within its territory over all lands, waters, river beds, submerged lands, properties, air space, minerals, fish, forests, wildlife, and other resources, and any interest therein now held or acquired in the future.

ARTICLE III - MEMBERSHIP

Section 1. Base Membership Roll. The Base Roll shall consist of all persons listed on the 1915 Census of Ione and Vicinity Indians and all of the individually-named plaintiffs identified in the October 31, 1972, Judgment entered in Villa v. Moffat, No. 8160 (California Superior Court, Amador County) and those persons deemed eligible to vote in the election held on September 28, 1996, to elect the members of the Interim Council of the Ione Band of Miwok Indians of California, whether living or deceased.

Section 2. Ione Tribal Membership Roll. After adoption of the Constitution of the Ione Band of Miwok Indians of California, a revised Ione Tribal Membership Roll shall be

prepared and periodically updated in accordance with the Enrollment Ordinance. The Ione Tribal Membership Roll shall include all living persons on the Base Membership Roll and persons who apply for membership and meet the following criteria:

a) is a blood descendant from an individual listed on the 1915 Census of Ione and Vicinity Indians or from one of the individually-named plaintiffs identified in the October 31, 1972, Judgment entered in Yilla v. Moffit, No. 8160 (California Superior Court, Amador County) or from a person deemed eligible to vote in the election held on September 28, 1996, to elect the members of the Interim Council of the Ione Band of Miwok Indians of California.

Section 3. Limitations on Membership. "Dual enrollment" is prohibited by the Tribe and no person who is or becomes enrolled as a member of another federally-recognized Indian tribe shall qualify for membership or remain in the Tribe, unless he or she has relinquished in writing his or her membership in such other tribe. Any enrolled member who refuses to relinquish his/her membership in such other tribe within sixty (60) days following notification of his/her dual enrollment status shall be removed from the Ione Tribal Membership Roll. All persons whose membership has been terminated in this manner may reapply for membership following the relinquishment of membership in the other tribe.

Section 4. Enrollment Ordinance. Within one hundred twenty (120) days of the adoption of this Constitution, an Enrollment Ordinance shall be adopted by the General Council (as provided by Article VII, Section 2). The Enrollment Ordinance shall contain the membership criteria set forth in this Article and it shall contain provisions for enrollment applications; procedures for applying, approving or rejecting applications; procedures for appealing denials of membership applications; and other procedures for maintaining a current membership roll. The Tribal Council shall appoint from a list of volunteers an Enrollment Committee of five (5) members to administer and implement the Enrollment Ordinance. The members of the Enrollment Committee shall be subject to confidentiality requirements set by the Tribal Council.

Section 5. Membership Roll. The official membership roll shall be prepared and maintained in accordance with an ordinance adopted by the qualified voters of the Tribe.

ARTICLE IV - BILL OF RIGHTS

Except as otherwise provided by this Constitution, all members of the Tribe shall be accorded by the governing body equal rights, equal protection, and equal opportunity to participate in resources and activities of the Tribe. No person shall be denied any of the rights or guarantees set forth in the Indian Civil Rights Act.

ARTICLE V - GOVERNING BODY

Section 1. Tribal Council. The governing body of the Tribe shall be a council known as the Ione Band of Miwok Indians Tribal Council, hereafter, referred to as the "Tribal Council."

Section 2. Composition. The Tribal Council shall consist of a Chairperson, a Vice-Chairperson, a Secretary, a Treasurer, and a member-at-large. The members of the Tribal Council shall be elected by the General Council.

Section 3. Term of Office.

- (a) At the first tribal election, and elections held thereafter under this Constitution, the Chairperson, Vice-Chairperson, Secretary, Treasurer and a Member-at-Large shall be elected every three (3) years.
- (b) The Interim Tribal Council shall remain in office until replaced through the proper election process.
- (c) The date, time, and place of elections shall be held in accordance with an approved Election Ordinance.

Section 4. Oath of Office. Each member of the Tribal Council, elected or appointed hereunder, shall take an oath of office immediately upon closing of the election administered by the past/current Chairperson of the Tribe:

I, _____, do solemnly swear that I will support and defend the Constitution of the Lone Band of Miwok Indians of California; that I will faithfully and impartially carry out the duties of my office to the best of my ability; that I will cooperate, promote and protect the best interest of my people, in accordance with this Constitution.

Section 5. General Qualifications For Office.

- (a) No person who is a candidate for or elected to any Tribal office, or is to be or has been appointed by the Tribal Council to any position of trust shall have been, at the time of candidacy, election or appointment convicted of any violent felony or any crime involving violence, dishonesty or moral turpitude and every candidate for election or appointment to any Tribal office or position who ever has been convicted of any felony or crime involving violence, dishonesty or moral turpitude shall, upon announcement of his/her candidacy or application for appointment, fully disclose to the Tribal Council the fact and date of each such conviction, the court in which the conviction was entered, the offenses for which convicted, the sentence imposed and the place and manner in which the sentence was served or otherwise discharged;
- (b) Any person who, upon or subsequent to announcing his/her candidacy for election to any Tribal office or applying for any appointed position of trust, is formally charged with, but not yet convicted of, any crime of violence, dishonesty or moral turpitude, shall disclose to the Tribal Council and/or the Election Committee the fact of such prosecution upon becoming aware of the pendency thereof;

- (c) Any person required to make disclosure of a criminal conviction or prosecution hereunder, who fails to do so within thirty (30) days may be barred or removed from the office/appointed position for which the person was a candidate when the required disclosure was not made;
- (d) Any elected Tribal officer or appointed Tribal official who is formally charged with a violent felony or crime of dishonesty or moral turpitude while in office shall be immediately suspended from office, effective with the date of initiation of such prosecution. If said officer or official is acquitted or the prosecution is terminated without a conviction, and provided that upon such termination of prosecution the term of office to which the officer or official was elected or appointed has not yet expired, the officer or official shall be reinstated to serve the remainder of his/her term of office or appointment.

ARTICLE VI - DUTIES OF TRIBAL OFFICERS

Section 1. Tribal Chairperson. The Chairperson shall be the chief executive officer of the Tribe, and in that capacity shall have the following authority and duties:

- (a) To preside over all meetings of the Tribal Council and General Council;
- (b) To call special meetings of the Tribal Council or the General Council as necessary or upon the request of the Tribal Council members or Tribal members as provided in this Constitution;
- (c) To faithfully implement and enforce the legislative enactments and policies of the Tribe;
- (d) To execute such contracts, agreements and other documents on behalf of the Tribe as have been duly authorized by the Tribal Council in the exercise of authority delegated by this Constitution, or by the General Council;
- (e) To act as the principal spokesperson and representative for the Tribe in its dealings with all other governmental and non-governmental entities, or to delegate such duties to other Tribal officers or officials as may be authorized by the Tribal Council;
- (f) To appoint persons to serve in unelected positions within the executive or judicial branches of the Tribal government, with the advice and consent of the Tribal Council;
- (g) To prepare and present to the Tribal Council for approval, no later than one hundred and twenty (120) days prior to the beginning of each fiscal year, a proposed annual financial plan that sets forth in detail the current assets of the Tribe, the sources and amounts of all anticipated Tribal revenues for the year, and a Tribal budget for said year;

Section 2. Tribal Vice-Chairperson. The Vice-Chairperson shall have the following authority and duties:

- (a) To preside over meetings of the Tribal Council or General Council in the absence of the Chairperson;
- (b) To act in place of the Chairperson as the spokesperson or representative of the Tribe upon written delegation by the Chairperson or the Tribal Council;
- (c) To assume the office and duties of the Chairperson upon the Chairperson's death, suspension, resignation or removal, or a determination by two-thirds (2/3) majority vote of a quorum of the Tribal Council that the Chairperson has become permanently or indefinitely incapacitated to an extent that prevents the Chairperson from fulfilling the obligations and duties of office.

Section 3. Tribal Secretary. The Tribal Secretary shall have the following authority and duties:

- (a) To faithfully prepare and maintain the official minutes of the proceedings of all meetings of the Tribal Council and General Council in accordance with Article IX, Section 5 of this Constitution;
- (b) To receive, certify and maintain custody of all resolutions, legislative enactments, and other official actions of the Tribal Council and the General Council;
- (c) To receive, log, distribute, send, and maintain custody of all official correspondence and documents of the Tribe.

Section 4. Tribal Treasurer. The Tribal Treasurer shall have the following authority and duties:

- (a) To set up and maintain bank accounts and other financial accounts as necessary for the Tribe;
- (b) To prepare and maintain records of all financial transactions of the Tribe;
- (c) To assist the Tribal Chairperson in preparing the annual financial plan and budget as required by this Constitution;
- (d) To provide Quarterly Fiscal Report on Financial Status of Tribe.

Section 5. Tribal Member-at-Large. The Tribal Member-at-Large shall have the following authority and duties:

- (a) Tribal member communications of concern;
- (b) Tribal member outreach;

- (c) Tribal member liaison.

ARTICLE VII - POWERS OF THE TRIBAL COUNCIL

Section 1. Enumerated Powers. The Tribal Council is authorized to exercise all of the powers possessed by the Tribe, now and in the future, subject to any limitations imposed by the Constitution and Laws of the Tribe, including but not limited to the following:

- (a) To negotiate, consult, and contract with the Federal, State, local and tribal governments, private enterprises, individuals, and other organizations for the benefit of the Tribe;
- (b) To regulate hunting, fishing, gathering, camping, and recreation within Tribal Territory;
- (c) To conduct and regulate trading and business activities within and outside Tribal Territory, and to enforce those regulations by appropriate ordinances;
- (d) To provide by resolution or ordinance the conditions upon which non-members may enter or remain within Tribal Territory, and for the removal or exclusion of non-members from such Territory whose presence may be injurious or detrimental to the Tribe, its members, or its lands;
- (e) To plan, approve, and charter all economic enterprises of the Tribe with prior authorization of ten percent (10%) of the General Council;
- (f) To create, regulate, appoint, and oversee independent organizations, subordinate organizations, and committees of the Tribe by ordinances as needed; and to review any action taken by virtue of such delegated powers or to delegate powers as appropriate, retaining the right to rescind delegated powers;
- (g) To promulgate and enforce ordinances and resolutions, not inconsistent with this Constitution, to promote and protect the peace, health, safety, and welfare of the Tribe, its members, and all other persons within its jurisdiction;
- (h) To promulgate and enforce civil and criminal ordinances governing the conduct, affairs, and transactions of members of the Tribe, and to the extent permitted by federal law, governing the conduct, affairs, and transactions of non-members of the Tribe;
- (i) To acquire, sell, dispose, lease, assign, encumber or manage all tribal property, now or hereafter held by the Tribe or held in trust for the Tribe by the United States, to the extent permitted by federal law; the Tribal Council shall not sell, lease, encumber or dispose of any tribal land unless approved by majority vote of the General Council;

- (j) To advise the Secretary of the Interior or his authorized representative, with regard to all appropriation estimated for Federal projects for the benefit of the Tribe prior to the submission of such estimates to the Bureau of Indian Affairs (BIA) and to Congress;
- (k) To promulgate and enforce rules of conduct regulating the Tribal Council, and other tribal agencies and tribal officials within its jurisdiction, as approved by the General Council.
- (l) To appropriate and authorize the expenditure of tribal funds;
- (m) To establish tribal courts or other forums and procedures for dispute resolution;
- (n) To raise revenues by the imposition of taxes, fees and levies;
- (o) To manage and administer tribal lands and assets;

Section 2. General Council Approval. The General Council is composed of all tribal members eligible to vote in Tribal elections. In addition to the powers bestowed on the General Council by other sections of this Constitution, the General Council shall adopt and enact the following measures:

- (a) An election ordinance within one hundred and twenty (120) days of the adoption of this Constitution;
- (b) An enrollment ordinance within one hundred and twenty days (120) days of the adoption of this Constitution;
- (c) A land assignment ordinance;
- (d) Rules of conduct applicable to Tribal Council members, and other tribal agencies and tribal officials.

Section 3. Future Powers. The Tribal Council may exercise such further powers as may in the future be delegated to it by the General Council of the Tribe or the Federal Government.

Section 4. Reserved Powers. Any rights and powers heretofore vested in the Tribe, but not expressly referred to in this Constitution, shall not be abridged by this Article but may be exercised by the people of the Tribe through the adoption of appropriate Constitutional Amendments.

Article VIII - TRIBAL JUDICIAL SYSTEM

The judicial power of the Tribe shall be vested in the Tribal Council until such time as Tribal court(s) or other appropriate forums may from time to time be established by ordinance(s) for that purpose. Said ordinance(s) shall ensure the impartiality and independence of the judiciary by specifying causes and procedures for removal and prohibiting reductions in rates of compensation greater than those that may be applied to the Tribal Council and/or the Tribal Chairperson; define the jurisdiction of each court created there under; specify the manner of selection, term of office and qualifications of judges; and provide for the adoption of the procedures under which each court shall function. In special circumstances as defined by appropriate ordinance, the Tribal Council shall sit as a Tribal trial or appellate court. The Tribal judicial system, whenever possible, shall give full recognition and weight to Tribal customs, including traditional methods of mediation and dispute resolution.

ARTICLE IX - MEETINGS

The Tribal Council shall hold meetings and take action in accordance with the following procedures:

Section 1. Tribal Council Meetings. Regular meetings of the Tribal Council shall be held each month at a time designated in an ordinance enacted by the General Council. All regular meetings of the Tribal Council shall be open to the membership of the Tribe. The Tribal Council shall provide an opportunity for public comment by Tribal members at each Tribal Council meeting. Participation by tribal members in Council meetings shall be limited to those matters on the agenda as set by the Tribal Council. The Tribal Council may meet in executive session upon determination by an affirmative vote of a majority of the Council members present that protection of the Tribe's legal rights, commercial interests, and/or privileges against compelled disclosure or the privacy of specified persons requires that specific matters be discussed or voted upon in confidence. All votes, including votes on matters discussed in executive session and the subject of which must remain confidential, shall be by roll call in open session; and all votes shall be a matter of public record.

Section 2. General Council Meetings. The Tribal Council shall hold monthly General Council meetings of the Tribe. The time, place, and procedures for the General Council meetings shall be determined by the Tribal Council by ordinance; and timely notice of the meeting shall be made to the General Membership. The Chairperson shall preside over that meeting. No business of the General Council shall be conducted unless a quorum of the eligible voters is present and once established, such quorum shall not be lost through the duration of the meeting. A quorum shall consist of ten percent (10%) of the eligible voters and any forthcoming action shall require a majority vote of such voters. All regular meetings of the General Council shall be open to the membership of the Tribe for attendance.

Section 3. Special Meetings.

- (a) Special Meetings of the Tribal Council may be called at the discretion of the

Chairperson. In addition, the Chairperson shall call a special meeting upon receipt of a written request by three (3) or more members of the Tribal Council or at least 25% of the General Council. No special meeting shall be called without written notice given to each member of the Tribal Council at least twenty-four (24) hours prior to special meetings, which may be waived by their presence at any meeting.

- (b) **Special Meetings of the General Council** may be called at the discretion of the Chairperson. In addition, the Chairperson shall call a special meeting upon receipt of a written request by three (3) or more members of the Tribal Council or at least twenty-five per cent (25%) of the General Council. No special meeting shall be called without written notice given to each member of the Tribal Council at least twenty-four (24) hours prior to special meetings, which may be waived by their presence at any meeting. Notice of the special meeting shall be provided by expedient means at least twenty-four (24) hours in advance of the meeting.

Section 4. Quorum.

- (a) No business shall be conducted without a quorum of three (3) members of the Tribal Council. Once a quorum is established then it shall remain in place for the duration of the meeting. Matters of business properly brought before the Tribal Council shall be decided by a majority vote of those present constituting a quorum.
- (b) A General Council quorum shall consist of ten percent (10 %) of the eligible voters. Unless otherwise provided in this Constitution, matters brought before the General Council shall be decided by majority vote of those present during a meeting in which a quorum was established.

Section 5. Minutes. Minutes of regular and special Tribal Council and General Council meetings shall be kept. The Minutes shall record the roll call votes showing how each member of the Tribal Council voted. Minutes shall be made available for inspection by members of the Tribe upon request during regular business hours.

Section 6. Order of Business. Meetings of the Tribal Council and General Council shall be conducted and include, but not be limited to, as follows:

- (a) Call to order by the Chairperson;
(b) Roll Call of the Tribal Council and ascertainment of both the Tribal Council and General Council quorum;
(c) Reading and approval of Minutes of last meeting;
(d) Reports;
(e) Financial Reports;
(f) Unfinished Business;
(g) New Business; and;
(h) Adjournment.

Section 7. Enactments.

- (a) All duly-enacted decisions of the Tribal Council or the General Council of general and permanent interest to the members of the Tribe shall be embodied in ordinances. The ordinances shall be compiled and made available to tribal members and others affected upon reasonable request. Ordinances shall comply with this Constitution and applicable federal law. Ordinances shall have the force of law.
- (b) All duly-enacted decisions of the Tribal Council and General Council of temporary interest to the members of the Tribe shall be embodied in resolutions. The resolutions shall be compiled and made available to tribal members and affected persons upon reasonable request. Resolutions shall comply with this Constitution and applicable federal law. Resolutions shall have the force of law.
- (c) All ordinances and resolutions shall be dated and numbered and shall include the certification showing the presence of a quorum and number voting for, or against and shall be signed by the Chairperson and Secretary. If the Secretary is not present, the Tribal Council may designate another Council member.

Section 8. Compensation. The Tribal Council may prescribe compensation for officers or members of the Tribal Council, as is deemed advisable from such funds as may be available, subject to the approval of the General Council.

Section 9. Tribal Council Conduct. Members of the Tribal Council shall act in accordance with a Code of Conduct developed by the Tribal Council and approved by the General Council.

ARTICLE X- ELECTIONS

Section 1. Election Ordinance. Within one hundred twenty (120) days of the adoption of this Constitution, the General Council shall adopt an Election Ordinance, which shall contain provisions for election procedures; the establishment of an election committee; procedures for filling office vacancies; appeals of tribal election results; procedures for maintaining the list of current tribal voters; and related matters governing tribal elections.

Following the election of the first Tribal Council under this Constitution, the Tribal Council shall appoint the Election Committee authorized by the Election Ordinance. The members of the Election Committee shall be subject to confidentiality requirements established by the Tribal Council.

Section 2. Voters. All duly enrolled members of the Tribe who are eighteen (18) years of age or older are eligible to vote in all Tribal Elections.

Section 3. Eligible Voters List. The Tribal Election Committee shall obtain a current list of eligible voters from the Tribal Enrollment Committee. The Tribal Election Committee shall review list for validation of eligibility of voters. After validation, the

Tribal Election Committee shall provide a list to the Tribal Council at least fifteen (15) days before any Tribal Election. The list shall be posted for inspection by all tribal members.

ARTICLE XI - VACANCIES, REMOVAL AND RECALL

Section 1. Vacancy of Office. If any position of the Tribal Council shall become vacant for any reason other than the expiration of the term of office, the Tribal Council shall leave the position vacant if there is less than six (6) months remaining on that term. If the remaining term is more than six (6) months, a special election shall be held in accordance with the Election Ordinance to fill the un-expired term.

Section 2. Removal. The Tribal Council shall, by an unanimous vote of all its remaining members of the Tribal Council and approval of the General Council, after due notice and an opportunity to be heard, remove any member of the Tribal Council who, during his/her term of office, is found guilty by a court of competent jurisdiction of a felony, gross neglect of duty, malfeasance in office, misconduct reflecting on the dignity and integrity of the Tribal Government, or any other misconduct listed in the Tribal Council Code of Conduct. Before any vote for removal is taken, the accused shall be given a written statement of the charges at least fifteen (15) days in advance of the hearing, and accused shall be provided the opportunity to address the charges. Voting shall be by secret ballot, and the Chairperson shall be entitled to vote. No officer or member whose removal is being considered shall preside over the meeting.

Section 3. Recall. Upon receipt of a valid petition signed by at least fifty-one percent (51%) of the General Council demanding the recall for reasons of being found guilty by a court of competent jurisdiction of a felony, gross neglect of duty, malfeasance in office, misconduct reflecting on the dignity and integrity of the Tribal Government, or any other misconduct listed in the Tribal Council Code of Conduct, a Tribal Council Officer/member shall be considered for recall from office. Before any vote for recall is taken, the accused shall be given a written statement of the charges at least fifteen (15) days in advance of the hearing where the accused shall be provided the opportunity to address the charges. Voting in all recall elections shall be by secret ballot and the Chairperson shall be entitled to vote. No officer or member whose removal is being considered shall preside over the meeting.

- (a) Within thirty (30) days from receipt of a valid petition, it shall be the duty of the Tribal Council to direct the Tribal Election Committee to call and conduct a recall election in accordance with the Election Ordinance. Should the Tribal Council fail to act, the office(s) shall be automatically considered vacant. Vacancies shall be filled in accordance with Article XI Section 1.
- (b) In the event the recall is defeated, no other petition may be filed for the recall of that member for the remainder of that member's term, for the same reason as the initial petition was filed. In the event the recall succeeds, the Tribal Council shall proceed in the manner prescribed in Section 1 of Article XI to fill the vacancy if the recall is successful.

ARTICLE XII - POPULAR PARTICIPATION IN GOVERNMENT

Section 1. Tribal Initiative. The eligible voters of the Tribe shall have the right to propose legislation by petition signed by at least fifty-one percent (51%) of the General Council. Voting shall be by secret ballot. If approved by a majority of those participating in the election, the legislation shall be in full force and effect immediately.

Section 2. Tribal Referendum. The Tribal Council by approval of at least three (3) members may refer any legislative measure to the General Council. Voting shall be by secret ballot. If approved by a majority of those participating in the election, the legislation shall be in full force and effect immediately.

ARTICLE XIII - LAND

All lands hereafter acquired by the Tribe or the United States in trust for the Tribe shall be held as tribal land. No part of such lands shall be mortgaged or sold except as provided by this Constitution. Tribal land may be assigned or leased to members of the Tribe in accordance with such ordinances and resolutions as adopted by the Tribe.

ARTICLE XIV - SOVEREIGN IMMUNITY

Section 1. When acting within the scope of their authority, the members of the Tribal Council; tribal employees; tribal agents; tribal departments and agencies; and tribal members acting in an official capacity are immune from unconsented suit. Such immunity shall extend beyond the term of office or employment for actions taken during said term or employment.

Section 2. The Tribe cannot waive its sovereign immunity from unconsented suit in any judicial or administrative proceeding without a resolution in writing approved by a majority of the sitting members of the Tribal Council.

ARTICLE XV - CONFLICT OF INTEREST

Section 1. Conflicting Personal Financial Interest Prohibited. In carrying out the duties of Tribal Office, no Tribal Official, elected or appointed, shall make or participate in making decisions, which involve balancing a substantial personal financial interest, other than interests held in common by all tribal members, against the best interests of the Tribe.

Section 2. Other Conflicts of Interest. The Tribal Council may by ordinance prohibit other kinds of conflicts of interest including but not limited to financial, program usage, neighboring tribes, and self-promotion.

ARTICLE XVI - SEVERABILITY

If any part of this Constitution is held by a court of competent jurisdiction to be invalid, the remainder of this document shall continue in full force and effect.

ARTICLE XVII - AMENDMENT

This Constitution may be amended by a majority vote of the qualified voters of the General Council voting in an election called for that purpose by the Secretary of the Interior, provided that at least thirty percent (30%) of the General Council shall vote in such election; but no amendment shall become effective until it shall have been approved by the Secretary of the Interior. It shall be the duty of the Secretary of the Interior to call such an election at the request of the Tribal Council or upon presentation of a petition signed by at least sixty percent (60%) of the General Council.

ARTICLE XVIII - ADOPTION OF CONSTITUTION & INITIAL ELECTION

Section 1. Adoption. This Constitution shall become effective when adopted by a majority vote of the individuals included on the September 24, 1996 Membership List who are presently 18 years of age or older, provided that at least thirty (30) percent of the qualified voters cast ballots, and upon approval of the Secretary of Interior. The Special Election shall be called and conducted by the Constitution Committee of the Ione Band of Miwuk Indians of California and/or the Secretary of the Interior. Voting shall be by secret ballot. The initial election for Tribal Chairperson, Tribal Vice-Chairperson, Tribal Secretary, Tribal Treasurer and Member-at-Large shall be held within 120 days of the adoption of the Enrollment Ordinance.

Section 2. Savings Clause. All ordinances, resolutions and other expressions of policy of the Tribe of whatever nature predating the effective date of this Constitution are ratified and continued in full force and effect if such are consistent with this Constitution.



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS

Central California Agency
650 Capitol Mall, Suite 8-500
Sacramento, CA 95814

IN REPLY REFER TO

JUN 11 2002

Dear Voter of the Ione Band of Miwok Indians:

On March 12, 2002, the Regional Director, Pacific Region, Bureau of Indian Affairs, issued an authorization for the Superintendent of the Bureau of Indian Affairs, Central California Agency, to call and conduct a Secretarial election on the proposed Constitution of the Ione Band of Miwok Indians in accordance with Title 25 of the Code of Federal Regulations, Part 81 (25 CFR 81). Therefore, all adult tribal members of the Ione Band are hereby advised that a Secretarial election will be held on Saturday, August 10, 2002, for the purpose of voting on the proposed Constitution.

ELECTION BOARD. In cooperation with the Ione Band of Miwok Indians, the Bureau of Indian Affairs, Central California Agency, established a three-member Election Board in accordance with 25 CFR 81.8. The individuals identified below have been officially appointed to represent the Bureau and the Tribe on the Election Board:

Carol B. Rogers-Davis, Chairperson, Bureau of Indian Affairs
Lisa Pulskamp, Member, Ione Band of Miwok Indians
Matthew Franklin, Member, Ione Band of Miwok Indians

It shall be the duty and responsibility of the Election Board to conduct the Secretarial election. The Board shall prepare all the necessary documents and material for the successful conduct of the election. All matters pertaining to the Secretarial election shall be addressed to a member of the Election Board.

ELECTION MATERIAL. We are enclosing the following election material for your information and use in registering to vote in the election:

- (1) Official Election Notice.
- (2) Voter Registration Form/Preadressed Agency Envelope.
- (3) Sample Ballot.
- (4) Copy of the Proposed Constitution.

These materials are being sent to all individuals included on the Final Membership Listing - Ione Band of Miwok Indians - September 24, 1996, who are 18 years of age or older, or who will become 18 years of age by the date of the election.

REGISTRATION. You must register with the Election Board if you intend to vote. Please complete and return the Voter Registration Form in the preaddressed envelope to the Chairperson of the Election Board, Bureau of Indian Affairs, Central California Agency. The Agency must receive this form by 4:30 p.m., on July 18, 2002. The list of registered voters will be posted on July 19, 2002, at the Bureau of Indian Affairs, Central California Agency, Ione Band of Miwok Indians Tribal Office, and the Ione Post Office.



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
Central California Agency
650 Capitol Mall, Suite 8-500
Sacramento, CA 95814

JUN 11 2002

IN REPLY REFER TO

NOTICE--SECRETARIAL ELECTION IONE BAND OF MIWOK INDIANS

TO THE MEMBERS OF THE IONE BAND OF MIWOK INDIANS:

You are hereby advised that a federally supervised Secretarial election will be held on Saturday, August 10, 2002, at the VFW Hall, Ione, California, for the purpose of voting to adopt or reject the proposed CONSTITUTION OF THE IONE BAND OF MIWOK INDIANS. The poll will open at 9 a.m. and close at 4 p.m.

Individuals listed on the Final Membership Listing - Ione Band of Miwok Indians - September 24, 1996, who are 18 years of age or older on the date of the election, and registered to vote in the election shall be entitled to vote on the adoption or rejection of the proposed Constitution. An election notice, voter registration form, sample ballot, and a copy of the proposed Constitution are being mailed to all adult individuals listed on the September 24, 1996, Membership List of the Ione Band of Miwok Indians. The results of the Secretarial election will be posted at the following locations: (1) Bureau of Indian Affairs, Central California Agency, 650 Capitol Mall, Suite 8-500, Sacramento, California; (2) Ione Band of Miwok Indians Tribal Office, 14 West Main Street, Ione, California; and, (3) the Ione Post Office, 22 West Main Street, Ione, California.

The United States Department of the Interior, Bureau of Indian Affairs, Central California Agency, is conducting the Secretarial election in accordance with regulations contained under Title 25 of the Code of Federal Regulations, Part 81. There shall be no electioneering during voting hours within 50 feet of the polling place.

YOU MUST REGISTER WITH THE ELECTION BOARD IF YOU INTEND TO VOTE IN THIS ELECTION. Please contact the Election Board should you have any questions regarding this election.

SECRETARIAL ELECTION BOARD

Carol B. Rogers-Davis, Chairperson
BUREAU OF INDIAN AFFAIRS
CENTRAL CALIFORNIA AGENCY
650 Capitol Mall, Suite 8-500
Sacramento, California 95814
(916) 930-3764

Lisa Pulskamp, Member
IONE BAND OF MIWOK INDIANS
(209) 304-9444

Matthew Franklin, Member
IONE BAND OF MIWOK INDIANS
(916) 470-9974



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS

Central California Agency
650 Capitol Mall, Suite 8-500
Sacramento, CA 95814

JUN 11 2002

IN REPLY REFER TO

NOTICE---SECRETARIAL ELECTION IONE BAND OF MIWOK INDIANS

TO THE MEMBERS OF THE IONE BAND OF MIWOK INDIANS:

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Individuals listed on the Final Membership Listing - Ione Band of Miwok Indians - September 24, 1996, who are 18 years of age or older on the date of the election, and registered to vote in the election shall be entitled to vote on the adoption or rejection of the proposed Constitution. An election notice, voter registration form, sample ballot, and a copy of the proposed Constitution are being mailed to all adult individuals listed on the September 24, 1996, Membership List of the Ione Band of Miwok Indians. The results of the Secretarial election will be posted at the following locations: (1) Bureau of Indian Affairs, Central California Agency, 650 Capitol Mall, Suite 8-500, Sacramento, California; (2) Ione Band of Miwok Indians Tribal Office, 14 West Main Street, Ione, California; and, (3) the Ione Post Office, 22 West Main Street, Ione, California.

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YOU MUST REGISTER WITH THE ELECTION BOARD IF YOU INTEND TO VOTE IN THIS ELECTION. Please contact the Election Board should you have any questions regarding this election.

SECRETARIAL ELECTION BOARD

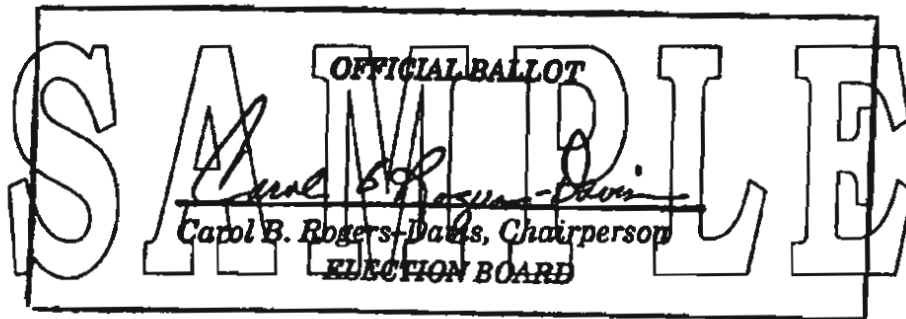
Carol B. Rogers-Davis, Chairperson
BUREAU OF INDIAN AFFAIRS
CENTRAL CALIFORNIA AGENCY
650 Capitol Mall, Suite 8-500
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(916) 930-3764

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IONE BAND OF MIWOK INDIANS
(209) 304-9444

Matthew Franklin, Member
IONE BAND OF MIWOK INDIANS
(916) 470-9974

**IONE BAND OF MIWOK INDIANS
IONE, CALIFORNIA
AMADOR COUNTY, CALIFORNIA
SECRETARIAL ELECTION
AUGUST 10, 2002**

An election called by the Secretary of the Interior under the provisions of the Indian Reorganization Act, as amended, to vote on the adoption or rejection of the proposed Constitution of the Ione Band of Miwok Indians.



Shall the proposed Constitution of the Ione Band of Miwok Indians BE ADOPTED by the qualified voters of the Ione Band of Miwok Indians?

Mark an X in the box of your choice.

**YES
(In favor of)**

**NO
(Against)**

DO NOT USE THIS BALLOT TO VOTE. THIS IS A SAMPLE BALLOT STRICTLY FOR YOUR INFORMATION.

DO NOT RETURN THIS SAMPLE BALLOT TO THE ELECTION BOARD.



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS

Central California Agency
650 Capitol Mall, Suite 8-500
Sacramento, CA 95814

JUL 19 2002

IN REPLY REFER TO

NOTICE--REGISTERED VOTERS IONE BAND OF MIWOK INDIANS

To the Members of the Ione Band of Miwok Indians:

The individuals listed below have registered to vote in the forthcoming Secretarial election scheduled for August 10, 2002, to vote on the adoption or rejection of the proposed Constitution of the Ione Band of Miwok Indians:

Jeffrey J. Avila (Absentee)	Jose H. Dellamas (Absentee)	Jeanette Innerarity (Abs)	Andrea Ragudo
Michael Avila (Absentee)	Michelle Dellamas (Abs)	Brooke Jamerson (Abs)	Barbara Ragudo
Justina Baugh (Absentee)	Rachel M. Dellamas (Abs)	Evelyn Jamerson	Charles Ragudo (Abs)
Mary R. Baugh	Douglas Denton	Gayle Jamerson (Abs)	Yvonne Ragudo
Barbara Bennett	Genevieve Denton	Johnnie Jamerson	George Ragudo (Abs)
Jennifer Bennett (Absentee)	Amy Dutschke (Absentee)	Sara Jamerson (Abs)	Katherine Ragudo
Jesse R. Bennett	Cary Dutschke	Tara Jamerson (Abs)	Lucindo Ragudo (Abs)
Diana M. Bigby (Absentee)	Dwight Dutschke (Absentee)	Lila Kawakami (Abs)	Margaret Ragudo (Abs)
Christina Binlon (Absentee)	Ramona Dutschke (Abs)	Tammy Kawakami (Abs)	Harlon Ragudo
Mark Binlon (Absentee)	Sara Dutschke (Absentee)	Ardine Keith (Absentee)	Richard Ragudo (Abs)
Rose Binlon (Absentee)	Deane Dyste	Sandra Kessler (Abs)	Robert Ragudo (Abs)
Adonia L. Blue	Nancy Ehlers (Absentee)	Rosemary Kirkpatrick (Abs)	Sandra Ragudo (Abs)
Dorval R. Blue	Joan V. Epps (Absentee)	Colette Lane (Absentee)	Leborah Rains
Carol Boring (Absentee)	Cindy Estrada (Absentee)	Tony Lane, Jr. (Absentee)	Kathryn Ramey
Daniel Boring (Absentee)	Lucina Estrada (Absentee)	June Larabee (Absentee)	Angilee Ramirez
Melissa Boring (Absentee)	Grace Fitzgerald (Abs)	Eleanor Manes (Absentee)	Felipe Ramirez (Abs)
Curtis R. Brown (Absentee)	Andrew Franklin (Abs)	Randy Manes (Absentee)	Santiago Ramirez
Cella Buccat (Absentee)	Crystal Franklin (Abs)	Misty Martinez (Absentee)	Jessie Ramos (Absentee)
Jean A. Bunyan	Doreen Franklin	Vicki Miller	Joe Ramos (Absentee)
Deborah R. Burge	Matthew Franklin	Yolanda Molina	Nancy Ramos (Absentee)
Chester O. Burris	Dennis Gilbert	Wilma Moman	Ruby Ramos (Absentee)
Esther M. Burris (Absentee)	Tina Gilbert	Gloria Moris (Absentee)	Shirley Ramos (Absentee)
Harold E. Burris, Sr.	Audrina Gomez	Margaret Moris (Absentee)	Victor Raqueno
Nichole E. Burris (Absentee)	Lynne Gorham (Abs)	Thomas Moris (Absentee)	Finda Ryal (Absentee)
Pamela K. Burris (Absentee)	Karen Green (Absentee)	Dorothy Oivera (Abs)	Luise Ryal (Absentee)
Shawn Burris (Absentee)	Matthew Green (Abs)	Evelyn Oivera (Absentee)	Christina Salazar Burge
Frances J. Cardwell	George Gurion	Henry Oivera Jr. (Abs)	Barbara Sanchez
Raymond Carrasco Jr. (Abs)	Marcus Gurion	Henry Oivera III (Abs)	David Santana (Absentee)
Doris Case	Maxine Gurion	Keyla Oivera (Absentee)	Iniz Sanjana (Absentee)
Jerry Chambers (Absentee)	Robert Gurion	Lenisse Oivera (Absentee)	Jessica Santana
Randy Chambers (Absentee)	Alfred Harrison (Abs)	Monica Oivera (Absentee)	Ernest Shelton (Absentee)
Darlene Charles (Absentee)	Raymond Harrison	Steven Oivera Sr. (Abs)	David Shurtz
Judy Chrisman (Absentee)	Barbara Hatch	Sandra Orden (Absentee)	Angela Sinkey (Absentee)
Phyllis Cleveland	Joyce Hatch (Abs)	Jose Pires (Absentee)	Justine Sorenson (Abs)
Roberta Cooper (Absentee)	Ralph Hatch	Violet Pope (Absentee)	Erin Taylor (Absentee)
Sarah Coran	Ronald Hatch (Abs)	Kathleen Porcous	Luz Taylor (Absentee)
Cindy Cox Michaels (Abs)	Dennis Hendricks Jr (Abs)	Lisa Pulskamp	Naomi Taylor (Absentee)
Donald R. Custino	Noma Jean Hendricks	Delores Quintero (Abs)	Angela Tellez
James Daniels, Jr.	David Hobart Jr.	Margarit Quintero (Abs)	Regina Tellez (Absentee)
Marcus Daniels (Absentee)	Myra Hobart	Alfred Ragudo (Absentee)	Sarah Tellez (Absentee)

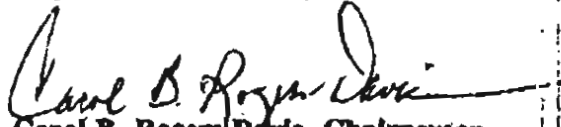
Susan Tellez (Absentee)
 Charles Thompson (Abs)
 Christopher Thompson (Abs)
 Timothy Thompson (Abs)
 Clyde Tiltman (Absentee)
 Anthony Tripp (Absentee)
 Candy Tripp (Absentee)
 Tracy Tripp
 Charlene Tufts
 (Absentee)
 James Tufts (Absentee)

Jason Tufts (Absentee)
 Bernice Villa
 Brenda Villa Snooks
 Brian Villa (Absentee)
 Debra Villa (Absentee)
 Donald Villa Sr. (Abs)
 Glen Villa Jr. (Absentee)
 Glen Villa Sr. (Absentee)
 Marilyn Villa (Absentee)
 Marsha Villa (Absentee)

Patricia Villa (Absentee)
 Elizabeth Walfoupe
 Judith Walfoupe
 Heather Waters (Abs)
 Sandra Waters (Abs)
 Sheryl White (Absentee)
 Adelene Ybright
 Catherine Ybright
 Elizabeth Ybright
 Kathleen Ybright (Abs)

Susan Ybright (Absentee)
 Yvonne Ybright Miller
 Dennis Yonemura (Abs)
 Frank Yonemura Sr. (Abs)
 Glen Yonemura (Abs)
 Jenna Yonemura (Abs)
 Laura Yonemura
 Patricia Yonemura (Abs)
 Louis Yorgason

Any qualified voting member may contest the inclusion or omission of names on the official list of registered voters. Written claims shall be filed with the Chairperson of the Election Board at the Bureau of Indian Affairs, Central California Agency, 650 Capitol Mall, Suite 8-500, Sacramento, CA 95814 by July 31, 2002. Challenges will not be considered unless they are accompanied by supporting evidence in writing.


 Carol B. Rogers-Davis, Chairperson
 SECRETARIAL ELECTION BOARD

08/08/2002 11:23 AM

NEW JERSEY
BUREAU OF COMMUNICATIONS

**U.S. House of Representatives
Committee on Resources
Washington, DC 20515**

August 8, 2002

**Earl E. Devaney, Inspector General
U.S. Department of the Interior
1849 C Street, N.W.
Washington, D.C. 20240**

Dear Mr. Devaney:

In my capacity as the Ranking Member of the House Committee on Resources, and during my 25-year tenure on this panel, I have worked on a myriad of issues affecting American Indian tribes. Among the most important of these issues, in my view, are those dealing with the status and membership of tribes.

We are all well aware of former federal policies which served to terminate Indian tribes, break up their land bases, and rip apart their families. During my tenure in Congress, I am proud to say I have had a part in rectifying many of the past wrongs committed by our government. These issues are diverse and extremely complex and must be handled with the upmost care and respect for the rights of all involved.

In this regard, restoring the government-to-government relationship with Indian tribes in the State of California has been inordinately difficult due to many factors unique to that State, including the establishment of the rancheria system. By this letter, I am bringing to your attention a particular concern involving the Lone Band of Miwok Indian Tribe which should be the subject of an investigation by your office.

It has been alleged by some members of the Band that certain Bureau of Indian Affairs (BIA) employees may have acted inappropriately in their official positions resulting in their becoming eligible for membership in the Band. In effect, there is a perception that certain federal employees of the BIA's Pacific Regional Office may have engineered a coup d'etat against the traditional leadership of this particular Band of Indians. If this is the case, then all of Indian Country should tremble with fear.

Aug 08 2002 11:13 FAX

Mr. Earl E. Devaney
August 8, 2002
Page Two

Please know I realize that due to the nature of the cradle-to-grave relationship BIA has with American Indians, and the Indian hiring preference, it is not unusual for BIA employees to be involved with sensitive issues directly affecting the tribe to which they belong. However, this situation should place an extra burden on BIA employees to be above reproach on all official actions taken. It is the responsibility and prerogative of each Indian tribe to determine its membership roll. Out of respect for this process, which is at the heart of tribal rights as a sovereign, I have come to the conclusion that a thorough review of the Lone Band situation by your office is warranted to definitively determine if there is merit to these allegations.

While controversy surrounding leadership issues involving the Lone Band has been simmering since 1994, the matter is coming to a head as a result of an August 10, 2002, election. Prior to this election, tribal member Mr. Nicolas Villa, Jr., who served as the traditional chief and tribal chair of the Lone Band prior to 1994 filed a protest relating to questions involving tribal voter and membership eligibility as well as the involvement of BIA employees who seemingly became eligible for tribal membership serving on the election board.

In correspondence (attached) with Assistant Secretary for Indian Affairs Neal McCaleb on this matter, I was informed that since Mr. Villa did not register to vote in the election he is not eligible to mount a protest to the election. The letter further stated that the Assistant Secretary would await the ruling of the election board to Mr. Villa's protest.

The fact that the actions of those BIA employees being questioned in the first place who also serve on the election committee will determine the validity of Mr. Villa's protest adds to my belief that it is imperative that an outside, independent investigation of this entire situation by your office occur.

Not unlike many tribes, opposing factions exist within the Lone Band causing disagreements over leadership and tribal laws. As a fully functioning government, I have no doubt the Band will be able to address any disagreements on its own. Currently, the Band has members serving as "interim" leaders and clearly all are anxious for the Lone Band to be in a position to take full advantage of available federal programs and the ability to govern over a reservation held in trust status.

08/08/02 11:51 FAX

Mr. Earl E. Devaney
August 8, 2002
Page Three

Please advise me as to whether or not your office will accept this charge. I would prefer in this instance that the Interior Department police its own. However, if you find that your office will not investigate this matter I will turn it over to the General Accounting Office to review. Thank you in advance for your consideration of this matter.

With warm regards, I am

Sincerely,



NICK J. RAHALL, II
Ranking Democratic Member

Attachments

08/01/2002 10:37 FAX
08/02/2002 10:09 FAX

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0001/001

Nick J. Rahall, II
Ranking Democratic Member

**U.S. House of Representatives
Committee on Resources
Washington, DC 20515**

August 1, 2002

Honorable Neal McCaleb
Assistant Secretary for Indian Affairs
Bureau of Indian Affairs
US Department of the Interior
1849 C Street, N.W.
Washington, D.C. 20240

Dear Mr. Assistant Secretary:

It has come to my attention that a protest has been made by Mr. Nicolas Villa, Jr. to the Bureau of Indian Affairs Central California Agency relating to the upcoming Secretarial election by the Iron Band of Miwok Indian Tribe. I ask that you take a personal interest in ensuring that this, and any other protest filed, be adequately addressed prior to any election taking place.

As you know, this federally recognized Indian tribe has had a difficult time throughout its efforts to reestablish its government-to-government relationship with the United States. Problems have arisen from within the tribe, but almost all can be attributed back to Federal actions taken against the Band. Therefore, I feel it is imperative that the BIA act with due diligence to ensure that another federally sanctioned action does not add an additional layer of confusion to an already complicated situation.

I look forward to your timely response and news of your personal involvement with this important matter.

With warm regards, I am

Sincerely,



NICK J. RAHALL, II
Ranking Democratic Member

cc: Mr. Ron Jaeger

11TH DISTRICT, CALIFORNIA
 COMMITTEE ON AGRICULTURE
 CHAIRMAN-SUBCOMMITTEE ON
 LIVESTOCK AND HORTICULTURE
 COMMITTEE ON RESOURCES
 COMMITTEE ON TRANSPORTATION
 AND INFRASTRUCTURE

Congress of the United States

House of Representatives

Washington, DC 20515-0511

August 8, 2002

OFFICE OF THE CLERK
 20515 CAPITOL MANSION OFFICE BUILDING
 WASHINGTON, DC 20540-5001
 (202) 512-1000

DISTRICT OFFICE:
 209 WEST WASHINGTON ST., SUITE 400
 SACRAMENTO, CA 95833
 (916) 445-4000

205 WEST PINE STREET, SUITE 110
 SACRAMENTO, CA 95833
 (916) 445-4000

2040 J ST., SUITE 110
 SACRAMENTO, CA 95833
 (916) 445-4000

EMAIL: clerk@hawaii.gov
 WWW: www.house.gov

The Honorable Neal McCaleb
 Assistant Secretary
 Bureau of Indian Affairs
 U.S. Department of the Interior
 1849 C Street, N.W.
 Washington, D.C. 20240

Dear Mr. Assistant Secretary:

I am writing to you once again regarding the Ione Band of Miwok Indians, especially as it relates to the August 10, 2002 Secretarial election. While I have not yet received a response to the July 30, 2002 letter I sent to you, I would like to take this opportunity to respectfully request that you postpone the upcoming election until the concerns of all interested parties have been fully reviewed and addressed.

After talking to several of the stakeholders, I have learned that many of their concerns -- especially with regard to establishing its government-to-government relationship and tribal membership matters -- have yet to be adequately resolved. In fact, I read with great interest a July 30, 2002 letter from Mr. Nicolas Villa Jr., chief of the Ione Band of Miwok Indians, to the Bureau of Indian Affairs Central California Agency which states that some individuals permitted to vote in the upcoming election regarding the proposed Constitution of the Ione Band of Miwok Indians do not meet the voter participation qualifications.

With that in mind, along with several other points made in Chief Villa's July 30 letter, I strongly encourage you again to postpone the August 10 election; it is imperative that you and your staff carefully review the case to ensure all stakeholder concerns are fully addressed and resolved prior to the Secretarial election.

I appreciate your attention to this important matter, and look forward to your timely response.

Sincerely,



Richard W. Pombo
 Member of Congress

United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, D.C. 20240

AUG 6 2002

The Honorable Nick J. Rahall, II
Ranking Member, Committee on Resources
United States House of Representatives
Washington, DC 20515

Dear Congressman Rahall:

Thank you for your letter of August 1, 2002, regarding the Ione Band of Miwok Indians of California.

Since the re-establishment of government-to-government relations with the Ione Band in 1994, the office of the Assistant Secretary-Indian Affairs, Department of the Interior, has maintained a close watch on activities regarding the Band. There have been on-going struggles within the Band that have been elevated to the Interior Board of Indian Appeals, state and Federal court. Since 1994, numerous attempts have been made to mediate a resolution between Mr. Nicolas Villa, Jr., (and his followers) regarding membership and Band leadership with the other, larger political factions (Burris and Hill) in the Band but Mr. Villa has consistently declined to stay engaged in discussions for a long-term solution. Notwithstanding the delays, the Burris and Hill groups have forged ahead to develop a framework for governance and membership. We are aware of the July 30, 2002, letter from Mr. Villa to the election board established to oversee a special (Secretarial) election.

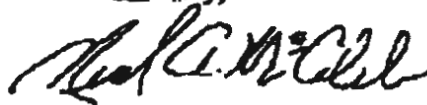
With respect to the August 10, 2002, scheduled election, the Band has requested to organize under provisions of the Indian Reorganization Act, 25 USC 476, as amended. Therefore, the Bureau of Indian Affairs (BIA) is obligated to proceed with the called election. The election board will conduct the election under provisions of 25 CFR Part 81 (2001 ed.). We note that the published list of registered voters for the August 10 special election did not include the name of Mr. Villa. It appears that he chose to not participate in the election. Had Mr. Villa timely pre-registered for the election after he received notice from the election board, he may have had standing to challenge or protest the voters' list and the election result, if he was dissatisfied.

However, since Mr Villa has apparently filed a document with the election board, we will await the outcome of the election board's decision on his request. Under the amended statutory section (25 USC 476) the Secretary (or her authorized representative) has forty five days from the date of the election to approve or disapprove the results.

You have my assurance that my office will follow closely the proceedings in this effort by the members of the Ione Band of Miwok Indians to establish a more permanent tribal governmental framework in support of their self-determination efforts. We will keep you advised.

Thank you for your continuing interest in Indian affairs.

Sincerely,



Assistant Secretary - Indian Affairs

cc: Regional Director, Pacific Regional Office
Hon. Kathy Ramsey, Chairman, Interim Council, Ione Band



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
WASHINGTON, D.C. 20247

FOR OFFICIAL USE ONLY

001 1 B 002

Mr. Nicholas Villa and the
IONE BAND OF INDIANS
c/o Mrs. Savias Villa
Route 1, Box 191
Ione, California 95640

Dear Mr. Villa:

In January of this year the Bureau of Indian Affairs received a letter from Robert J. Donovan, the Director of the California Rural Indian Land Project. That letter requested that the United States agree to accept title to a certain forty acre tract of land near Ione, California and to hold that land in trust for the Ione Band of Indians.

Since then the Bureau of Indian Affairs has learned that the Ione Band has filed suit in Amador County Superior Court to quiet and perfect title in their name. It has been informed that the Indians continue to desire that the land ultimately be taken by the United States and held in trust status.

The Secretary of the Interior recognizes his authority under 25 U.S.C. 465 to

"acquire, through purchase, relinquishment, gift, exchange, or assignment, any interest in lands, water rights or surface rights to lands, within or without existing reservations."

The Secretary also recognizes that, there having been no vote pursuant to 25 U.S.C. 478 by the Ione Indians, the provisions of 465 apply to them. The Secretary also recognizes that obtaining a tribal or community land base for the Ione Band is a part of his policy of Indian self-determination and cultural identification.

EXHIBIT E

- 2 -

Federal recognition was evidently extended to the Ione Band of Indians at the time that the Ione land purchase was contemplated. As stated earlier, they did not reject the Indian Reorganization Act and thus are eligible for the purchase of land under this act. The Sacramento Area Office of the Bureau of Indian Affairs should determine that the land is merchantable and free of encumbrance. I am directing the Sacramento Area Office to assist in the preparation of a document containing a membership roll and governing papers which conform with the Indian Reorganization.

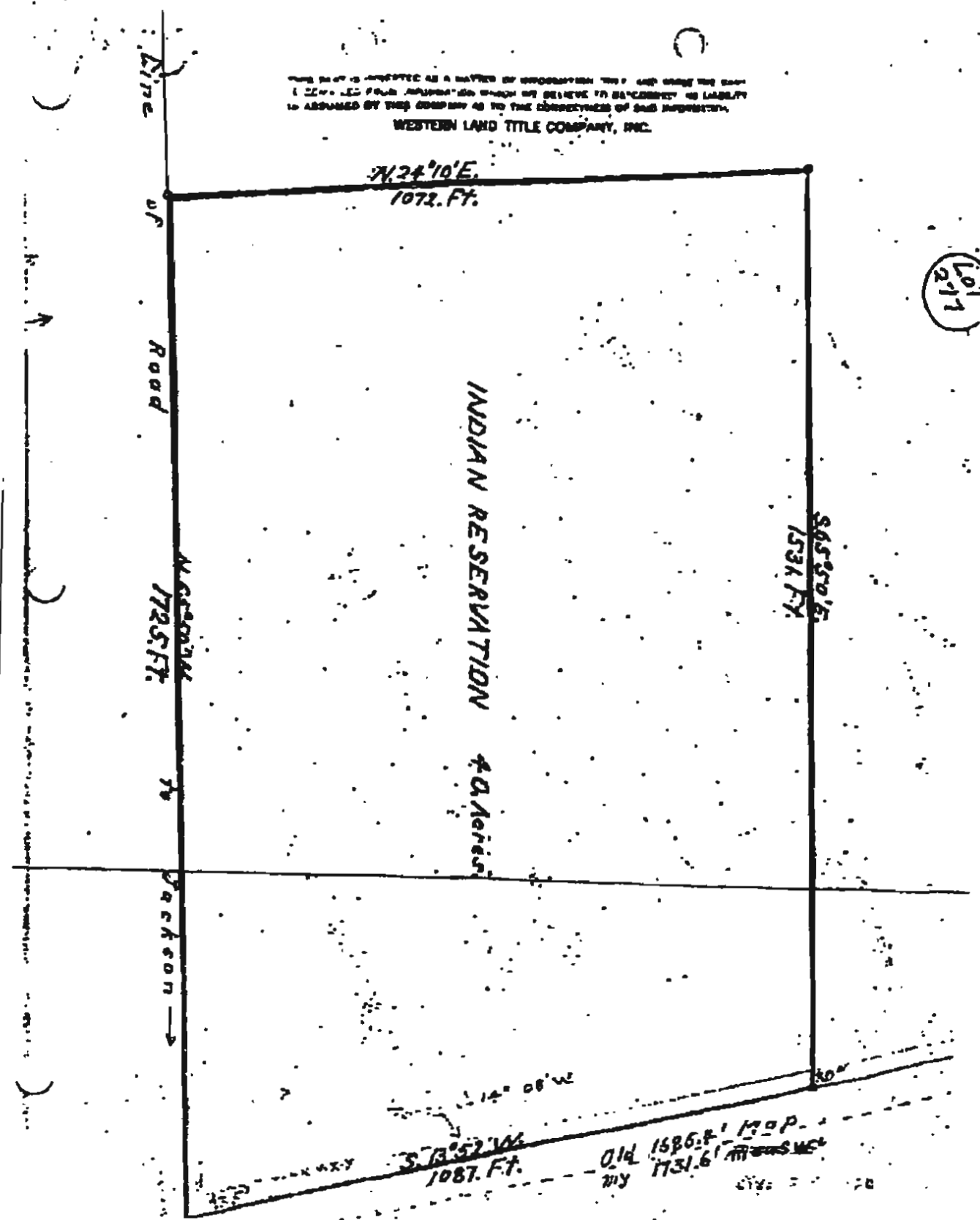
As the Commissioner of Indian Affairs, I therefore, hereby agree to accept by relinquishment of title or gift the following described parcel of land to be held in trust for the Ione Band of Miwok Indians:

Beginning at the point of intersection of the center line of the County Road to Jackson, with the westerly line of the fifty-two acre tract of land owned by Anthony Maach, Arnando Bellarings, Euseo Bellarings, and Albert Bellarings, as recorded in Book 130 Official Records, Sutter County, California page 98; thence following the center line of said County Road, North sixty-five degrees, fifty minutes West (N. 65° 50' W.) One thousand seven hundred twenty-five (1725) feet to a point; thence at right angles, North twenty-four degrees, ten minutes East (N. 24° 10' E) One thousand seventy-two (1072) feet to a point; thence at right angles, South sixty-five degrees, fifty minutes East (S. 65° 50' E) One thousand five hundred thirty one (1531) feet to the West boundary of the said property of Anthony Maach, Arnando Bellarings, Euseo Bellarings and Albert Bellarings; thence following said boundary line, South fourteen degrees, eight minutes West (S. 14° 08' W) One thousand eighty-seven (1087) feet to the point of beginning.

Sincerely,

Roscoe K. Brown
Commissioner

THIS MAP IS ACCEPTED AS A MATTER OF INFORMATION ONLY AND UNDER THE SIGNATURE OF THE ENGINEER THEREON NO LIABILITY IS ASSUMED BY THE COMPANY AS TO THE CORRECTNESS OF SAID INFORMATION.
WESTERN LAND TITLE COMPANY, INC.



(Lot 1)

INDIAN RESERVATION 40 Acres

Line of Road
N. 62° 40' W. 1725. Ft.
Jackson

N. 24° 10' E.
1072. Ft.

S. 65° 50' E.
1534. Ft.

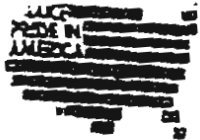
S. 13° 52' W.
1087. Ft.

Old 1586.8' Map by 1731.6' SMC

14° 08' W



United States Department of the Interior



OFFICE OF THE SECRETARY
Washington, D.C. 20240

MAR 22 1994

The Honorable Nicholas Villa, Jr.
Chief, Ione Band of Mivok
P.O. Box 1152
Ione, California 95640

Dear Mr. Villa,

I am writing regarding our meeting on October 28, 1993 and subsequent discussions with Congressman DeLoittis. In that meeting I agreed to clarify the United States' political relationship of the Ione Band of Mivok, as well as Mr. Louis Bruce's 1972 letter regarding the tribe's political status and its historic land base.

Upon review of the matter, I am now reaffirming the portion of Commissioner Bruce's letter which reads:

The Secretary also recognizes that obtaining a tribal community land base for the Ione Band is a part of his policy of Indian self-determination and cultural identification. *** Federal recognition was evidently extended to the Ione Band of Indians at the time that the Ione land purchase was contemplated. *** As the Commissioner of Indian Affairs, I therefore, hereby agree to accept by relinquishment of title or gift the following described parcel of land to be held in trust for the Ione Band of Mivok Indians. (See Bruce letter attached)

As Assistant Secretary of Indian Affairs I hereby agree to accept the parcel of land designated in the Bruce letter to be held in trust as territory of the Tribe. As I stated during the October meeting, the Tribe will henceforth be included on the list of "Indian Entities Recognized and Eligible to Receive Services from the United States Bureau of Indian Affairs," last published in the Federal Register on October 21, 1993.

I am hereby directing the Bureau of Indian Affairs and specifically the Sacramento Area Office to deal with the tribe accordingly. The Bureau will maintain contact with the tribe to address the relevant details. I extend my personal congratulations and look forward to working with you and your people.

Ada E. Daer

Ada E. Daer
Assistant Secretary - Indian Affairs

04/18/2003 TUE 12:58 FAX 2084321112

Sheehan Law Firm

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Memorandum

JUL 14 1994

To: Area Director, Sacramento Area Office

From: Ada Deer, Ada E. Deer
Assistant Secretary - Indian Affairs

Subject: Recognition of Ione Band of Indians

This is in response to your memorandum of April 26, 1994 requesting clarification of my letter of March 22, 1994. You raised issues of Land, Tribal Government, Tribal Membership, and Funding.

Before addressing these issues specifically, it should be made clear that the intent of my letter was to recognize the entire group of Miwok Indians associated with the land in Amador County. It was not my intent to recognize one or the other factions currently existing under separate leaders, nor do we believe there are in fact two separate groups.

LAND

In my letter of March 22, 1994, while I agreed in principle to accept that parcel of land referred to in the Bruce letter and which the Federal court in 1972 ruled belonged to various named members of the band, this does not mean that the Bureau will presently begin a process of taking this land into Federal Trust. At the March 24, 1994, meeting with Mr. Villa, it was made clear that clear title was essential before the property could be taken into trust. The title to this land is not clear and its ownership is currently the subject of litigation. This litigation must be resolved before the land could be considered for possible trust status. In addition, land cannot be taken into trust without a request from the band.

As an alternative, it may be more expedient if land elsewhere could be taken into trust for the band and declared a reservation if the band can identify and acquire title to suitable property in the area. Further, we would like to assure the Ione Band and its members that land held by individual members is not subject to being taken away from them and put into trust for a group after the group is recognized. Individually-owned lands could only be placed in trust with the agreement of the owners. Any parcel acquired will be in keeping with the land acquisition standards established by the U.S. Justice Department and 25 C.F.R. Part 151.

It is recognized that at this point, the Ione Band will be temporarily without trust land. Other tribes without land have been recognized either by Congress or through the

EXHIBIT 1

(3)

Bureau's acknowledgment process and, after recognition, lands were identified and taken into trust for them. While the land search for the Lone Band is underway, please begin to assist the Lone Band of Indians in becoming organized.

TRIBAL GOVERNMENT

It was not my intent to displace Mr. Harold E. Burris as the Tribal Chairman of the Lone Band of Indians nor to cause him legal problems with the land in which he has part ownership and where he currently resides. As your memorandum states, since 1973, the Bureau of Indian Affairs has recognized Mr. Harold E. Burris as the Tribal Chairman of the Lone Band of Indians. The recognition of Mr. Burris as Chairman is to continue until the tribe decides otherwise.

I recommend that an interim council be formed incorporating leaders from both sides, if possible. I would also recommend that if the two groups cannot agree on an interim council that a mediator be used to help resolve the differences between the groups. The interim council would be recognized by the government as representing the group for purposes of dealing with the Bureau on administrative and funding matters and particularly with developing and adopting a constitution. Once a constitution is adopted, a permanent council and leadership would be elected.

The individuals at the Buena Vista Rancheria of Me-Wuk Indians of California should be contacted to determine whether they would be interested in joining with this new tribe. Ms. Lucille Lucero is the officially recognized spokesperson of the Buena Vista Rancheria.

MEMBERSHIP

An essential initial step to fully organizing a tribal government and a full relationship with the Federal government is the development of a preliminary membership roll of the tribe. This roll would serve to define the voters of the tribal constitution. The roll should be based on descent from the MeWuk families historically associated with the Lone Band, as defined by base documents agreed to between the Bureau and the group's leadership. Any base roll should include the families of those adjudged in the 1972 lawsuit as having an interest in the land, as well as the descendants of those on the 1915 list which are still maintaining relations with the Lone Band. This preliminary roll would be subject to Secretarial review and approval. Once a constitution is adopted, the membership criteria and procedures in the constitution would govern the membership.

FUNDING

Plans are in place to have the Lone Band to receive "New Tribes" funding for FY 1996. As you know, it takes time to integrate a new tribe into the budget process. If additional funds for this purpose can be found either in the FY 1995 budget or perhaps by special appropriations from Congress, they will be made available. Until regularly budgeted funds become available, please provide the Lone Band as much help as possible given the budget constraints.

04/17/03 TUE 14:39 FAX

04/18/2003 TUE 12:58 FAX 2814321112

Shenban Law Firm

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cc: Superintendent, Central California Agency
Deputy Regional Solicitor, Pacific Southwest Region

SECRETARY'S SURNAME
SECRETARY'S READING FILE (3)

SURNAME/BIA RF/101A RF/400 RF/1440A/HOLDUP
LFDUFFIELD: pic 07/11/94 BLUE DISK/IONEL



United States Department of the Interior

OFFICE OF THE SOLICITOR
1849 C STREET N.W.
WASHINGTON, DC 20240

In reply, please address to:
Main Interior, MS 6513

MEMORANDUM

To: James E. Cason
Associate Deputy Secretary

From: Carl J. Artman
Associate Solicitor, Division of Indian Affairs

Subject: Ione Band Indian Lands Determination

SEP 19 2006

The Ione Band of Miwok Indians of California has a fee-to-trust application pending before the Department for certain lands near and partially within the boundaries of Plymouth, California (Plymouth parcel). On September 20, 2004, the Band submitted a request to the National Indian Gaming Commission for an opinion on whether this parcel would qualify as "Indian lands" within the meaning of the Indian Gaming Regulatory Act (IGRA) on which the Band could conduct gaming if the lands were acquired in trust by the Department of the Interior.

Pursuant to the Memorandum of Agreement between the Deputy Solicitor for the Department and the Acting General Counsel of NIGC executed at end of May 2006, we have reviewed the Band's request. For the reason stated below, we believe that the lands that are the subject of the fee-to-trust application would qualify as "Indian lands" within the meaning of the Indian Gaming Regulatory Act (IGRA) on which the Band could conduct gaming if the lands were acquired in trust by the Department of the Interior.

IGRA prohibits gaming on lands acquired after October 1988 unless:

- (A) the Secretary, after consultation with the Indian tribe and appropriate State and local officials, including officials of other nearby Indian tribes, determines that a gaming establishment on newly acquired lands would be in the best interest of the Indian tribe and its members, and would not be detrimental to the surrounding community, but only if the Governor of the State in which the gaming activity is to be conducted concurs in the Secretary's determination; or

- (B) lands are taken into trust as part of—
- (i) a settlement of a land claim,
 - (ii) the initial reservation of an Indian tribe acknowledged by the Secretary under the Federal acknowledgment process, or
 - (iii) the restoration of lands for an Indian tribe that is restored to Federal recognition.

25 U.S.C. § 2719(b)(1).

The Band has not suggested that it acquired the Plymouth parcel in settlement of a land claim, nor is there any basis for such a claim. Thus, the Band must establish that it is a newly acknowledged tribe under the Secretary's acknowledgment process and the lands will be part of its initial reservation or that it is a restored tribe and that the Plymouth parcel is restored lands.

When the Department adopted its acknowledgment regulations at the end of 1978, the Band was treated as having submitted a letter of intent to petition. Notwithstanding the Department's insistence that the Band had to follow the acknowledgment regulations, the Band continued to insist that it was already recognized and did not need to go through the process. The Band did not complete the petitioning process before former Assistant Secretary Ada Deer clarified the Band's status in 1994. Accordingly, the Band cannot establish that it is a newly acknowledged tribe under the Secretary's acknowledgment process. Thus, the only way that the Band can conduct gaming on the lands it seeks to acquire in trust without a two part determination is if it can show that the lands are restored lands for a restored tribe.

To be a restored tribe, the Band must establish that it was once recognized by the Federal government, that Federal government subsequently did not recognize it and that, ultimately, the Federal government restored its recognition of the Band.

We believe that the history of the Band's relationship with the United States is unique and complex but we need not describe it in detail. The evidence shows that the Department intended in 1916 to acquire land for the Indians at Ione. The actions of the Department in furtherance of its efforts to acquire land for the Indians at Ione are not conclusive as to the Band's recognized tribal status. Throughout California in the early part of the Twentieth Century, the Department attempted to purchase land wherever it could for landless California Indians without regard to the possible tribal affiliation of the members of the group.

In October 1972, however, former Commissioner of Indian Affairs Louis Bruce sent the Band a letter responding to a request from the Band that the United States accept a forty acre tract in trust for the Band. The Commissioner concluded that:

Federal recognition was evidently extended to the Ione Band of Indians at the time that the Ione land purchase was contemplated . . . I am directing the Sacramento Area Office to assist in the preparation of a document containing a

membership roll and governing papers which conform to the Indian Reorganization [sic].

As the Commissioner of Indian Affairs, I therefore, hereby agree to accept by relinquishment or title or gift the following described parcel of land to be held in trust for the Ione Band of Miwok Indians . . .

Commissioner Bruce's letter is substantially similar to the September 7, 1972, memorandum from the Deputy Commissioner to the Minneapolis Area Director concerning the acquisition of land for the Sault Ste. Marie Band of Chippewa Indians, which was the basis for the Department's determination that that Chippewa band was a recognized tribe. When the Department sought to take land in trust for the Sault Ste. Marie Band of Chippewas based on Deputy Commissioner's memorandum, the City of Sault Ste. Marie, Michigan, challenged the action. The court upheld the Department's action noting:

[A]lthough the question of whether some groups qualified as Indian tribes for purposes of IRA benefits might have been unclear in 1934, that fact does not preclude the Secretary from subsequently determining that a given tribe deserved recognition in 1934. The 1972 Memorandum constitutes just such subsequent recognition. To hold otherwise would be to bind the government by its earlier errors or omissions.

Sault Ste. Marie v. Andrus, 532 F. Supp. 157, 161 (D. D.C. 1980).

Commissioner Bruce's letter is a clear, unambiguous statement that he is dealing with the Band as a recognized tribe. Under the Indian Reorganization Act, the Commissioner has authority to acquire land in trust only for groups that are tribes. His statement that he "hereby agree[s] to accept . . . the following described parcel of land to be held in trust for the Ione Band of Miwok Indians" is a clear act of recognition. Thus, following Commissioner Bruce's letter, the Ione Band must be deemed to have been a recognized tribe within the meaning of the IGRA.

For reasons that are not entirely clear, the Department did not follow through on the Commissioner's directions. With the development and implementation of the Department's acknowledgment regulations, the Department took the position that the Band was not yet recognized and had to proceed through the newly established acknowledgment process and unilaterally put the Band on the list of petitioners.

The Band sued the Department contending that it was already recognized and did not have to go through the acknowledgment process. The Department defended the litigation and prevailed. See *Ione Band of Miwok Indians v. Burris*, No. CIV. 8-90-993 LKK (E. D. Calif.

April 22, 1992). The Interior Board of Indian Appeal (IBIA) subsequently rejected similar claims by the group in an administrative appeal. *See Lone Band of Miwok Indians v. Sacramento Area Director*, 22 IBIA 194 (August 4, 1992). By taking a position in Federal court and before the IBIA contrary to the position taken by Commissioner Bruce in 1972, the Department terminated the relationship Commissioner Bruce had recognized.

In late 1993, Assistant Secretary Ada Deer met representatives of the Band and agreed to clarify the relationship between the United States and the Band. Following her review of the matter, Assistant Secretary Deer specifically reaffirmed the conclusions of Commissioner Bruce's 1972 letter and agreed to accept in trust the specific parcel of land described in the Commissioner's letter. In her March 22, 1994, letter to the Band representatives, the Assistant Secretary states she was directing the Bureau to deal with the Band as a tribe and to add the Band to the list of tribal entities published in the Federal Register.

Commissioner Bruce's 1972 letter amounts to recognition of the Band in accordance with the practices of the Department at the time. The positions taken by the Department in Federal court and before IBIA against the Band are wholly inconsistent with that position and as such manifest a termination of the recognized relationship. Assistant Secretary Deer's review of the matter and reaffirmation of Commissioner Bruce's position amounts to a restoration of the Band's status as a recognized Band. Under the unique history of its relationship with the United States, the Band should be considered a restored tribe within the meaning of IGRA.

In order to conduct gaming on the land not only must the Band be considered a restored tribe within the meaning of IGRA but the land being acquired must also be considered restored lands. IGRA does not define what constitutes restored lands. The courts have interpreted the term and given it a broad definition consistent with the common meanings of "restored" and the congressional purposes in enacting IGRA to include promotion of tribal economic self-sufficiency. *City of Roseville v. Norton*, 348 F.3d 1020 (D.C. Cir. 2003).

The Department is still in the process of developing regulations to govern the conduct of gaming on lands acquired after October 17, 1988. Those regulations will refine what lands will be considered restored lands for purposes of IGRA. The general principles are already established by the Department's practices. The tribe must have a modern and historical connection to the land and there must be a reasonable temporal connection between the date the land is acquired and the date the tribe was restored.

In this case the evidence is that the land being acquired is in an area that is historically significant to the Band. It is within a few miles of several historic tribal burial grounds and the site where some of the Band's ancestors signed a treaty. Many of the Band's members live in

the surrounding area and the Band has used facilities in the City of Plymouth to hold governmental meetings in recent years establishing a modern connection to the area.

The proposed acquisition of the land is reasonably temporal to the date the Band was restored. Assistant Secretary Deer issued her letter reaffirming and restoring the relationship with the band in March 1994. After her decision, the members of the Band divided into several different factions, which delayed the reorganization of a modern tribal government. The current proposed acquisition coming only twelve years after restoration is reasonably temporal under the circumstances.

In summary, the tribe has established a modern and an historical connection to the land. In addition, the Band's proposed acquisition represents a reasonably prompt effort under the circumstances by a restored tribe to acquire land that could be the basis for its economic self-sufficiency. The proposed acquisition constitutes restored lands for a restored tribe within the meaning of IGRA so once the land is in trust, the Band may conduct gaming on it without obtaining a two-part determination.

cc: Matthew Franklin, Chairman
Ione Band of Miwok Indians
14 West Main Street
P.O. Box 1190
Ione, CA 94640

Phil Hogen
Chairman, Nation Indian Gaming Commission

Penny J. Coleman, Esq.
Acting General Counsel, Nation Indian Gaming Commission

bcc: Director, Office of Indian Gaming Management, Bureau of Indian Affairs
Director, Pacific Region, BIA
Superintendent, BIA Agency

Secretary's RF

Solicitor's Docket RF
DIA RF
SKeep RF

File/Document:
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This copy/revision printed:

DEPARTMENT OF THE INTERIOR
OFFICE OF INDIAN AFFAIRS
FIELD OFFICE
25 Appraisers Building
San Francisco

EXHIBIT
EXHIBIT
EXHIBIT

APR 29 1938

DEPARTMENT OF THE INTERIOR

OFFICE OF INDIAN AFFAIRS
FIELD OFFICE
25 Appraisers Building
San Francisco

April 29, 1938

From: Roy Nash, Field Representative
To: Commissioner of Indian Affairs
Subject: Indian Reorganization Act, Special Elections

23508
1938

Sir:-

In order that we may not get into any legal jam through overlooking technicalities, I pass on information which has just come to hand that certain of the California "rancherias" are executive order reservations. I raise the question whether this obligates us to hold a referendum, even though only two or three families live on some of these tracts?

Sacramento Indian Agency
April 26, 1938

Dear Mr. Nash:

This will acknowledge the receipt of your letter of April 23 relative to the fact that the Pinyon Rancharia is an Executive Order reservation and inquiring as to whether there were other Executive Order reservations under this jurisdiction. Kindly be advised the following reservations or rancherias have been set aside by Executive Order:

- gca → Barry Creek Rancheria in Butte County
- Gold Springs (Ryansore), in Fresno County *Comm. 4/10/38*
- Pinyon in Modoc County
- Part of the Hopland Rancheria at Hopland
- Part of the Goldville Reservation north of Talama
- However on the last two, Indians reside on that portion purchased, the Executive Order part being a part of the public domain reserved for their use.
- hca → Nevada City tract in Nevada County *Comm. 5/6/38*
- The Colfax Tract in Placer County

City 1001
No. 1247
Date 11/11/1908

In addition to the foregoing lands, we have the Fort Randall Colony tract in Meade County, which while not under executive order, but by an Act of Congress changing it from a Military Reserve into an Indian school. See Act of Jan. 30, 1897, and Executive Order of August 8, 1897, and the tract of Jackson, S. DAKOTA, containing 230 acres, which was purchased under the Act of March 3, 1895, and 45 acres were reserved by order of Secretary dated Oct. 25, 1908.

11/11/1908
J. M. [unclear]
[unclear]

No other questions I am enclosing copy of my letter of August 28, 1908, in which the matter was discussed. Up to date, no reply has been received to this letter.

Another point to be taken into consideration is that most of the Indians living on these reservations are allotted on the public domain.

Very truly yours,

C. E. LITTLE,
Superintendent

Respectfully,
Roy Nash
By Roy Nash, Field Representative

Probe of Calif. Tribe's Membership Sought

Bureau of Indian Affairs Workers Listed on Rolls of Group That Wants Casino

By Don Thompson
Associated Press

PLYMOUTH, Calif.—A once-tiny, nearly destitute American Indian tribe is pushing hard to build a \$100 million casino, but traditional tribal members are not the ones seeking the riches.

Hundreds of people have been newly added to the Lone Band of Miwok Indians' membership rolls, which were opened by regional Bureau of Indian Affairs officials.

Among the new members are several BIA employees and dozens of their relatives.

Four members of Congress have called for an investigation, though federal officials have so far declined to intervene. Rep. Nick J. Rahall II (W.Va.), the ranking Democrat on the House Resources Committee, called the BIA's move an apparent coup d'état that should make other tribes "tremble with fear."

Regional BIA officials opened the membership against the traditional leaders' wishes to include members from two other bands in the area. The federal officials then oversaw an Aug. 10, 2002, election that swapped the old leaders for a pro-casino group that includes some of the BIA employees.

Before the BIA became involved, the Lone Band had about 70 members living on land near Lone, about 40 miles east of Sacramento in the rolling hills of one of California's wine regions. Now the band's official membership has swelled to 535. None of the new members is related to the original 70.

Amy Dutschke, a member of another Indian group whose family has roots in the Lone area, was the BIA's acting regional director in

June 2002 when she authorized the Lone Band's last leadership election, documents show.

Now Dutschke and 68 of her relatives are on the tribe's official list of registered voters. They include her uncle and a niece, who also work for the BIA, according to tribal rolls, a BIA employee list and opposition members.

The election was overseen by BIA employee Carol Rogers-Davis, whom the BIA named to lead the elections board. She now has three relatives on the tribal roll, records show.

The election produced five new tribal leaders, four of whom are related to Dutschke.

Matt Franklin, the new tribal chairman recognized by the BIA, said he could provide documents proving the legitimacy of the tribe's expanded membership. However, Franklin did not produce the documents after repeated requests from the Associated Press over several weeks.

Dutschke's standing with the tribe dates to a June 1994 letter from a BIA colleague to her brother, asserting that "the history of your family and its association with the Lone Band appears to be quite substantial and would certainly justify your inclusion in the reorganization process."

Tribal rolls and opposition members say a second cousin of Dutschke, Harold Burris, was once allowed to live on the Lone Band's property near Lone because his sister was married to the tribe's chief.

In Washington, the BIA relied on the tribal election committee's decision to refuse to investigate its own employees' involvement. The Interior Department's inspector general also declined to investigate, telling the complaining members of Congress that it was an internal tribal matter.

A BIA spokeswoman in Washing-

ton, Nedra Darling, said she could not comment because the Sacramento regional office did not respond to her repeated inquiries over more than a month. Regional officials, including Dutschke, similarly did not return repeated telephone calls from the AP or respond to a letter sent last month.

The tribe is now potentially eligible for millions of dollars in federal benefits. Its new leaders have been given \$1.9 million from the state's Tribal Revenue Sharing Trust Fund, in which tribes with casinos contribute to nongambling tribes. The tribe says it is using that money to offer members emergency assistance with housing, health care and energy bills.

If the tribe opens its proposed casino with 2,000 slot machines, opponents say, it could bring in \$185 million a year, based on the experience of other tribes.

The Lone Band is seeking permission to acquire 208 acres in Plymouth for the casino. Permission has to come from Interior Secretary Gale A. Norton and California Gov. Arnold Schwarzenegger (R), whose office has been asked to consider granting the tribe a gambling compact.

The issue has split rural Amador County's 31,000 residents. County supervisors want Congress and the BIA to block the casino. Plymouth City Council members support the casino and face a May recall election because of their backing.

The regional staff of the BIA and other members "took over the Lone Band," said county Supervisor Mario Biagi. "We feel there's a direct conflict of interest there."

Tribal consultant accused of 'spying'

Friday, May 02, 2008

By Bethany A. Monk (bmonk@ledger-dispatch.com)

He referred to him as a "spy" who might take confidential information out there to "use it against us."

Amador County District 2 Supervisor Richard Forster, and other board members, voiced their concern regarding the role of Peter Tateishi, currently employed by the Ione Band of Miwok Indians, and his involvement at recent volunteer events for Congressman Dan Lungren (R-Gold River). In an addendum to the board's regular meeting agenda Tuesday, county supervisors discussed possible action relative to "Authorization of the Chairman's signature on a letter to Congressman Lungren regarding the role of Mr. Peter Tateishi, now employed by the Ione Band of Miwok Indians, at recent Lungren events."

After much discussion, including some fiery input from the public, the board agreed to speak with Lungren's office, rather than write a letter. Forster said the discussion will most likely involve one or two board members, Amador County Administrative Officer Terri Daly and a representative of Lungren's office.

It would not be such a big issue if Tateishi "wasn't privy to confidential information," Forster said during the meeting. This "privy" information, Forster said in an interview later in the week, revolves around Indian gaming and casinos, a fiercely divisive topic in Amador County.

"Bill Clinton didn't have Monica Lewinsky work at campaign events and then at volunteer events," Forster said during the meeting, referring to Tateishi, who worked for the congressman before his employment with the tribe. Board members focused primarily on Tateishi's recent volunteer work at a Lungren event.

Tateishi volunteered for Lungren in 2004 before joining his staff in January 2005, where he worked as a field representative and in intergovernmental affairs until August 2007. After he left the congressman's office - to spend more time with his fiancée before her deployment to Iraq, he said - Tateishi started a consulting firm and became a tribal consultant for the Ione band.

Since resigning from the congressman's office, Tateishi said he's held no other title other than volunteer for his former employer. "I'm happy to help him," he said. At the event in question, Tateishi volunteered to help organize photo lines for those who wanted to take pictures with Vice President Dick Cheney, he said. "That was the extent of my role with the event."

In a phone interview Wednesday, Forster said that his concern is based on "perception." "We speak very openly about these issues (related to Indian gaming and casinos), and now you have a staff member who may have participated in these meetings," Forster said. "When you're in business, you don't want to give away your strategy." He worries that some of the county's strategies related to these issues have been compromised. Four members of the tribe also attended the event, he said.

"A spy would be someone who works with the county" and leaks vital information, Tateishi said. "I'm not sure how I could be a spy for anyone. My allegiance was to my former employer."

"The role I play with the tribe is as a consultant," he added, noting that he helps the tribe find ways to best reach the community. "I've never lobbied or advocated for any of my clients," Tateishi said, adding that he is barred for one year from lobbying for his former employer.

Tateishi wasn't present at Tuesday's board meeting, but told the Ledger Dispatch later that day that he had requested transcripts of the meeting, which he and his lawyer will be reviewing. He said he hopes supervisors didn't censure him or his work at the meeting. "I'm giving the benefit of the doubt to the board of supervisors that they didn't," he said.

Maria Nunez of Plymouth approached the board during the item's public comment session and accused members of being presumptuous with their accusations that Tateishi was volunteering with ulterior motives. "I think you're overstepping your boundaries," Nunez told the board. "I feel you have no right trying to dictate what we do with our time. If Lungren has no desire to see him, he would not have accepted him as a volunteer."

Tateishi was one of about 40 volunteers at the event, Rooney said. "(However), it was a very minor thing," he added. "This is someone who said, 'Get in line.'"



Left, Peter Tateishi, consultant for the Ione Band of Miwok Indians, has been accused by the board of supervisors of "spying" for the tribe. Here he discusses office plans with tribal chairman Matt Franklin, with Vice Chairman Gil Jamerson seated in the background.

Photo by: Raheem Hosseini

It's a bigger deal to Forster, though. Tateishi knows how people run campaigns and needs to "keep an arm's length" from volunteering at the congressman's events, Forster said.

Tateishi isn't doing anything illegal per se, said District 5 Supervisor Brian Oneto. "I'm sure he's talked to a lot of people who tried to stop the casino," and now he works for the tribe. "It's a little bothersome," he said, calling it the "grey zone."

"I didn't have access to and I'm not privy to confidential information," Tateishi said. "I left there with my body and that was it.

"I've never violated anyone's trust while in office or after. I left in good standing with Congressman Lungren," he said. "I'm a constituent. I support his efforts. I'm not looking for financial gain."

Rooney urged the board to consider speaking with Congressman Lungren's staff rather than writing a formal letter. "You have their ear right now," Rooney said, "and it's a good time to talk to them." Writing a letter, however, may be a little much, he said.

"You have the possibility of making someone mad or having someone listen," Rooney said. "You have ammunition now. Use your ammunition correctly."

Bethany A. Monk

Comment Letter P20

Hello:

p1

Members of the Bureau of Indian Affairs Committee

My name is Carol Foerster, an active member in the community of Plymouth and in Amador County.

I have worked closely with the Tone Band of Miwok Indians and Analytical Environmental Services on the water portion of the EIS for the past 4 years.

Both the tribe and AES have been caring and professional in their workings with the landowner of the 137 Acres, included in the 228 Acres in the EIS and the adjacent land where the wells are located.

P20-01

I have been the contact person for the landowner and observed how they have spent enormous time and effort on the water portion of the EIS.

When attending meetings in Sacramento and Plymouth, I observed the tribes and AES's dedication to detail. I feel every aspect was address in the water portion of the EIS.

Comment Letter P20

p2.

Thank you for hearing my comment
and I feel the water portion of the
EIS is complete

P20-01
cont.

Carol Kern
7-1-08
209-245-6656

Elaine Zorbas
P.O. Box 566
Plymouth, CA 95669

Reg No.	On
Dep Reg No.	1
Reg Adm Offer	
Route	Dakota
Response Required	No
Due Date	
Memo	Ltr
Tele	

July 7, 2008

Dale Morris, Regional Director
Pacific Regional Office, BIA
2800 Cottage way
Sacramento, California 95825

DEIS Comments, Ione Band of Miwok Indians' Casino Project

Dear Dale Morris and BIA:

Please address the subject of ^{outdoor} lighting, and mitigation for light pollution in the Final EIR for the casino proposal in Plymouth. The topic has not been addressed in the DEIR. At present, stars are visible in the night sky because there is no interference from light.

P21-01

Thank you for your consideration.

Sincerely,

Elaine Zorbas

RESPONSE TO COMMENTS

PRIVATE ENTITIES/ORGANIZATIONS

P1 TOM RAYZNOR

P1-01 The comment is noted.

P1-02 and P1-03

Refer to the response to **Comment S6-14** regarding crime and the implementation of the project alternatives. The DEIS contains mitigation measures to address potential impacts of the project alternatives on law enforcement. Such measures include payments to the Amador County Sheriff's Office (ACSO) and District Attorney's Office (ACDA).

P1-04 The cumulative impacts associated with other casino developments are addressed in **Section 4.11** of the DEIS. The impacts associated with the project alternatives are addressed in **Section 4.0** of the DEIS, and issues related to problem gambling and crime are addressed in **Sections 4.7** and **4.9**.

P1-05 and P1-06

Refer to the response to **Comment L2-168** regarding impacts to the ACSO and mitigation to reduce identified impacts.

P1-07 Mitigation has been incorporated into the project where potentially significant impacts have been identified. Refer to **Section 5.0** of the DEIS for a description of the recommended mitigation measures. Impacts to victims of criminal actions associated with the development of the project alternatives are addressed under the mitigation to other public services such as the ACDA's office and the Public Defenders office.

P1-08 Comment noted.

P2 D.W CRANFORD II

P2-01 The commenter requests a copy of **Appendix K** of the DEIS, which contains the cultural resources report. The BIA sent a response letter dated May 16, 2008, explaining that, based on the sensitive nature of cultural resources; the report was removed from the public release version of the DEIS.

P3 REALTY WORLD – KELLER & D’AGOSTINI

P3-01 Comment noted.

P3-02 Refer to the response to **Comment F1-02** for a discussion of the City of Plymouth’s (City’s) existing and future water supply.

P4 MARIA NUNEZ AND BARBARA NICHOLSON

P4-01 The commenter provides a letter and petition in response to Congressman Lungren’s request for an extension of the public comment period (**Comment Letter S1**). No response required.

P5 WILLIAM AND ALICE GIBSON

P5-01 Comment noted. The public was provided various opportunities to comment on the Proposed Project. Refer to **Section 1.3** of the DEIS for a summary of the environmental review process. Impacts associated with the proposed project alternatives are addressed in **Section 4.0** of the DEIS and mitigation measures to reduce potential impacts are addressed in **Section 5.0** of the DEIS.

P6 WILLIAM BRAUVAL

P6-01 The DEIS pertains to the Ione Band of Miwok Indians’ Proposed Project and project alternatives. Other casino developments are addressed in the Cumulative Impacts section of the DEIS (**Section 4.11**).

P7 KATHERINE VENTURELLI

P7-01 Public services, including police and fire services, are addressed in **Sections 3.9** and **4.9** of the DEIS. Refer to the response to **Comment S4-02** regarding revision of the Traffic Impact Analysis (TIA) included as **Appendix M** of the FEIS. Refer to the response to **Comment L2-02** regarding the age of the data. Refer to the response to **Comment F1-02** regarding availability of water and the groundwater overdraft condition due to the City’s wells.

P8 JAN TOBERER

P8-01 Comment noted.

P8-02 Refer to **Section 2.0** of the DEIS for a discussion of other sites considered for development of the Proposed Project that were dismissed from further consideration.

Aesthetic impacts are addressed in **Section 4.10** of the DEIS. Refer to the response to **Comment L2-328** regarding analysis and mitigation of impacts to visual resources.

P8-03 As discussed in **Section 2.0** of the DEIS, the Proposed Project (**Alternative A**) includes a casino. Three other viable development alternatives were evaluated, including a non-gaming alternative (**Alternative D** described in the DEIS); however, gaming is the most viable means of meeting Tribal economic needs.

P8-04 Comment noted. Refer to the response to **Comment P8-02** regarding the consideration of other sites.

P9 Foothill Conservatory

P9-01 Refer to the response to **Comment L4-12** regarding the claim that the project would result in significant and unavoidable impacts to a majority of the environmental resources analyzed in the DEIS.

P9-02 It is unclear how the commenter's arrives at a 50-mile one-way trip for more than 50% of casino patrons. Trips generated by the project are anticipated to come from the major metropolitan areas surrounding the City of Plymouth. These trips were considered in the traffic impact analysis in **Section 4.8** of the DEIS. As discussed in **Section 4.4** of the DEIS, the air quality analysis utilized the trip distribution assumptions within the TIA to estimate emissions from patron trips.

The commenter states that locations outside of the County near urban areas were not fully explored and would meet the purpose and need of the Tribe with greatly reduced environmental impacts. The Plymouth site was selected based on the Tribe's ties to the land, available environmental resources, ability to reduce project impacts, and initial agreements between the City and the Tribe. Furthermore, development within an urban area provides many environmental constraints that could result in significant environmental impacts. The statement that development within an urban area would have greatly reduced environmental impacts is unfounded.

P9-03 The locations of the spray fields were selected to avoid waters of the U.S., which are identified in **Figure 3.5-2** of the DEIS. As shown in **Attachment I** of **Appendix Y** of the FEIS, the proposed structures would be architecturally designed to be complementary to the surrounding environment. As recommended by the USEPA, the

parking lot footprint has been reduced. New site plans were developed in response to comments and are included as **Figures 5-1** through **5-5** in **Section 5.0** of the FEIS.

- P9-04** Refer to the response to **Comment F1-15** regarding mitigation of impacts to aquatic habitat. As discussed in response to **Comment L2-111**, impacts to oaks would be adequately mitigated at a 2:1 or 3:1 ratio. Furthermore, as described in response to **Comments F1-14, F1-15, and F1-18**, the site plans have been modified to minimize cumulative environmental impacts.
- P9-05** The responses to **Comments L2-101 and L2-106** through **L2-109** describe the progression of consultation with the USFWS that helped determine the presence or absence of special-status species and the potential for impacts to these species if they do in fact occur in the “action area.” It is not required that mitigation measures and plans be developed for species that do not occur in the “action area.” Pre-construction avian surveys would reduce potential impacts to less-than-significant levels, as stated in **Section 5.2.5** of the DEIS.
- P9-06** Refer to the response to **Comment P9-04** regarding mitigation for oak tree removal. The recommendations are noted and will be considered within the plan. The recommended measures within the DEIS adequately mitigate anticipated impacts.
- P9-07** The Tribe is not proposing to develop a pipeline to meet the water demands of the project alternatives; therefore, the growth-inducing impacts mentioned in the comment would not be applicable. As discussed in **Section 2.0** of the DEIS under the preferred water supply Option 2, water from the off-site well would be delivered to the site via an existing pipeline located within a 60-foot wide easement, which currently is utilized as a gravel roadbed.
- The DEIS states that an on-site reverse osmosis water treatment plant may be required to meet federal drinking water standards. The Water and Wastewater Feasibility Study (**Appendix B** of the DEIS) states that, based on preliminary sample data, treatment may be warranted. The capacity of the water treatment plant is limited by the firm well yield, and would be sized accordingly. As discussed in **Section 2.0** of the DEIS, no other developments would occur on the project site.
- P9-08** **Section 2.0** of the DEIS erroneously states that Alternatives A through D would result in significant and unavoidable impacts to air quality. **Section 2.0** of the FEIS has been revised to correctly summarize the environmental impacts of each project alternative. **Sections 4.4** and **4.11** of the DEIS analyze air quality in the region of the project site. As discussed in these sections, under federal conformity regulations, the impacts to air

quality would be less than significant. Nevertheless, **Section 5.2.4** provides mitigation measures that would further reduce or eliminate operational emissions.

- P9-09** The location of the dam is shown on each site plan within **Section 2.0** of the DEIS. For Alternative A, the dam is shown on **Figure 2-1**. The design of the dam and specific configuration is shown on **Figure 2-5** of the DEIS. The geotechnical study (**Appendix E**) includes a detailed discussion of the location of the dam and general design considerations based on the geologic features of the area. Refer to the response to **Comment L2-38** regarding downstream impacts of the dam.
- P9-10** Refer to the response to **Comment F1-09** for a discussion on the inclusion of a significance determination within the long-term groundwater monitoring plan to mitigate impacts to off-site wells. The long-term monitoring plan is described in **Section 5.2.3** of the FEIS. The term “may” was only used to describe the development of additional wells if the initial monitoring wells are later deemed insufficient. The term has been changed from “may” to “shall”.
- P9-11** Mitigation measures for impacts to water resources are listed in **Section 5.2.3** of the DEIS and the FEIS. Such mitigation includes compliance with applicable regulations with respect to stormwater pollution, wastewater disposal, and groundwater monitoring, and would reduce impacts to off-site water resources. Mitigation measures for impacts to wetland and waters of the U.S., including avoidance and restoration, are listed in **Section 5.2.5** (under Biological Resources) of the DEIS and the FEIS. Indirect impacts to water resources, including off-site water resources associated with traffic improvements, are addressed in **Section 4.12** of the DEIS.
- P9-12** **Section 4.8** under the Land Use heading shows that the project alternatives would be generally constructed on land zoned for commercial use and that the proposed use is consistent with the 2001 City General Plan and the 1973 County General Plan, although local zoning would not apply after the land is taken into trust.
- P9-13** As discussed in **Section 3.8** of the DEIS, the footprints of the project alternatives are generally located within areas designated for commercial development by the City, and would not constitute loss of open space. As discussed in **Section 3.8** of the DEIS, the project site does not contain prime or unique farmlands or farmland of statewide importance. **Section 4.13** provides growth-inducing analyses of the project alternatives. Future commercial development adjacent to the project site would be subject to approval by local government according to land use plans and ordinances. The selected project alternative would not induce “disorderly” commercial growth

either directly or indirectly. An analysis of potential land use impacts is provided in **Section 4.11** under the Land Use heading.

P9-14 Please refer to the responses to **Comments P9-2** through **P9-13** for responses to specific comments on the DEIS. Refer to the response to **Comment L2-01** regarding the scope of response to comments as defined by CEQ, including provisions for updating the information within a FEIS. Accordingly, **Section 4.11** (Cumulative Impacts) has been supplemented to elaborate on the identified impacts of the project alternatives. Mitigation measures, as outlined within **Section 5.0** of the FEIS, are consistent with the goals of NEPA and the definition of mitigation within CEQ regulations (40 CFR § 1508.20). State law with respect to mitigation is not applicable to the project alternatives.

P10 WALTER DIMMERS

P10-01 Refer to the responses to **Comments L2-01** through **L2-03** regarding general statements that the DEIS is flawed. In accordance with the CEQ guidance (refer to **Comment L2-01**), factual corrections do not necessarily require recirculation of the draft document. Refer to the response to **Comment L2-02** concerning the age of the data and requirements to update the DEIS with current data.

P10-02 Refer to the response to **Comments L2-01** through **L2-03** regarding general comments stating that the DEIS is flawed. Refer to the response to **Comment L2-29** regarding level of detail included within **Section 2.0** of the DEIS.

P10-03 Comment noted. No new noise measurements were collected because traffic in the project area has not changed appreciably since the measurements were collected in 2004 (refer to the response to **Comment L2-312**). A revised TIA, which incorporates 2008 traffic counts, is included as **Appendix M** of the FEIS.

P10-04 Refer to response to **Comment P10-03** regarding new noise measurements. No new noise measurement are warranted. Noise measurements were conducted in January 2004, soon after the Notice of Intent (NOI) was complete in order to capture the existing setting and start the analysis. The significance criteria for determining impacts are based on the number of vehicles the project alternatives would add to the roadways adjacent to sensitive receptors.

P10-05 Refer to **Comment P10-03** regarding updated noise measurements and traffic counts.

- P10-06** **Mitigation Measures 5.2.10 (B) and (C)** would provide earthen berms, which would reduce the noise levels to below the federally mandated level of 45 dBA. The height of the berms would be determined at the time of development in order to meet the level of reduction needed to achieve the federally mandated noise level.
- P10-07** There are no sensitive receptors and no planned projects that would place sensitive receptors east of the project site. The basis for the commenter's statement that noise attenuates less in rural settings than in urban settings is unsubstantiated. Urban settings contain materials that readily deflect and amplify noise at rates greater than rural settings.
- P10-08** As discussed in **Sections 4.10** and **4.11** of the DEIS, the project alternatives would meet or exceed the standards set forth by the County General Plan Noise Element.
- P10-09** The roadway segment between the intersections of SR-16/SR-49 and SR-49/Shenandoah Road was not analyzed for noise impacts due to the decrease in vehicle speed near commercial and residential uses. When a vehicle speed decreases, the sound generated by the vehicle decreases as well (i.e. traffic at 30 mph generates noise levels half of that generated by vehicles travelling 65 mph). Therefore, given the lack of noise receptors south of the project site and the reduced speed in the City, the roadway segment between the intersections of SR 16/SR 49 and SR 49/Shenandoah Road does not warrant noise measurements.
- P10-10** During construction and operation of the casino, the Tribe would be responsible for complying with all federal regulations concerning the generation, use, and storage of hazardous materials with oversight provided by the USEPA. The Tribe will be responsible for developing standard operating procedures (SOPs) and ensuring all parties involved with the construction and operation of the selected alternative comply with the SOPs.
- P10-11** Refer to the response to **Comment L2-331** regarding the revision of **Section 2.0** of the FEIS to include additional details regarding lighting provisions. Refer to **Attachment II** of **Appendix Y** of the FEIS for the preliminary lighting plan for Alternative A.
- P10-12** Comment noted. Refer to the response to **Comment L2-331** regarding lighting provisions of the project alternatives included within the FEIS.
- P10-13** As discussed in **Section 2.0** of the DEIS, The Tribe would adopt the applicable federal building codes and the UBC, including all uniform fire, plumbing, electrical, mechanical, and related codes. These standards would be applied when constructing

the selected alternative. As indicated on the preliminary lighting plan in **Attachment II** of **Appendix Y** of the FEIS, lighting would comply with the lighting provisions of the 2006 California Code.

P10-14 Refer to the response to **Comment L2-101** for a discussion of vernal pools.

P10-15 Health effects from electromagnetic fields (EMF) are not reasonable foreseeable. The National Institute of Environmental Health has concluded that the evidence that EMF creates health risks is “weak” (NIEHS, 1999).

P11 WALTER DIMMERS

Comment Letter P11 is a duplicate of **Comment Letter P10**. Refer to the responses to **Comment Letter P10**.

P12 RICHARD MINNIS

P12-01 The commenter provides text from the TIA in **Appendix M** of the DEIS regarding the lack of published trip generation rates for casinos.

P12-02 Information regarding the eight existing casinos utilized to develop the trip generation rate for the project was provided in **Section 4.8** of the DEIS. This information was provided to the traffic engineer and did not require inclusion within the TIA.

P12-03 **Page 4.8-5** of the DEIS clarifies that “Trip generation data for Indian gaming-style casinos is not readily available due to their unique trip generation characteristics as compared to more traditional Nevada-style casinos, which are less isolated and contain a larger variety of gaming devices.” The revised TIA (**Appendix M** of the FEIS) states that while traditional casino trip generation rates are published in the Institute of Transportation Engineers (ITE) *Trip Generation, 7th Edition* (commonly referred to as the ITE Trip Generation Manual), they are not indicative of the trip generation characteristics of Tribal gaming facilities. Refer to Section 4.0 of the revised TIA for an updated discussion of the revised trip generation rate of the project alternatives.

P12-04 Refer to the response to **Comment S4-13** for a discussion of the updated trip generation rates for the project alternatives within the revised TIA. Gaming floor area is utilized as the trip generator within the analysis of the revised TIA.

P12-05 Refer to the response to **Comment P12-04** regarding updated trip rates. At the time the TIA was developed, the SANDAG method was not widely utilized to estimate vehicle

trips generated by northern California Indian casinos. In response to the need to update the traffic counts, the trip generation methodology was revised accordingly. As discussed in response to **Comment P12-04**, the gaming floor area was utilized as the site generator, in accordance with the SANDAG method.

- P12-06** Refer to the response to **Comment P12-05** regarding trip generation rates.
- P12-07** The Tribe has not discounted the validity of the SANDAG methodology. The TIA for the DEIS compared actual traffic counts from local casinos as discussed in **Section 4.8**. The revised TIA uses a more site-specific methodology that characterizes the Proposed Project's trip generation. Refer to the response to **Comment P12-04**.
- P12-08** The SANDAG methodology is not the "Industry Standard" for Indian casinos. When applicable, actual driveway counts are recommended by the ITE for determination of trip generation rates. As discussed in the revised TIA, updated studies were reviewed that reported real-time driveway counts from Indian casinos in settings similar to the Proposed Project. As discussed in the revised TIA, the weighted average daily trip generation rate utilized in the FEIS is computed as 106.83 trips per thousand square feet (ksf) of gaming floor area, which is higher than the rate of 100 trips/1,000 square feet of gaming floor area based on the SANDAG method.
- P12-09** Refer to the response to **Comments P12-02** through **Comment P12-08** regarding the validity of the trip generation rates utilized in the TIA. Trips were estimated using methods recommended by Caltrans and SANDAG.
- P12-10** Table noted. The commenter provides a statement from **Appendix M** of the DEIS regarding the peak hour periods of the study roadway network.
- P12-11** Although special events are held at the Amador County Fairground or local wineries, they are not representative of everyday traffic along SR 49 and SR 16 or the surrounding area. The EIS evaluates traffic impacts to the existing roadway network under average peak conditions, in accordance with Caltrans guidelines. Furthermore, it is assumed that during special events the event coordinator would provide traffic control mitigation.
- P12-12** The monthly average daily trip is not used to analyze impacts associated with a project alternative. Standard methodologies such as Caltrans guidelines for the development of traffic studies outline the need to determine peak-hour impacts associated with the daily operations of the existing roadway network. Models utilized to calculate LOS impacts typically have outputs of peak-hour and average daily trips (ADT).

P12-13 Special events will occur throughout the region and the Tribe is not responsible for traffic congestion caused by these special events. It is assumed that the event coordinator would provide traffic control for special events per County and State ordinances and regulations.

P12-14 Why the commenter assumes that events would need to be “dropped” because of negative effects of increased traffic is unclear. The Tribe is willing to work with the County to reduce impacts during special events. The Tribe has included mitigation for impacted intersections and roadways where feasible to do so. Those intersections and segments that currently operate under poor conditions, such as LOS F or LOS E, for which the Tribe cannot identify adequate mitigation, would impact the Amador County Fair whether or not a project alternative were implemented.

P12-15 and P12-16

Refer to response to **Comment P12-14** regarding the loss of revenue from “dropped” events.

P12-17 The commenter provides a statement from **Appendix M** of the DEIS regarding the LOS and ADT for the five roadway segments analyzed within the TIA.

P12-18 New traffic counts were collected in 2008 and are reported accurately in the revised TIA and its appendices.

P12-19 Trip reduction is addressed in Section 4.0 of the TIA included as **Appendix M** of the DEIS. The trip generation estimate assumes 3% of trips to the project alternatives would be associated with patrons that originally travelled to the Jackson Rancheria casino. These patrons would not be considered trips associated to the project alternatives. Conservatively, the revised TIA in **Appendix M** of the FEIS does not assume trip reductions.

P12-20 Refer to the response to **Comment P12-19** regarding the trip reduction methodology that was used in the revised TIS.

P12-21 and P12-22

The analysis in the revised TIA provides an analysis of impacts to Latrobe Road. Refer to **Appendix M** of the FEIS.

P12-23 The trip distribution within the TIA was developed in response to a zip-code analysis of major population densities in the region. The routes that would be potentially travelled from these population centers were estimated and potentially impacted intersections

and roadways were analyzed in the TIA (**Appendix M** of the DEIS). In response to comments from jurisdictional agencies and due to the changes in the existing roadway network since the development of the TIA, additional roadways and intersections were included in the revised TIA. Refer to Table 1 and 2 of the revised TIA (**Appendix M**) for listings of the roadway segments and intersections analyzed within the FEIS.

P12-24 Refer to response to **Comment P12-23** regarding the intersections and roadways evaluated in the revised TIA.

P12-25 through P12-27

Refer to the response to **Comment P12-19**, which discusses the trip reduction methodology that was used to determine traffic impacts within the DEIS, which has been revised within the FEIS.

P12-28 The commenter reiterates text from the TIA. No response required.

P12-29 As stated in Section 3.0 of the TIA, the 2.2% growth rate was based on Caltrans historical data available at the time the TIA was developed. The rates suggested by the commenter are compiled from Caltrans data released after the development of the TIA. Refer to the response to **Comment S4-03** regarding the updated list of planned projects obtained from county planning agencies that was used in the revised TIA in place of an assumed growth rate.

P12-30 Refer to the response to **Comment P12-29** regarding growth factors used to estimate roadway traffic in the revised TIA (**Appendix M**).

P12-31 The commenter reiterates text from the TIA. No response required.

P12-32 Refer to the response to **Comment P12-23** regarding trip distribution.

P12-33 The “similar casinos” used to develop the trip distribution are provided in the revised TIA (**Appendix M**).

P12-34 The data in the referenced tables in the TIA (**Appendix M** of the DEIS) provides the results of the impacts analysis of the project alternatives. The data represents anticipated traffic levels at the study roadway intersections and along the study roadway segments. Refer to the responses to **Comments P12-04** and **P12-05** regarding updating the TIA and the applicability of SANDAG methodology.

- P12-35** The commenter provides a table that compiles data from tables in the TIA (**Appendix M** of the DEIS).
- P12-36** As discussed in **Section 3.8** of the DEIS, the 25 intersections included in TIA were considered most likely to be affected by the project alternatives. Refer to the response to **Comment P12-23** regarding the revised study roadway network in the revised TIA.
- P12-37** Refer to the response to **Comment P12-23** regarding selection of roadways for the TIA.
- P12-38** There is no mitigation because the intersection LOS does not fall below an acceptable level as defined in the TIA (**Appendix M** of the DEIS).
- P12-39** The reference to the Sacramento County General Plan (1993) identifies improvements that are slated for the intersection at SR-16/Stone House Road and SR-16/Grantline Road. Mitigation measures provided in **Section 5.2.8** of the FEIS would reduce traffic impacts at these intersections to less-than-significant levels. As noted, the Tribe would pay a fair share contribution to implementing these mitigation measures.
- P12-40** The regional traffic plan includes roadway projects to mitigate the LOS concerns at the mentioned intersections. During development of the revised TIA, it was determined that since the funding mechanisms for the planned improvements have not been identified, the improvements should not be included in the description of the existing environment. Refer to **Section 5.2.8** of the FEIS for a summary of the mitigation for these intersections.
- P12-41** **Mitigation Measure 5.2.8 (H)** of the DEIS identified roadway improvements to increase the LOS at the intersection of SR 104 (Preston) and SR124.
- P12-42** Refer to the response to **Comment L2-210** and Section 2.0 of the revised TIA for a discussion of the warrant analysis performed for intersections that operate, or would operate, under poor LOS conditions. This analysis includes determining if signalization would result in poor LOS at any of the turning movements within the intersection. This would take into consideration the arterial movements at the entire intersection, not just the movement that results in the poor LOS. According to traffic guidelines, a significant impact would not occur if the LOS is reduced below jurisdictional standards, but the signal warrants are not met. This prevents undue stress on the arterials that feed the intersection.

- P12-43** The DEIS was made available to Sacramento and El Dorado Counties. Commenter letters were received from both jurisdictions. Refer to Comment **Letters L1** and **L5**, accordingly. San Joaquin County was contacted during development on the revised TIA. Refer to **Appendix M** of the DEIS.
- P12-44** The TIA was not a “retro-analysis.”
- P12-45** Refer to the responses to **Comments P12-04** and **P12-05** regarding updating the TIA and the applicability of SANDAG methodology.
- P12-46** The Tribe’s restored lands opinion is a separate process from the environmental review process. The purpose of the EIS is to determine the environmental impacts associated with the trust application, and not to discuss the provisions of the trust application itself. Refer to the response to **Comment L2-27** and **L2-28** regarding the 40-acre site.

P13 JENNIFER MINNIS

- P13-01** In accordance with CEQ guidance [46 Fed. Reg. 18026 (1981)], the lead agency must respond to comments that provide specific comments on methodologies used in preparation of the DEIS. Responses are to be included in the FEIS and become part of the administrative record for the project. The lead agency is not required to respond personally to each individual commenter, as inclusion of the responses to comments within the FEIS fulfills the public participation/disclosure requirements of NEPA. Responses to **Comments P13-1** through **P13-95** appear below.

P13-02 and P13-03

Figure 3.5-4 in the DEIS shows the wetland features on the project site; while **Table 3.5-2** shows the acreages of the features. Refer to **Section 3.5** of the FEIS for a discussion on wetland features on the project site.

- P13-04** **Figure 3.5-4** in the DEIS shows the aquatic habitats on site. Some of these features are included on the National Wetlands Inventory Map (NWI) map. Refer to **Section 3.5** of the FEIS for a discussion on wetland features on the project site.

- P13-05** Executive Order (EO) 11990 was issued on May 24, 1977. Since the issuance of EO 11990, the CWA Section 404 permitting process has expanded the fundamental protective measures and policies outlined in this order. The federal government is not funding the project alternatives. Refer to the response to **Comment F1-15** regarding mitigation of impacts to wetlands. Implementation of the project alternatives would

meet all federal requirements under the CWA; therefore, there would be no violation of EO 11990.

- P13-06** As discussed in **Section 3.3** of the DEIS, less than one acre of Parcel #3 is located within Flood Zone A according to the FEMA Flood Insurance Rate Map. The remainder of the project parcels are located within the flood plain. **Figure 3.3-2** of the DEIS identifies the flood zones in relation to the project site boundaries.
- P13-07** As discussed in **Section 4.3** of the DEIS, the small portion of Parcel #3 that is located within Flood Zone A would not be developed under any of the project alternatives.
- P13-08** Refer to the response to **Comment P13-06**, which states that the project footprint is not located within a special flood zone.
- P13-09** On June 9, 2005, the State Historic Preservation Office (SHPO) responded to Section 106 consultation initiated by Dale Morris, Regional Director, Bureau of Indian Affairs, Pacific Regional Office. SHPO concurred with the BIA findings of *No Historic Properties Affected*. Please refer to **Appendix K** for Section 106 consultation.
- P13-10** The property is neither listed nor eligible for listing on the National Register of Historic Places (NRHP). Please also refer to the response to **Comment P13-09** regarding SHPO concurrence.
- P13-11** None of the resources identified within or adjacent to the property are eligible for listing on the NRHP either individually or as contributing elements of a Historic District. A more detailed description of the property and resources identified therein is provided in confidential **Appendix K** of the DEIS. Refer to the response to **Comment L2-124** regarding the exclusion of sensitive information from the public version of the DEIS. Please also refer to the response to **Comment P13-09** regarding SHPO concurrence.
- P13-12** The property's area of potential effects (APE) does not contain a historic property or district. Please refer to the response to **Comment P13-11** for a discussion of the NRHP eligibility of resources identified within the project site.
- P13-13** The commenter references Title 24 of the Code of Federal Regulations, Part 51, Subpart B—Noise Abatement and Control (24 CFR Part 51, Subpart B). The referenced provisions pertain to the operations of the U.S. Department of Housing and Urban Development (HUD), and the development of sensitive land uses in areas considered to have high existing noise levels, such as near major highways or airports.

The Proposed Action and project alternatives are not receiving funds from HUD and therefore, the provisions of 24 CFR Part 51, Subpart B do not apply. Regardless, a noise assessment was performed and is provided in **Sections 3.10, 4.10 and 4.11** of the DEIS and FEIS, with mitigation measures provided in **Section 5.2.10** of the FEIS.

- P13-14** Noise contour maps were not developed for this project because the major noise generators of the project would be mobile sources (motor vehicles), which cannot be assessed using contour maps. Noise impacts were assessed using U.S. Department of Transportation guidelines and significance thresholds.
- P13-15** Once the project site is taken into trust, the Tribe would have jurisdiction, with USEPA oversight, of environmental resources on the project site. Adjacent neighbors that have complaints regarding activities on the trust land may request the Tribal council address their concerns. The Tribe will work with the local governments to assure that noise abatement provision are in place that would reduce impacts to adjacent and neighboring residences. Refer to **Section 5.2.10** of the FEIS for mitigation measures to reduce noise impacts to less than significant levels.
- P13-16** As discussed in **Section 3.10** of the DEIS and the project site is not listed on the USEPA Superfund National Priority List (NPL) or in the Comprehensive Environmental Response, Compensation, and Liability Information System (CERCLIS) database. Refer to **Appendix O** of the FEIS for the Phase I Environmental Site Assessment (ESA), which includes the results of the database searches conducted for records of known sites of hazardous materials generation, storage, and/or contamination on and adjacent to the project site.
- P13-17** There are no records of hazardous materials involvement on the project site. As documented in the Phase I ESA included in **Appendix O** of the FEIS, a reconnaissance inspection of the project site and adjacent properties and interviews of current landowners did not yield any evidence of significant hazardous conditions that would require listing the project site in the NPL and CERCLIS databases.
- P13-18** A general assessment of hazardous materials that would be stored and used in quantities that could potentially affect the environmental quality of the site is included in **Section 4.10** of the DEIS. **Mitigation Measure 5.2.10 (I)** in the DEIS includes submitting a copy of a hazardous waste minimization program and a full inventory of flammable and hazardous materials to the Amador Fire Protection District (AFPD).
- P13-19** The Tribe does not propose to handle or sell explosives such as fireworks. There are currently no plans to install gasoline or diesel underground storage tanks on the project

site. The DEIS included an analysis of potential impacts resulting from the storage of diesel fuel for emergency generators within self-contained aboveground storage tanks. Impacts resulting from the storage of the self-contained tanks were determined to be less than significant, as stated in the DEIS.

- P13-20** The design of the project facilities would comply with all applicable federal building codes and the UBC, including all uniform fire, plumbing, electrical, mechanical, and related codes. Additionally, a Fire Plan has been included as **Appendix F** of the DEIS and FEIS that documents the Tribe's intention to comply with the UBC and California building codes.
- P13-21** The Tribe has not developed a public safety evacuation and rescue plan. As required by uniform fire and building codes, all emergency evacuation routes would be well lit and would comply with federal building safety requirements and the Federal Americans with Disabilities Act (P.L. 101-336, as amended, 42 U.S.C. §12101, *et seq*) for emergency evacuation procedures.
- P13-22** As discussed in **Section 4.10** of the DEIS, no toxic or solid waste landfills were identified within one mile that would affect the project site.
- P13-23** There is no evidence of past or present underground storage tanks on the project site.
- P13-24** The Phase I ESA performed for the project site did not identify listed hazardous wastes or hazardous materials issues for which state, local, or federal entities would be considered a responsible party (**Appendix O** of the FEIS). Refer to the response to **Comment S7-06** regarding the mine tailings located on parcel #1. Neither the State nor the County would be considered the responsible party once the site is taken into trust.
- P13-25** The groundwater that occurs beneath the project site, described in **Section 3.3** of the DEIS, has not been identified by the USEPA as a sole source aquifer as defined under the Safe Drinking Water Act. Concerning "other aquifers" as mentioned in the comment, impacts to groundwater beneath the project site and to off-site wells are addressed in **Section 4.3** of the FEIS. Refer to the response to **Comment F1-02** regarding existing groundwater conditions in the region and impacts of the project alternatives.
- P13-26** Based on the revised site plans (**Figures 5-1** through **5-5** in **Section 5.0** of the FEIS), construction of the Proposed Project (full build-out of Alternative A) would result in

approximately 35 acres of impervious surface coverage, a reduction of 42% compared to the original site plan.

- P13-27** Construction of the updated site plan for the full build-out of Alternative A would result in the conversion of approximately 15% of the project site to impervious surfaces. As discussed in **Section 2.0** of the FEIS, impervious coverage would be reduced to the extent feasible and, with installation of a detention basin, off-site runoff rates would be consistent with pre-existing conditions. No significant impact would occur.
- P13-28** Refer to the response to **Comment L3-01** regarding the existing connections to the City's municipal water system on the project site. Refer to the response to **Comment F1-02** regarding the City's water supply and the long-term yields of the project wells.
- P13-29** Refer to the response to **Comment F1-09** regarding the development of a long-term monitoring plan to reduce potential impacts to off-site well owners.
- P13-30** Refer to **Section 5.2.3** of the FEIS for the description of the mitigation measures that would reduce impacts to off-site well users.
- P13-31** The residences on parcels #2 and #12 are connected to septic systems, while the hotel is connected to the City's municipal sewer system. It is unknown whether or not the residential structures located on parcels #8 and #9 are connected to the City's municipal sewerage system or operated on-site septic systems (**Appendix O** of the FEIS).
- P13-32** Impacts to existing sanitary sewer and wastewater disposal systems are addressed in **Section 4.9** of the DEIS. With the development of an on-site WWTP, no impacts to municipal wastewater treatment facilities would occur from the implementation of the project alternatives. The Tribe would either connect the residences on parcels #2 and #12 to the Tribal WWTP or continue to operate the septic systems, consistent with existing conditions. No costs would be rendered by the City.
- P13-33** No expansion of existing sanitary sewer and wastewater disposal systems would be required as a result of the implementation of the project alternatives because no new connections to the existing sewer facilities would be developed. As discussed in **Section 2.0** of the DEIS, the Tribe will develop an on-site WWTP.
- P13-34** Refer to the response to **Comment F1-33** regarding the Tribal drinking water system and the jurisdiction of the USEPA.

- P13-35** Refer to the response to **Comment L4-14** regarding scenic vistas. The project site does not contain bluffs, cliffs, or other features that are depicted as scenic resources. The project site is not located near a public or private scenic area.
- P13-36** The project site includes various natural resources as described in **Section 3.0** of the DEIS. Refer to **Section 4.0** of the FEIS for the analysis of the impact of the project alternatives to natural resources on and off the project site.
- P13-37** Previous land uses, which are discussed in **Section 3.10** of the FEIS, include cattle grazing, residential, and gold mining. Most of the project site has never been developed. Refer to **Section 3.0** and **Section 4.0** of the FEIS for a full discussion of the existing setting and the potential impacts associated with the project alternatives.
- P13-38** The parcels located off Village Drive and the on-site residences have paved access. The main access driveway to the site south of Parcel 8 is unpaved.
- P13-39** The commenter makes a statement regarding unusual conditions on the project site. Without further explanation of “unusual conditions” a response to this comment is not possible. As mentioned in the response to **Comment P13-38**, a Phase I ESA was prepared for the site to identify potential hazards and hazardous materials. Refer to **Appendix O** of the FEIS for the Phase I ESA.
- P13-40** No stressed vegetation was observed on the project site during the Phase I ESA. Vegetation species are identified in **Section 3.5** of the DEIS. Refer to **Appendix O** of the FEIS for the Phase I ESA.
- P13-41** One small container of waste oil was observed during the Phase I ESA next to one of the residences on the project site. Approximately two quarts of waste oils were noted in the container. Refer to the response to **Comment S7-06** regarding the mine tailings on the site.
- P13-42** No pits, pond, lagoons, soil staining, chemical spills, or abandoned machinery were observed on the project site during the Phase I ESA. Several non-running automobiles were observed on Parcel #12. The automobiles belong to the property owner and would be removed prior to development.
- P13-43** Abandoned transformers, fill/vent pipes, or pipelines were not observed on the project site during the Phase I ESA. Storm drainage improvements (stormdrains) are located off Village Drive. The remaining parcels do not have storm water drainage improvements.

- P13-44** **Table 4.8-9** outlines the consistency of the proposed land use with the City and the County general plans. As shown in this table, the project alternatives are generally consistent with the City and County plans for land use, building density, and building height. It is assumed, since the project site is zoned for commercial use, that the height, bulk and mass of the building is compatible with the surrounding area.
- P13-45** The selected project alternative would consist of new facilities and would generate sufficient funds to maintain such facilities; therefore, deterioration of the facility or postponed maintenance is not expected. The selected project alternative would not be a transitional land use or incompatible land use as the project site is currently zoned for commercial use. As described in **Section 2.0**, the Proposed Project would include adequate parking. **Section 4.9** concludes that available public facilities and proposed on-site facilities are more than adequate to accommodate the Proposed Project.
- P13-46** The selected project alternative would include a parking facility and backup power generators, and would result in increased traffic on an adjacent roadway; however, these would not increase the ambient air pollution levels above the national ambient air quality standards. No incinerator is proposed, and no nuisance odors are anticipated. **Section 4.4** of the FEIS analyzes the impacts of the project alternatives on regional air quality. The analyses conclude that, under federal conformity regulations, implementation of the project alternatives would not result in significant air quality impacts; nevertheless, **Section 5.2.3** includes measures that would further reduce emissions.
- P13-47** The existing environment as it pertains to land resources and topography on the project site is discussed in **Section 3.2** of the DEIS. Site elevations range from 900 feet to 1,150 feet above mean sea level (amsl). Significant slopes would be avoided during construction. Refer to **Section 3.2** of the DEIS for a discussion of the topography of the project site.
- P13-48** The existing environment as it pertains to land resources and topography on the project site is discussed in **Section 3.2** of the DEIS. No signs of major slope erosion or unstable conditions were observed on the site during the geotechnical site reconnaissance (**Appendix E**), as noted in **Section 3.2**. The region is not susceptible to landslides, which indicates stable slopes in the region.
- P13-49** No flooding was observed within the residential structures during the site inspection for the Phase I ESA. **Sections 3.2** and **4.2** of the DEIS include discussions of the existing environment and potential impacts regarding soils hazards.

- P13-50** A discussion of soil characteristics is included in **Section 3.2** of the DEIS. A site-specific soil report is included in **Appendix T** of the DEIS. **Appendix E** of the DEIS includes a geotechnical investigation of parts of the project site that were slated for recycled water storage. Test pits were excavated and soils were visually examined, classified, and logged according to the American Standard of Testing and Materials (ASTM) practice for description and classification of soils (Visual Manual Procedure D2844). The findings of the Geotechnical Investigation are included in the DEIS as **Appendix E**.
- P13-51** There are natural and manmade swales on the project site. The existing environment as it pertains to water resources on the project site is discussed in **Section 3.3** and **Section 3.5** of the DEIS.
- P13-52** There are no indications of filled ground within the area of the project site that would be developed. California Certified Engineering Geologists, through field assessments, geological laboratory testing, and a study of available information from the California Department of Conservation Division of Mine and Geology, assessed the site for soil suitability. Soils tests were performed in accordance with ASTM protocols. The geotechnical investigation is included in **Appendix E** of the DEIS. The Tribe will comply with all the UBC and applicable building codes, including geotechnical considerations as stated in **Section 2.0** of the DEIS.
- P13-53** The upland areas of the site include several ephemeral and intermittent drainage channels. No rills or gullies were observed within the areas of disturbance of the project alternative footprints.
- P13-54** Refer to the response to **Comment P13-50** regarding the soil survey (**Appendix T** of the DEIS) and geotechnical investigation (**Appendix E** of the DEIS) of the project site. Structural borings and dynamic soils analysis have not been performed.
- P13-55** The project site would not be adversely impacted by seismic activity, including fault rupture. Refer to the discussion of the existing environment as it pertains to seismicity in **Section 3.2** of the DEIS. **Section 4.2** of the DEIS identifies potential impacts of the project alternatives related to seismicity.
- P13-56** The normal wind pattern in the County is a gentle westerly breeze that averages less than ten miles per hour. The project would not be affected by severe wind or sandstorm events.

- P13-57** Sections 3.5 and 4.5 of the DEIS include a discussion of the existing environment and potential impacts with respect to biological resources. The project will not be adversely impact by the presence of poisonous plants, insects, or animals on site.
- P13-58** The meaning of the term “unprotected water bodies” is unclear. There are no “unprotected water bodies” on the project site, meaning all natural water resources are protected under the CWA.
- P13-59** Section 3.1 of the DEIS includes a discussion of the existing environment as it pertains to potential hazardous terrain features. There are steep slopes along the southern and eastern portions of the project site; however, no development is planned for these areas. If a NPDES permit cannot be obtained from the USEPA for surface water discharge, the construction of a dam for surface water storage would require construction on steep slopes. Such construction would be based on the recommendations of a geotechnical engineer and would be in compliance with all applicable regulations, ensuring that no significant impact with respect to hazardous terrain features would occur.
- P13-60** Appendix M of the FEIS contains a revised TIA, which provides an updated project-specific traffic analysis.
- P13-61** The TIA is based on traffic counts near the project site. The revised TIA uses updated (2008) traffic counts and provides additional analysis (see **Appendix M**).
- P13-62** Existing roadway maintenance is not within the scope of the EIS. Roadway improvements needed to maintain acceptable LOS are provided in **Section 5.2.8** of the FEIS. Costs for roadway improvements are not known at this time; however, the mitigation measures specify fair-share funding for such improvements.
- P13-63** Annual and weekly traffic estimates are not used in the analysis of traffic impacts; therefore, they are not included in the TIA, revised TIA, or EIS. Daily and peak hour traffic counts for 2004 and 2008 are provided in the TIA and revised TIA, respectively.
- P13-64** Mitigation measures for all roadways that would operate at an unacceptable LOS with implementation of the project alternatives are provided in **Section 5.2.8** of the FEIS.
- P13-65** The project alternatives would not affect or be affected by hazardous streets.
- P13-66** The project alternatives would not affect or be affected by hazardous intersections.

- P13-67** Traffic mitigation measures listed in **Section 5.2.8** of the FEIS, which includes a discussion of fair-share provisions to be paid by the Tribe.
- P13-68** As stated in **Section 3.8**, there are currently no bicycle or pedestrian facilities adjacent to the project site.
- P13-69** **Section 4.8** addresses potential impacts on public transportation due to increased traffic from the project alternatives. The impact to public transportation would be less than significant with implementation of the mitigation measures listed in **Section 5.2.8**.
- P13-70** As stated in the revised TIA (**Appendix M** of the FEIS), the Tribe would pay its fair share to address transportation impacts that arise from the implementation of the Proposed Project.
- P13-71** Private transportation systems would not be required of the project alternatives; however, a private transportation system may be implemented at a later time. If a system of shuttles or buses is implemented in the future, there would be a beneficial impact due to a reduction of vehicles on local roadways.
- P13-72** Refer to the response to **Comment P13-71** regarding the impact of a private transportation system.
- P13-73** As discussed in **Section 3.7**, two schools are located in the City. Monarch Montessori and Plymouth Elementary School are both located approximately one mile north of the project site.
- P13-74** As discussed in **Section 3.7**, there are approximately 39 acres of parkland within the City, including children's play areas.
- P13-75** Level of service impacts to roadways and intersections are discussed in **Section 4.8** of the FEIS. Mitigation measures are provided in **Section 5.2.8** to reduce these impacts. Evaluating specific bus schedules is not necessary to determine potential impacts to schools or traffic.
- P13-76** As discussed in **Section 3.7**, there are approximately 39 acres of parkland within the City. As discussed in **Section 4.7**, potential impacts to libraries and parks would be less than significant because it is expected that only a limited number of employees would be relocated to reside in the area, and patrons would not frequent these facilities because of the entertainment nature of the project alternatives.

- P13-77** The project alternatives would be entertainment in nature and patrons would not increase demand for day care facilities. Many employees of the selected project alternative would be current residents of the County and a small portion would relocate from outside the County. Only a portion of new employees would generate demand for day care facilities. Employees that are new residents of the County would be dispersed and would not substantially increase the demand for any particular day care facility.
- P13-78** Refer to the responses to **Comment L2-243** and **P10-11** regarding impacts associated with lighting.
- P13-79** Refer to the response to **Comment L4-40** regarding the Tribe's commitment to design exterior lighting in compliance with the City's *1997 Downtown Revitalization Strategy*. Furthermore, the use of downcast lighting to reduce impacts to adjacent landowners is included as a component of the project description in **Section 2.0** of the FEIS.
- P13-80** Refer to the response to **Comment P13-15** regarding complaints concerning activities on the trust land.
- P13-81** Descriptions of the commercial or retail developments proposed as the project alternatives are provided in **Section 2.0** of the FEIS. The project alternatives are described in the level of detail required to provide the impact analyses in **Section 4.0**, to allow the lead agency to make a decision on the environmental impacts of the selected project alternative. **Section 2.0** of the FEIS states that no other development would occur on the project site.
- P13-82** The revised TIA includes trip generation assumptions for each project alternative (**Appendix M**).
- P13-83** As determined in the Economic Impact Analysis (EIA) (**Appendix R**), the Proposed Project would result in revenue of approximately \$181 million (Phase I) in year three of operation and substantial new economic output would occur in the County. As discussed in **Section 4.7**, an overall fiscal benefit would result from the implementation of the project alternatives. Increased tax revenues would be generated from sales taxes on new expenditures on goods and services in the County.
- P13-84** **Section 3.7** and **Table 3.7-3** show recent estimates of housing units and vacancy rates for the County, including incorporated and unincorporated areas. As discussed in **Section 4.7**, the construction of new housing may occur as an indirect result of the project alternatives but would not be required to meet the needs of project employees. New employees relocating to the project area could choose to rent or buy new housing,

but it is expected that any new housing development would be limited by the availability of land zoned for residential use and local land use regulations.

- P13-85** Refer to response to **Comment P13-84** regarding housing needs of the project alternatives.
- P13-86** As discussed in **Section 4.7**, implementation of the project alternatives would result in substantial new expenditures on goods and services at County businesses. Patrons of the project site would increase demand for existing hotels, motels, and potentially RV facilities and other tourism lodging facilities.
- P13-88** As discussed in **Section 4.7**, the project alternatives would result in new expenditures on goods and services within the State of California totaling approximately \$27.5 million annually. It is expected that many of these purchases would be made from existing vendors located in the County and surrounding counties, due to location and market advantages.
- P13-89** As discussed in **Section 4.7**, based on the availability of labor in the region and the proximity of available labor to the project site, it is estimated that 60% of new labor or 763 new employees would be residents of the County. Due to the limited size of the labor force residing in the City, it is estimated that only 5% of new labor or 64 new employees would be residents of the City (included within the County estimate).
- P13-90** Refer to the response to **Comment P13-89** regarding the anticipated locations of the workforce to be employed by the Tribe.
- P13-91** **Section 4.9** of the DEIS includes an analysis of potential impacts to the local law enforcement agencies and **Section 5.2.9** includes mitigation measures to reduce potential law enforcement impacts to less-than-significant levels. Cumulative impacts (extending to the year 2025, where feasible) are addressed in **Section 4.11** of the DEIS. The analysis presented in the DEIS was developed in consultation with local law enforcement agencies.
- P13-92** Refer to the response to **Comment P13-91** for discussion of the DEIS analysis as it pertains to law enforcement.
- P13-93** Mitigation measures to address potential law enforcement impacts are presented in **Section 5.2.9** of the DEIS. Such mitigation includes payments to the ACSO to provide for one officer to be based in Plymouth on a 24 hours a day/7 days a week basis.

P13-94 With the location of an existing Tribal casino (Jackson Rancheria) in close proximity to project site, these issues are currently being addressed by local and County jurisdictions. Refer to **Section 4.9** for a discussion of the types of crimes currently experienced in association with the Jackson Rancheria casino. The DEIS relies on these reported incidents for analysis of the hard and soft crime traditionally associated with gambling that would be associated with the development of the project alternatives.

P13-95 Refer to the response to **Comment P13-93** that summarizes the Tribe's commitment to reducing potential project-related impacts to local law enforcement agencies.

P14 CARRIE AND STEVEN JOHNEN

P14-01 Refer to the response to **Comment P8-02** with regard to the location of the project site and the Tribe's Fee-to-Trust application.

P14-02 Refer to the response to **Comment F1-19** addressing the reduction in the size of the parking lot. Refer to **Figures 5-1 through 5-5** in **Section 5.0** of the FEIS for the updated site plans.

P14-03 and P14-04

The Tribe's application for lands to be taken into trust, including ties to the project site, is a separate process from the environmental review process. The purpose of the EIS is to determine the environmental impacts associated with the trust application, and not to discuss the provisions of the trust application itself.

P14-05 Refer to the responses to **Comment F1-02** regarding the City's water supply and **Comment F1-05** regarding the determination of the safe yield for the Project wells.

P14-06 Refer to the response to **Comment P8-02** with regard to the location of the project site and the Tribe's Fee-to-Trust application. Noise impacts are addressed in **Section 4.10** of the FEIS. Mitigation provided in **Section 5.2.10** of the FEIS would limit construction activities to normal daytime hours. During operation, noise impacts would be addressed and mitigated to reduce the impact to the existing noise environment to less-than-significant levels.

P15 PATRICK HENRY

P15-01 Comment noted. As the comment does not pertain to the DEIS, no response is required.

P15-02 As discussed at the public hearing held on May 21, 2008, the notice of availability (NOA) for the DEIS published in the federal register erroneously stated that the parcels are owned by the tribe, when in fact some of the parcels are in the process of being acquired.

P15-03 Not all of the technical documents utilized to prepare the DEIS are included in version released to the public.

Hardcopies of the DEIS were made available for a payment equivalent to the production costs of the document. CD copies were distributed for no charge. As stated in the NOA for the DEIS, copies were available for review at the Amador County Library, Jackson Main Library, and the City Clerk's Office. Copies were also available by contacting the BIA or visiting the website.

The NOA for the DEIS was published in the Amador Ledger Dispatch on April 22 and May 20, 2008. Furthermore, the NOA was made available online at www.ioneeis.com. Comments on the DEIS at the public hearing were limited to three-minute intervals to allow all attendees the chance to give their comments. This is a standard practice for public hearings on environmental documents and is a standard practice for the BIA. Additional time was allowed after all those who wished to speak were given a chance to comment. Although the BIA proctor of the hearing clearly stated the purpose of the hearing was to receive substantive comments on the DEIS, the BIA cannot control the content of comments received at the public hearing, nor deny individuals the right to comment.

P15-04 Comment noted. Refer to **Section 1.3** of the FEIS for a discussion of the environmental review process, including summaries of the opportunities to provide comments on the EIS.

P15-05 The comment is outside of the scope of NEPA. No response is required.

P16 PRIVATE ENTITY – ELIDA MALICK

P16-01 Existing socioeconomic information on the project site and region is presented in **Section 3.7** of the DEIS. Based on this background data and potential economic effects estimated in the EIA, which is included as **Appendix R** of the DEIS, potential impacts to socioeconomics and environmental justice of identified minority and low-income communities for each of the four project alternatives is evaluated in **Section 4.7** of the DEIS.

- P16-02** Economic, social, and environmental justice issues that could potentially be impacted by the project alternatives are analyzed in **Section 4.7** of the DEIS. The scope of the socioeconomic analysis includes only those socioeconomic issues that would be affected as a result of the project alternatives.
- P16-03** As stated in **Section 3.7** of the DEIS, the Ione Band of Miwok Indians has 652 members. The basis of the commenter's reference to "approximately 85 members" is unclear.
- P16-04 and P16-05**
Refer to the response to **Comment P16-03** regarding Tribal membership. Details regarding Tribal membership criteria are not necessary for an analysis of socioeconomic impacts associated with the project alternatives.
- P16-06** The survey asked Tribal members about their employment and income status. The results are an accurate depiction of the 32% of the Tribe that responded to the survey.
- P16-07** The questionnaire was conducted by GVA Marquette Advisors as part of the EIA (**Appendix R** of the DEIS).
- P16-08** The survey consisted of a questionnaire of personal information regarding employment and income status. The questionnaire was distributed directly to Tribal members and estimates derived from the responses provided are the most recent and accurate information available.
- P16-09** This data was based on the questionnaire distributed to the Tribe, of which 32% responded. Therefore, this value is representative of the 32% of the Tribe that responded.
- P16-10** Refer to response to **Comment P16-09** regarding the income data for Tribal members.
- P16-11** The reference "GVA, 2004" is included in its entirety in **Section 8.0** of the DEIS. GVA is short for GVA Marquette Advisors, and the reference is referring to the EIA that GVA prepared for the Proposed Project (**Appendix R** of the DEIS). The employment and income data presented is not based on state data, but rather a questionnaire distributed to the Tribe in 2004. This data represents the most recent employment and income data available from the Tribe.
- P16-12** The reference "Ione Band of Miwok Indians, 2005" has been added to **Section 8.0** of the FEIS.
- P16-13** Further detail regarding the employment status of Tribal members, including age and disabilities, is not necessary for an analysis of socioeconomic impacts associated with the project alternatives.

- P16-14** The survey of the Tribe was conducted after the 2003 American Indian Population and Labor Force report was released, and is considered a more current source of socioeconomic information for the Tribe.
- P16-15** Further detail regarding income received by Tribe members via social assistance programs is not necessary for an analysis of socioeconomic impacts associated with the project alternatives.
- P16-16** Details regarding Tribal membership and Tribal governance are not necessary for an analysis of socioeconomic impacts associated with the project alternatives.
- P16-17** Refer to response to **Comment P16-03** regarding Tribal membership.
- P16-18** As stated on the U.S. Department of the Interior’s website (<http://www.doi.gov/bia/>), the “Bureau of Indian Affairs (BIA) is responsible for the administration and management of 66 million acres of land held in trust by the United States for American Indians, Indian tribes, and Alaska Natives.”
- P16-19** This is a general statement provided for background information on the Tribe. It is not used to determine a potential impact; therefore, providing further details is not necessary in the socioeconomic analysis.
- P16-20** As stated in the response to **Comment P16-05**, details regarding the residences of Tribal members are not necessary for an analysis of socioeconomic impacts associated with the project alternatives.
- P16-21** Potential impacts to schools from the project alternatives are evaluated in **Section 4.7** of the DEIS. Providing further detail on the number of Tribal members’ children attending school in Amador and Sacramento County is not necessary to assess potential impacts to schools.
- P16-22 and P16-23**
Refer to response to **Comment P16-21** regarding school enrollment for children of Tribal members.
- P16-24** As discussed in the response to **Comment P16-13**, further detail regarding the employment status of Tribal members is not necessary for an analysis of socioeconomic impacts associated with the project alternatives.
- P16-25** The California Department of Finance (DOF) provides comprehensive population and housing data for the entire State and is widely accepted as a source of demographic data. This data is collected from numerous sources and is relevant and accurate for cities and counties throughout the State.

- P16-26** All data and analysis of the City contained in the EIA and DEIS are relevant and accurate because of the data sources and assumptions used in these reports.
- P16-27** The City General Plan was adopted in April 1986 and updated in February 2001. Sections amended in 2001 include the introduction; goals, policies, and implementation; and the environmental setting.
- P16-28** Showing the total number of vacant units in the County, and not the subdivision of units into categories, is appropriate for providing a perspective of total vacancy within the County.
- P16-29** The values of median owner-occupied housing units in the County and median contract rent have been updated in **Section 3.7** of the FEIS.
- P16-30** Refer to the response to **Comment P16-29** regarding updated housing information.
- P16-31** This statement provides descriptive background information on housing in the County; specifically, it demonstrates that the cost of living is high compared to income.
- P16-32** Housing unit data from 1990 to 2000 is included to provide a perspective on the historic trend of housing units within the County. State data provided in **Section 3.7** of the DEIS is used to establish a baseline of current socioeconomic conditions within the County. The socioeconomic impact analysis, provided in **Section 4.7**, is based on data from the EIA (**Appendix R**), rather than State data.
- P16-33** U.S. Census data is provided by the federal government and is relevant and accurate. Estimates provided in the EIA (**Appendix R**) are based on this data.
- P16-34** This data is considered relevant and accurate because it is provided by the U.S. Census Bureau and the DOF. The most recent U.S. Census was conducted in 2000.
- P16-35** Refer to the response to **Comment P16-34** regarding vacant housing in the City.
- P16-36** Information provided in the City General Plan Housing Element is assumed to represent actual conditions in the City.
- P16-37** Refer to response to **Comment P16-36** regarding rental units in the City.
- P16-38** The ratio used to estimate rental units in the City in 2004 is based on U.S. Census and DOF data. Refer to **Response P18-177** regarding these data sources.
- P16-39** Refer to response to **Comment P16-38** regarding rental data.
- P16-40** Refer to response to **Comments P16-36** and **P16-38** regarding rental information.

- P16-41** Employment estimates were derived for unincorporated portions of the County from California Employment Development Department (EDD) data. Specifically, values for unincorporated portions of the County are, in this assessment, equivalent to data for the County as a whole minus the incorporated areas of Plymouth, Jackson, Ione, Sutter Creek, and Amador City.
- P16-42** Employment numbers in **Section 3.7** are based on employment estimates by the California DOF.
- P16-43** City and County data are from EDD. Refer to the response to **Comment P18-180** for a discussion of employment estimates for the unincorporated portion of the County.
- P16-44** **Table 3.7-5** presents major employers and manufacturers in the County as reported by EDD. This list includes only major employers in the County and not all employers or industries.
- P16-45** Industry classifications presented in **Table 3.7-5** are determined by EDD and are consistent throughout the State.
- P16-46** **Table 3.7-5** is referenced and included in the *Employment* setting in **Section 3.7** of the DEIS. The table appears on page 3.7-5 after the *Property Taxes* heading so that the table is not split over a page break. Major employers are based on employment numbers and not property tax numbers.
- P16-47** The Fee-to-Trust application associated with the project alternatives evaluated in the DEIS includes the 12 parcels described and shown on figures in **Section 3.0**.
- P16-48** Potentially significant impacts to schools from the project alternatives are limited to schools providing kindergarten through 12th grade education. Due to the limited number of new employees relocating to the area it is not anticipated that substantial new demand for the Amador County Court School would result. Any increase in demand for the Amador County Court School would be offset by increases in local tax revenues.
- P16-49** As discussed in **Section 3.7**, the five-year projected excess or shortfall of classrooms is based on the planned addition of classrooms over the next five years in the District's facilities master plan.
- P16-50** Data from 2004 is the most current data available at the time the analysis was prepared. The analysis of impacts to schools is based on five-year projections utilizing this data, and is considered relevant.
- P16-51** **Section 4.7** states that this plan includes the addition of a new junior high school.

- P16-52** Potential impacts to schools resulting from the project alternatives are assessed in **Section 4.7** of the FEIS. Potential impacts to schools resulting from the State budget are not within the scope of the EIS.
- P16-53** As discussed in **Section 4.7**, the Tribe would provide payments in lieu of property taxes, and sales tax revenue would be generated as a result of purchases of goods and services associated with operation of the selected project alternative.
- P16-54** Refer to the response to **Comment P16-53** regarding taxes as they relate to the project alternatives.
- P16-55** These estimates are based on the development of a 120,000 square-foot casino in Phase I of Alternative A, percentages of revenue sources for the Amador County School District in 2005-2006, and the current property tax rate. These estimates provide a perspective of the level of impact expected from the Proposed Project.
- P16-56** As noted in the TIS and revised TIS, a new intersection would be constructed at the entrance of the casino. This entrance would require a right-hand turn when exiting the casino, which would reduce safety impacts at the entrance/exit intersection. The Tribe would be required to comply with all Caltrans safety requirement with respect to pedestrian access to the casino and any adjacent facilities, such as the County Library. Therefore, no access or safety impacts would occur at the entrance/exit intersection of the casino (see revised TIA, **Appendix M** of the FEIS).
- P16-57** Refer to the response to **Comment P16-56**. Implementation of the project alternatives would not affect access to Colburn Field or cause any safety issues (see revised TIA, **Appendix M** of the FEIS).
- P16-58** Data provided in the *Environmental Justice* setting in **Section 4.7** of the FEIS is from the 2000 U.S. Census; Census Tract 3.01 contains a large expanse of land, and includes only a small portion of the City.
- P16-59** **Table 3.7-8** in **Section 3.7** of the FEIS has been updated to include population values for each geographic area, as reported in the 2000 U.S. Census. The City is not included in this table because it was not identified as a potential minority or low-income community. However, the population of the City is included within Census Tracts 2.00 and 3.01.
- P16-60** Refer to the response to **Comment P16-59** regarding population values for the City.
- P16-61** The population of Native Americans is considered within each of the census tracts identified within the affected environment. Refer to response to **Comment P16-59** regarding the consideration of the population of the City within the environmental justice analysis.

- P16-62** The commenter is correct, the MSA between the Tribe and the City was voided. The analysis within the EIA included the monetary provisions within the MSA as Tribal expenditures that would require funding from profits generated by Alternative A. Refer to **Section 5.2.7** of the FEIS which includes the monetary provisions of the MSA as mitigation measures for socioeconomic impacts related to the project alternatives.
- P16-63** Assumptions and data used in the EIA are based upon the market study and financial projections for the Proposed Project, information provided by the Tribe, its development partners, and the IMPLAN model. These sources provide the most accurate economic data for the Proposed Project and the region. Therefore, the EIA presents a relevant and accurate evaluation of potential impacts of the Proposed Project and project alternatives.
- P16-64** Although Tribes are not required to do so, the Tribe would provide most workers with benefits, including health insurance and workers compensation. This practice would be enforced by Tribal ordinance.
- P16-65** The 60% estimate is based on the availability of labor in the region and the proximity of available labor to the project site. Refer to **Sections 3.7** and **4.7** for further details on the labor force of the region.
- P16-66** The term “expected” is used because of the uncertainty with regard to the specific types of goods and services to be available in the County for years to come. Any expenditures on goods and services within the County attributable to the implementation of the selected project alternative would be considered a beneficial impact.
- P16-67** Refer to the response to **Comment P16-66** regarding the purchase of goods and services in the County.
- P16-68** Regional labor force estimates provided in **Table 3.7-4** have been updated in **Section 3.7** of the FEIS.
- P16-69** As stated in **Sections 4.7** and **5.2.7**, payment of school impact fees would offset property tax fees lost by taking the site into trust for the Tribe. It is assumed that the school impact fees would be used in the same way as the tax revenues they are intended to replace.
- P16-70** As explained in the response to **Comment P18-69**, with implementation of the selected project alternative, the Tribe would pay fees to offset the tax revenue that would be available to the schools.
- P16-71** The impact is considered “less than significant” because the schools would not lose any funding.

- P16-72** Refer to the responses to **Comments P18-55, P18-69, and P16-71** regarding the school impact fees.
- P16-73 and P17-74**
Refer to the responses to **Comments P18-70 and P18-71** regarding the determination of a less-than-significant impact to schools.
- P16-75** Refer to the responses to **Comments P18-55, P18-69, and P16-71** regarding the school impact fees.
- P16-76** In addition to law enforcement, fire protection, and emergency medical services, **Section 4.9** of the DEIS discusses the potential for the project alternatives to result in impacts associated with water service, municipal wastewater service, solid waste, electricity, natural gas, and telecommunications. Mitigation measures are listed in **Section 5.2.9** to reduce identified impacts to public services.
- P16-77** **Section 4.9** of the DEIS discusses the scope and magnitude of potential impacts to public services from the project alternatives.
- P16-78** As discussed in **Section 5.2.9**, the Tribe would provide compensation to local law enforcement service providers so that these agencies have the capacity (i.e. employees or equipment) necessary to address any increase in demand for law enforcement services resulting from the project alternatives. Therefore, the potential impacts to public services would be reduced to less-than-significant levels. No further data is necessary at this time to evaluate this potential impact.
- P16-79** The benefit from increased sales taxes would be realized from the new expenditures in the County as a result of the project alternatives, as quantified in **Section 4.7** of the DEIS.
- P16-80** The mentioned parcels are not part of the Proposed Project or project alternatives and there are no plans to place the other parcels into trust for the Tribe. If the Tribe wishes to have the parcels taken into trust, the NEPA process would again be initiated and corresponding environmental review would be required.
- P16-81** **Figure 2-1** in the DEIS shows the portion of the project site located within the City.
- P16-82** The County currently collects property taxes on the parcels contained in the project site, even though a portion of the site is located within the City. **Section 5.2.7** in the FEIS has been clarified to specify that compensation paid to the County would include that which is required to offset lost property tax revenue.
- P16-83** Refer to the response to **Comment P16-62** regarding the voided MSA and payment provisions included as mitigation within **Section 5.2.7** of the FEIS.

- P16-84** Payments would be made, as determined between the Tribes and the local governments, to mitigate potential impacts and to offset lost property tax revenue.
- P16-85** The net effect of fiscal impacts represents fiscal losses compared to fiscal gains. Under the Proposed Project, the gains would outweigh losses; therefore, the net effect is a less-than-significant impact.
- P16-86** Potential impacts to crime associated with the project alternatives are identified in **Sections 4.7 and 4.9** of the DEIS. Refer to the response to **Comment S6-14** regarding crime and the implementation of the project alternatives. The DEIS contains mitigation measures in **Section 5.2.9** of the FEIS to address potential impacts of the project alternatives on law enforcement.
- P16-87** Potential social and fiscal impacts of the project alternatives are analyzed in **Section 4.7** of the DEIS. Refer to the response to **Comment P16-85** regarding the net effect of fiscal impacts that would result from the Proposed Project.
- P16-88** The primary purpose of the EIS is to evaluate the potential impacts of the project alternatives. An assessment of cumulative impacts is included in **Section 4.13**.
- P16-89** Cumulative impacts, including those associated with pathological and problem gambling, are analyzed in **Section 4.11** of the DEIS.
- P16-90** As discussed in **Section 4.7** of the DEIS, it is not expected that the project alternatives would substantially increase the prevalence of problem gamblers, and potential impacts are considered less than significant. However, the Tribe has agreed to make an annual contribution to an organization(s) that addresses problem gambling, in an attempt to provide reasonable and appropriate treatment for any new problem gamblers. The organization(s) selected would be chosen for its ability to provide support to problem gambling issues in the County.
- P16-91** As discussed in **Section 4.7** of the DEIS, residents of the County and surrounding areas have been exposed to many forms of gambling, including lotteries, poker, internet gambling, betting, and casino gambling. The rate of pathological gamblers in the County is likely be similar to the national rate, which ranges from 1.2 to 1.6%.
- P16-92** Refer to the response to **Comment L2-167** regarding the existence of other gambling outlets within the region.
- P16-93** Refer to the responses to **Comments P16-90 and P16-92** regarding problem gambling organizations.
- P16-94** Refer to the response to **Comment S6-14** regarding the increase in the volume of crime with the introduction of a large volume of people into a community.

- P16-95** The statement that the commenter is referring to is not related to residential development, but to the introduction of a commercial facility. A comparison of a commercial development to a residential development is not relevant to the crime impact analysis.
- P16-96** As discussed in **Section 4.7**, communities without casinos are as safe as communities with casinos because an increased rate of crime results from the introduction of a larger volume of people in an area and not particularly from casino facilities.
- P16-97** **Section 4.7** in the FEIS has been clarified to state that law enforcement services would not be expanded by tax revenue, but by mitigation funds paid by the Tribe to the ACSO. As stated in the mitigation identified in **Section 5.2.9**, the funds paid by the Tribe would provide for additional staffing, including equipment.
- P16-98** As discussed in the response to **Comment P16-97**, the Tribe would make payments to the ACSO to provide for additional staffing and equipment that would be needed as a result of the selected project alternative. If the Tribe initiates further development in the future, it will remain in contact with local agencies regarding law enforcement needs.
- P16-99** It is expected that Tribal members would fill a portion of the new positions. Determining whether a Tribal member would seek out a position or not is not necessary to determine potential impacts to socioeconomics from the project alternatives.
- P16-100** Refer to response to **Comment P16-99** regarding the employment of Tribal members. The employment of Tribal members would be a beneficial impact.
- P16-101** Income generated by the selected project alternative could potentially relieve Tribal members from the need for government assistance. Providing more detail on Tribal assistance programs is not necessary to determine potential impacts to socioeconomics.
- P16-102** Refer to the response to **Comment P16-101** regarding government assistance payments to Tribal members. **Section 4.7** of the FEIS has been revised to state that employment could potentially reduce the need for government assistance.
- P16-103** Alternative A would generate revenue, which would certainly contribute to the economic development and self-sufficiency of the Tribe. It is not within the scope of the EIS to discuss the ownership of land that is not included in the project site to be developed for the Proposed Project or project alternatives.
- P16-104** As discussed in the response to **Comment P16-58**, Census Tract 3.01 contains a large expanse of land and includes only a small portion of the City.
- P16-105** The census tracts are delineated by the U.S. Census Bureau and their coverage in proximity to the project site and the City are shown on **Figure 3.7-1**.

- P16-106** As discussed in **Section 3.7**, for the environmental justice analysis, agencies must identify a geographic scale for which they would obtain demographic information. Census tracts are a small, relatively permanent statistical subdivision of a county delineated by a local committee of census data users for the purpose of presenting data. Census tracts containing the project site and vicinity cover a large expanse of land because of the rural nature of the area.
- P16-107** Air quality impacts would be distributed throughout the region. **Sections 4.3, 4.4, and 4.11** of the DEIS provide emission estimates of criteria pollutants and greenhouse gasses. Regional and local significance is discussed in these sections of the DEIS and mitigation that would reduce project emissions is provided in **Section 5.2.4** of the DEIS. All project-related air quality impacts would be less than significant.
- P16-108** Regional labor force estimates provided in **Table 3.7-4** have been updated to reflect an unemployment rate of 5% in the City.
- P16-109** Refer to the response to **Comment P16-65** regarding the 60% assumption.
- P16-110** Providing information regarding the percentage of employees at the Jackson Rancheria casino that are residents of Amador County is not required to analyze the environmental effects of the project alternatives.
- P16-111** Localized impacts to the project site, such as various impacts to land and stationary water resources (such as wetlands), would not affect areas outside of the project site. Regional impacts, such as air quality and traffic impacts, would be distributed throughout the region. Those impacts that require mitigation would be reduced to levels where the effect would not be substantial enough to represent a significant impact; therefore, such impacts would not disproportionately or adversely affect minority or low-income communities.
- P16-112** Refer to the response to **Comment P16-111** with regard to the significance of impacts.
- P16-113** Comment noted. Background information on the Tribe is provided in **Section 3.7**.

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- P17-01** The contents of the EIS and the process of developing the EIS to date are consistent with the BIA's NEPA Handbook (59 IAM 3) and CEQ guidance. Refer to the response to **Comment L2-02** concerning the age of the data and requirements to update with current data. Refer to the response to **Comment P15-02** concerning the misstatement in the NOA regarding ownership of the project site parcels.
- P17-02** This comment is outside of the scope of NEPA. No response required.

P17-03 Refer to the response to **Comment P15-02** concerning the misstatement in the NOA regarding ownership of the project site parcels. The ownership and fee-status of the parcels are a component of the Fee-to-Trust application. This comment is outside of the scope of NEPA. No response required

P17-04 The commenter addresses the content and information within the Fee-to-Trust application, which is a separate process from the environmental review process. This comment is outside of the scope of NEPA. No response required.

P17-05 Refer to the responses to **Comments L2-01** through **L2-03** regarding general statements that the DEIS is flawed.

P17-06 Refer to the response to **Comment L2-29** for a discussion of the adequacy of the project description, which is located within **Section 2.0** of the DEIS.

Refer to the response to **Comment P15-03** regarding the distribution of the DEIS in CD and hardcopy format.

Refer to the responses to **Comment Letter S1** regarding the length of the public comment period.

Refer to the response to **Comment P15-03** regarding time limits for speakers at the public hearing.

The commenter references **Section 1.1**, which is the introduction discussing the Proposed Action, which is a component of the Fee-to-Trust application process. Information with **Section 1.1** may be contested within the Fee-to-Trust application, but is utilized within the DEIS to give a background discussion as to why a NEPA document is necessary.

P17-07 This comment is outside of the scope of NEPA. No response required.

P17-08 Refer to the responses to **Comments L2-01** through **L2-03** regarding general statements that the DEIS is flawed.

P17-09 through **P17-19**

The commenter submits various requests for information that is not relevant to the NEPA environmental review process. The comments address information in the Tribe's Fee-to-Trust application, which is a separate process. These comment are outside of the scope of NEPA. No response required. Refer to the response to

Comment P15-02 concerning the misstatement in the NOA regarding ownership of the project site parcels.

P17-20 As discussed in **Section 1.0**, the DEIS addresses the environmental effects of the BIA, acting as lead agency, taking 228.04± acres of land into federal trust for the Tribe and the National Indian Gaming Commission (NIGC), acting as cooperating agency, approving a management contract for conducting gaming on the trust land. The foreseeable consequence of these federal actions is the development of one of the alternatives described in **Section 2.0** of the DEIS. The following federal agencies were consulted during the development of the project description, environmental setting, and impact analysis:

- U.S. Department of Agriculture (USDA), Natural Resources Conservation Service (NRCS);
- U.S. Environmental Protection Agency (USEPA), Region 9;
- U.S. Army Corps of Engineers (ACOE), Sacramento District;
- U.S. Fish & Wildlife Service (USFWS), Region 1; and
- U.S. Indian Health Service (IHS).

The DEIS and FEIS constitute the environmental review process for the federal actions described in **Section 1.0** of both documents. Documents included in the DEIS as appendices are provided to allow for the review of source materials utilized during the development of the project description, environmental setting, and impact analysis. Under NEPA, the BIA is not required to provide all documents pertaining to all federal actions involving the development and operation of one of the four commercial alternatives described in the DEIS. For example, the DEIS is not required to include the Tribe's trust application or restored lands opinion as appendices.

P17-21 Unforeseen environmental consequences are addressed in the DEIS. For example, as discussed in **Section 5.2.6** of the DEIS, in the event of any inadvertent discovery of archaeological resources during construction-related earth-moving activities, all such finds shall be subject to Section 106 of the National Historic Preservation Act as amended (36 CFR § 800). Specific provisions are then described that the Tribe would be required to follow. Once the site is taken into trust, applicable federal environmental regulations would govern impacts associated with the operation of the selected project alternative.

- P17-22** The land use classifications adjacent to the project site are commercial, agricultural, or open space land use. The land immediately south and east of the project site is agricultural and open space.
- P17-23** Refer to the response to **Comment L2-41** regarding the mining operation located east of the project site.
- P17-24** There are no Bureau of Land Management (BLM) lands adjacent to the project site. Land use impacts are analyzed in **Section 4.8** the DEIS.
- P17-25** As discussed in **Section 3.7**, 56% (366) of the Tribe is employed and 44% (196) of the Tribe is unemployed.
- P17-26** The most current (2005) employment statistics available for the Tribe are presented in **Section 3.7**.
- P17-27** The employment data presented in **Section 3.7** was obtained directly from the Tribal members. No Tribe-specific employment data is readily available from the U.S. Department of Labor.
- P17-28 through P17-31**
Information available on the Tribe is provided in **Section 3.7** of the DEIS.
- P17-32 through P17-36**
The information requested is relevant to the Fee-to-Trust application, which is a separate process. These comments are outside of the scope of NEPA. No response required.
- P17-37** Refer to the response to **Comment F1-02** regarding the Tribe's commitment to maximize the use of recycled water. **Section 2.0** and **Section 4.0** of the FEIS have been updated to reflect this commitment. As discussed in **Section 2.0** of the FEIS, a recycled water tank would be required to provide the ability to maximize recycled water use.
- P17-38** Refer to Response to **Comment F1-02** regarding the Tribes preferred action to implement water supply Option 2, which would utilize groundwater to fill the water storage tanks.
- P17-39** The fire station was not included in the project description as relayed in the two scoping sessions. The fire station was included, at a later date, after consultation with the AFPD.

- P17-40** The 40-acre parcel that was reviewed but rejected as a potential project site is the same parcel of land referenced by the commenter. Please refer to **Appendix A** of the DEIS for copies of the letters from Commissioner Bruce and Secretary Deer.
- P17-41 through P17-43**
Refer to the response to **Comment L2-28** regarding the dismissal of the 40-acre site from consideration as the proposed project site. The site was considered during development of the Fee-to Trust application.
- P17-44** The exact extent of tree and vegetation removal was not quantified for the 40-acre site. However, based on visual observation, the site has a higher density of tree coverage than the area slated for development for the project alternatives on the Plymouth site. This would require extensive tree removal that would be detrimental to the natural habitat and aesthetics of the area.
- P17-45** Development on the 40-acre site would have involved the displacement of seven residential structures.
- P17-46** The membership status of the residents on the 40-acre site does not require consideration in the selection of the project site. Refer to the response to **Comment L2-28** regarding the environmental constraints that would have limited development of the Proposed Project on the 40-acre site.
- P17-47** The Buena Vista Rancheria of Me-Wuk Indians has prepared and published a Final Tribal Environmental Impact Report for the development of a casino facility. The area of development is stated to be approximately 17 acres. The total area that would be used to provide auxiliary services is approximately 60 acres in size.
- P17-48** Refer to the response to **Comment L2-28** regarding the dismissal of the 40-acre site from consideration. Dismissal of a site from further consideration requires only a brief discussion of the reasons for having been eliminated [40 CFR § 1502.14(a)], which is provided in FEIS **Section 2.2.6**.
- P17-49** The southern portion of the 40-acre site is located in a designated Zone A flood zone
- P17-50** The history of flooding was not evaluated during the preliminary review of the site, but the location of a floodplain delineated by FEMA across the southern portion of the site restricts development options.

- P17-51** Refer to the responses to **Comments P17-52** through **P17-68** regarding **Table ES-1** of the DEIS with respect to groundwater use.
- P17-52** Refer to **Section 4.3** of the FEIS for description of the estimated groundwater demand for each alternative.
- P17-53** Refer to the responses to **Comments F1-9** and **Comment F1-10** for a discussion of groundwater monitoring programs. The monitoring plan would be developed in consultation with the USEPA as the jurisdiction agency once the land is taken into trust. Local jurisdictions would not have the authority to regulate groundwater resources on the project site. The BIA and the USEPA would work with the Tribe to ensure that impacts are being adequately mitigated. If it is determined that off-site wells are significantly affected by the Tribe's pumping practices, the Tribe will undertake one or more of the measures listed in **Mitigation Measure 5.2.3 (D)**.
- P17-54** Refer to the response to **Comment P15-53** regarding the groundwater monitoring program. The Tribe would be responsible for ensuring the groundwater monitoring plan meets USEPA requirements. This may include the use of a third-party to develop the plan and perform the monitoring, although there is no requirement to do so. Except for notification requirements required under the Safe Drinking Water Act, the Tribe is not required to make the results of the monitoring public.
- P17-55** Refer to the response to **Comment F1-06** for a discussion on the need to perform more recent testing on the project wells.
- P17-56 and P17-57**
Refer to the response to **Comment F1-09** regarding provisions of the long-term monitoring plan to reduce impacts to off-site well owners. The USEPA (refer to **Comment Letter F1**) concurs that developing and implementing a long-term monitoring plan is an appropriate practice to determine the impacts (if any) that sustainable pumping would have on the aquifer.
- P17-58** Refer to the responses to **Comments F1-09** regarding monitoring wells on the project site.
- P17-59** Refer to the response to **Comment F1-09** regarding provisions of the long-term monitoring plan.

- P17-60** Refer to the response to **Comment F1-02**, which described monitoring conducted on the City’s wells and for a discussion of the proximity to the project wells and potential for impacts to off-site wells.
- P17-61** Refer to the response to **Comment F1-09**. Monitoring locations would be determined based on the topography, geology, and hydrogeology of the site in relation to off-site wells.
- P17-62** **Section 5.2.3** of the DEIS identifies provisions to be included within the monitoring plan should adverse impacts to off-site wells be identified as a result of the pumping of groundwater on the project site to meet project demands.
- P17-63** Refer to the response to **Comment L2-49** regarding the rotational pumping scheme for the project wells. The pumping scheme would be developed to ensure maximization of recharge of the groundwater table during the rain season while meeting project demands.
- P17-64** Refer to **Section 5.2.3** of the DEIS, which identifies provisions to be included within the monitoring plan should adverse impacts to off-site wells be identified as a result of the pumping of groundwater on the project site to meet project demands.
- P17-65** Pre-project consumptive use is the amount of groundwater the well owner uses to sustain their residence and/or commercial enterprise. Pre-project consumptive uses have not been determined for off-site wells. The Tribe would coordinate with the impacted well owner to provide enough water to continue operations consistent with amounts utilized prior to the Tribe’s extraction of groundwater on the project site. In response to the commenter’s example of the 50 gpm well, the Tribe would not replace the entire 50 gpm if the owner only utilized 35 gpm to meet water their demands. The Tribe would provide 35 gpm to sustain the owners existing demands.
- P17-66** In response to comments on the DEIS and in response to the water demands of the preferred project alternative (Alternative A), the following revision has been made to **Mitigation Measure 5.2.3 (D)** of the FEIS:

“The Tribe may replace the water used by off-site user that is lost as the result of the Tribe’s pumping practice ~~by either connection to the Tribe’s water supply or~~ through the import of water via tanker truck or, if practical and capacity available, through the development of a connection to the municipal system.”

P17-67 Water haulers must be certified by the State Department of Public Health, Food and Drug Branch. There are no local, County, or State restrictions regarding the trucking of potable water.

P17-68 Refer to the response to **Comment L2-49** regarding the rotational pumping scheme for the project wells.

P17-69 Refer to the responses to **Comments L2-01** through **L2-03** regarding general statements that the DEIS is flawed.

P17-70 through P17-75

Comments regarding Tribal membership and the eligibility of the Tribe to have lands taken into trust are outside the scope of NEPA. The information is not required within the FEIS.

P17-76 The exclusion of two project parcels from the NOI to prepare an EIS for the project does not prejudice the participation of any party in the environmental review process or the ability of any party to comment upon the environmental impacts associated with the project alternatives and proposed mitigation measures.

P17-77 Additional scoping will not be held for the Proposed Action. Refer to **Section 1.3** of the FEIS for an updated summary of the environmental review process.

P17-78 Refer to the response to **Comment P17-77** regarding additional scoping.

P17-79 through P17-84

Comments regarding Tribal lands and information contained within the Fee-to-Trust application are outside the scope of NEPA. The information is not required within the FEIS.

P17-85 With respect to the purpose and need for the Proposed Project, as discussed in **Section 1.2** of the DEIS, the casino development is, to date, the most viable economic development for the Tribe, as it is the only venture for which the Tribe has been able to receive financial backing.

P17-86 As discussed in **Section 1.2** of the DEIS, the Tribe seeks independence from government programs and to provide long-term economic stability and independence for its members.

P17-87 The information in the EIA and in **Section 4.7** of the DEIS regarding the expected socioeconomic impacts of the project alternatives, including impacts on employment, is sufficient to allow for an adequate socioeconomic analysis. More detailed information on Tribal members' employment or residence patterns is not required in the FEIS to analyze the environmental impacts associated with the potential implementation of one of the project alternatives.

P17-88 through P17-94

Comments regarding Tribal lands and information contained within the Fee-to-Trust application are outside the scope of NEPA. The information is not required within the FEIS.

P17-95 Refer to the response to **Comment P17-85** regarding the economic viability of the Proposed Project.

P17-96 Further details regarding the socioeconomic status of the Tribe is outside the scope of NEPA. The information is not required within the FEIS.

P17-97 The Tribal Government and related activities are funded through assistance programs from federal agencies. One objective of the project alternatives is to allow the Tribe to operate without the need of federal funding.

P17-98 Further details regarding the socioeconomic status of the Tribe is outside the scope of NEPA. The information is not required within the FEIS.

P17-99 The economic development would provide Tribal members with a variety of skill sets and employment opportunities that are not readily available in the region. For example, operation of Phase I of Alternative A (**Section 4.7** of the DEIS) is estimated to generate 1,271 full-time equivalent jobs annually. As shown in **Table 4.7-1** of the DEIS, the largest portion of jobs (618 positions) would be attributed to gaming. The remaining positions would include the food and beverage, retail, entertainment, administrative, marketing, maintenance, and security industries.

Based on the limited availability of funds through grant programs, implementation of an economic development project would allow the Tribe to reduce reliance on grant programs and increase the range of programs available to Tribal members. This would include programs implemented by the Tribe to increase educational opportunities either through programs (such as after school programs or adult education programs) or through providing funds for Tribal members to participate in private educational programs off the Rancheria. Funds would also be available to provide personal and

family-related programs for Tribal members. While these programs are readily available through the private sector, the funds to increase Tribal participation in these programs are not currently available.

- P17-100** Refer to the response to **Comment P17-99** regarding increased opportunities for employment through development of the project alternatives. Based on the availability of labor in the region and the proximity of available labor to the project site, it is estimated that 60% or 763 of the employment positions would be filled by residents of the County, including Tribal members.
- P17-101** Tribal members would be given the opportunity to interview for employment positions for the selected project alternative. However, like any other economic development, the exact number of Tribal members that would fill open employment positions is dependent upon the skills of such members.
- P17-102** The socioeconomic status of the Tribe is discussed in **Section 3.7.1** of the DEIS. Refer to the response to **Comment P16-06** regarding the economic survey of Tribal members. Refer to the response to **Comment L2-136** regarding the results of the survey.
- P17-103** As stated in **Section 1.0** of the DEIS, the Tribe is landless and therefore there are no existing Tribal housing developments. The housing situation for the Tribe would be improved because members would have the wherewithal to obtain adequate housing or improve their current housing situation. There are no plans to build tribal housing at this time, as the Tribe does not currently have the economic means.
- P17-104** Further detail regarding the residence of Tribal members, including distance from the project site, is not necessary for an analysis of socioeconomic impacts associated with the project alternatives.
- P17-105** Refer to the response to **Comment P17-99** regarding the types of social services that would be met through development of one of the project alternatives.
- P17-106** The available capital for investment after the immediate needs of the Tribe are met cannot be determined at this time. The amount of revenue generated by a casino development is dependent upon patron visitation rates minus operating costs, including costs paid to developers and to the management company.
- P17-107** There are no planned developments other than those described in **Section 2.0** of the DEIS.

- P17-108** Refer to the response to **Comment P17-106** regarding the available capital for investment after the immediate needs of the Tribe have been met.
- P17-109** As discussed in **Section 1.0** of the DEIS, the 228.04± acres of land would serve as the Tribe's initial Reservation and be located within the Tribe's ancestral territory. Having resided on native land prior to European contact, the Tribe was forced from its lands during the California mission era and after the discovery of gold at nearby Coloma in 1849. The Tribe has since struggled to maintain its culture without the benefit of a reservation or any type of land base. This initial Reservation and land base would enable the Tribe to exercise a range of sovereign powers and self-determination and enable the Tribe and its members to achieve self-sufficiency.
- P17-110** Further detail regarding income received by Tribe members via public assistance programs is not necessary for an analysis of socioeconomic impacts associated with the project alternatives.
- P17-111** The public assistance funds provided to Tribes are a trust responsibility of the United States to ensure trust lands are properly managed. Tribes apply for funding, similar to a non-profit group applying for federal funds.
- P17-112** The statement does not present a conflict of interest, as development of the EIS and the decision to approve or reject the Proposed Project is the responsibility of the BIA, which is the NEPA lead agency. The BIA assumed the role of lead agency because it has the primary federal action. The BIA was involved in NEPA document preparation, and reviewed every section of the scoping report, DEIS, and the FEIS prior to release to the public. The BIA reviews the document to ensure adequacy of content in relation to NEPA and to ensure the document meets the standards of the BIA NEPA Handbook (59 IAM 3). The BIA conducted the scoping and DEIS hearings and reviewed all comments received on the document.
- P17-113 through P17-114**
The information requested may be relevant to the Fee-to-Trust application but is not necessary for the evaluation of the environmental impacts of the Proposed Action.
- P17-115** Refer to the responses to **Comments P17-76** and **P17-77** regarding the additional parcels that were added during the scoping period.
- P17-116** After review of an administrative draft of the FEIS by cooperating agencies and the BIA Central Office, the FEIS will be filed at both the BIA Pacific Region and with the Central Office located in Washington D.C.

- P17-117** Although not specified in the comment, it is assumed that the commenter is addressing the FEIS, as the FEIS was addressed in the previous comment (**P17-116**). In accordance with CEQ, the NOA for the FEIS is published in the federal register, initiating the 30-day waiting period. At the commencement of the waiting period, the FEIS is made available to interested parties (those whom commented on the Draft). The 30-day waiting period does not constitute an official comment period as provided for the DEIS. When the ROD is complete, another public notice is released.
- P17-118** The EIS and completion of the environmental review process, with the release of the ROD, is a component of the Fee-to-Trust process, but is not a decision on the Fee-to-Trust application, which is a separate process.
- P17-119** The information requested is relevant to the Fee-to-Trust application and is not necessary to determine impacts in the EIS associated with the implementation of the project alternatives.
- P17-120** The ROD will be prepared by either the BIA regional office or the BIA Central Office located in Washington, D.C.
- P17-121** The first scoping meeting was held on November 19, 2003, as noted in the NOI published in the federal register on November 7, 2003. Public hearings are not required for the scoping report, as the purpose of the report is to relay the scope of the DEIS as well as the issues that will be addressed. The scoping report is utilized to guide the content of the DEIS. The scoping report is available for review at www.ioneeis.com.
- P17-122** Alternatives A through C cannot be used for Class III gaming without the approval of a Compact by the Secretary of the Interior. This requirement has been added to **Table 1-1** of the FEIS.
- P17-123** Refer to the responses to **Comments L2-01** through **L2-03** regarding general statements that the DEIS is flawed.
- P17-124** **Table 2-1** provides a summary of the main components of the casino/hotel development, and does not include all the ancillary components of Alternative A. The information contained within **Section 2.0** provides adequate description for the Lead Agency to evaluate the anticipated impacts to the existing environment as described in **Section 3.0** of the DEIS. There are no requirements by NEPA, CEQ, or the BIA Handbook (59 IAM 3) to include specific information within tables of the DEIS, and **Table 2-1** need not be revised.

- P17-125** Refer to the response to **Comment F1-29** and **F1-30** regarding the enforcement of mitigation measures.
- P17-126** The Tribe may be liable as allowed through the anticipated provisions of the Tribal Gaming Ordinance and the requirements contained within the Tribal-State Gaming Compact.
- P17-127** The Tribe is the responsible party for ensuring development provisions required from the ROD and the Tribal-State Gaming Compact are implemented. The Tribe, with the establishment of a Reservation by having the land taken into trust, would exercise jurisdictional powers to ensure mitigation measures and standards of development are implemented, with oversight from the NIGC to the extent allowable under the Indian Gaming Regulatory Act (IGRA) and other federal agencies as applicable.
- P17-128** The USEPA retains jurisdiction over environmental protection on Trust lands. The USEPA would ensure that air quality, water quality, and safe drinking water quality standards are met on the project site. The Tribe may be liable for any penalty the USEPA deems appropriate for non-compliance under federal statutes such as the Clean Air Act and the Safe Drinking Water Act.
- P17-129** and **P17-130**
Refer to the response to **Comment P17-127** regarding the Tribe's responsibility to ensure that mitigation measures and development standards are implemented.
- P17-131** In accordance with CEQ Regulation 40 CFR 1503.4 (refer to the response to **Comment L2-01**), **Section 2.0** of the FEIS has been updated to state that the Tribe shall provide adequate emergency, fire, medical, and related relief and disaster services for patrons and employees of the gaming facility similar to required provisions of public facilities owned and operated by the federal government. This would include adequate access and egress points and safety provisions such as emergency lighting.
- P17-132** The term "gaming facility" is a general term used to describe the Proposed Project. In the context of the DEIS, "gaming facility" includes the hotel and other ancillary components.
- P17-133** Refer to the response to **Comment P17-127** regarding the Tribe's responsibility to ensure that mitigation measures and development standards are met.
- P17-134** Refer to the response to **Comment P17-127** regarding the Tribe's responsibility to ensure that mitigation measures and development standards are met. For the automatic

fire detection system and emergency alarm system, the FEIS has been updated to state that the systems would comply with applicable codes as required by other federal buildings.

P17-135 Refer to the responses to **Comments P17-76** and **P17-77** regarding the additional parcels that were added during the scoping period.

P17-136 through **P17-137**

Comments regarding Tribe Fee-to-Trust acquisition are outside the scope of NEPA. The information is not required within the FEIS.

P17-138 The NIGC, as cooperating agency, has reviewed the DEIS and will review the FEIS. With implementation of Alternative A, B, or C, the NIGC would perform a regulatory function to ensure the safety of the operations and integrity of the games to the extent allowable under IGRA. As part of this regulatory function, the NIGC has promulgated minimum control standards for the operation of a tribal gaming facility. Under 25 CFR § 573.6(a)(12), the NIGC can issue an order of temporary closure of all or part of an Indian gaming operation if “[a] gaming operation's facility is constructed, maintained, or operated in a manner that threatens the environment or the public health and safety, in violation of a Tribal ordinance or resolution approved by the Chairman under part 522 or 523 of this chapter”.

P17-139 There is currently no approved management contract to operate a gaming facility in place between the Tribe and a management company. As discussed in **Section 1.0** of the DEIS, one of the federal actions that has initiated the NEPA process is the request by the Tribe for the NIGC to approve the management contract.

P17-140 As discussed in **Section 2.0** of the DEIS, the management company would be required to comply with the terms of IGRA and NIGC’s regulatory requirements relating to the operation of the Tribal gaming facility. The Tribe would maintain the ultimate authority and responsibility for the development, operation, and management of the gaming facility pursuant to IGRA, NIGC regulations, a Tribal Gaming Ordinance, and a Tribal/State Compact.

P17-141 Refer to **Figure 1-3** (Aerial Parcel Map) in Section 1.0 and **Figure 2-7** (Alternative A Phase II Site Plan) within **Section 2.0** of the DEIS. Several project components would potentially be located on Parcel #1 (including sprayfields, leachfields, the wastewater treatment plant, and the wastewater disposal line) and Parcel #2 (water supply well). No facilities would be located on Parcel #12 of the project site.

- P17-142** The exact number and type of small retail shops has not been determined at this time. For the purposes of environmental review, the total square footage has been used to determine potential environmental impacts.
- P17-143** Information on the type of alcohol to be served is not required for the Lead Agency to analyze the potential environmental impacts associated with the gaming alternatives.
- P17-144** A responsible alcoholic beverage policy would be required, as discussed in **Section 5.2.9** of the DEIS. The policy does not need to be made at this time, as a decision has yet to be made as to which project alternative would be implemented.
- P17-145** An encroachment permit cannot be obtained at this time, as a decision has yet to be made as to which project alternative will be implemented.
- P17-146** There would not be off-site parking. The parking lot was sized to ensure no need for off-site parking even during peak usage. Refer to the response to **Comment F1-20** regarding the determination of the number of parking spaces needed to serve the project alternatives.
- P17-147** Refer to the response to **Comment P10-13** regarding the building standards that would be adopted by the Tribe.
- P17-148** Refer to the response to **Comment L4-40** regarding designing project lighting to be consistent with the lighting provisions of the City's *1997 Downtown Revitalization Strategy*. The Tribe does not have the jurisdiction to place lighting along SR 49 and there is no component of any of the project alternatives that includes lighting along SR 49.
- P17-149** As discussed in **Section 5.2.10** of the FEIS, earthen berms would be constructed for noise attenuation for sensitive receptors identified in **Section 3.10** of the FEIS.
- P17-150** Refer to the response to **Comment L3-01** regarding the impacts associated with the implementation of water supply Option 1.
- P17-151** The personal communication with Selby Beck of the City Public Works Department referenced in **Section 2.0** of the DEIS was via a telephone conversation with the BIA's third party EIS consultant. The reference to Selby Beck refers to the description of the existing infrastructure of the City's water distribution system feeding the Shenandoah Inn, and not to any commitment by the City.

- P17-152** As discussed in **Section 2.0** of the DEIS, a 10-inch diameter line with a capacity of 2,000 gpm loops around Village Drive from SR-49, providing services to existing facilities along the roadway.
- P17-153** Refer to the response to **Comment L3-01** regarding the Plymouth Pipeline project and impacts associated with the implementation of water supply Option 1.
- P17-154** As addressed in **Section 2.0** of the DEIS, the Tribe is in receipt of a will-serve letter from Aeropure, which states its ability to provide a stable supply of water for 5 to 10 years (**Appendix D** of the FEIS). Although the source of Aeropure's water is unknown, Aeropure is a licensed water hauler and the demands of the project alternatives would be required to fall within the water rights of Aeropure. The 8% of potable water demand that would be supplied via truck would account for approximately 10,000 gallons per day (gpd), or the equivalent of five water truck trips per day. Generally, water trucks carry approximately 2,000 gallons.
- P17-155** Refer to the response to **Comment F1-02** regarding the total long-term well yield of the project wells. The long-term well yield of 81 gpm equates to 116,640 gpd. The FEIS has been updated to clarify that the long-term well yield, as identified in **Appendix C** of the DEIS, is 81 gpm, not 83 gpm as described in **Appendix B** of the DEIS.
- P17-156** Refer to the response to **Comment L2-49** regarding the rotational pumping scheme of the project wells to meet the potable water demand of the project alternatives under the preferred water supply Option 2.
- P17-157** **Table 2-6** in the FEIS provides a comparative summary of the components of the project alternatives. The table does not include the loss from the water treatment plant attributable to brine production. A discussion of the water requirements, after accounting for such loss, is provided in **Section 2.0** of the FEIS under Water Supply Option 2 for each project alternative.
- P17-158** As addressed in **Section 2.0** of the FEIS, water trucking would only be used to supplement groundwater pumping for full build-out of Alternative A. It is expected that trucking would begin after construction is completed and prior to the first day the facility would be open to the public.
- P17-159** **Section 2.0** of the FEIS has been updated to identify the water demand for each project alternative and the source of water to meet potable and non-potable water demands. For Alternative A, with the maximization of recycled water use, the long-term well

yield of the project wells can meet 100% of the anticipated potable water demands for Phase I.

- P17-160** The commenter is correct, the May 20, 2004 will-serve letter from Aeropure (**Appendix D** of the FEIS) is the most recent version of the letter.
- P17-161** The water demand and water supply options relating to the project alternatives and the use of recycled water have been revised in **Section 2.0** of the FEIS to clarify the maximization of recycled water use and preference towards development of water supply Option 2. To determine the percentage of water demand that would be met with recycled water use, the long-term well yield of 116,640 gpd yield was divided by the potable water demand (demand after the maximization of recycled water use).
- P17-162** The information regarding the existing conditions with respect to the City's well field was found in the Ketron report dated May 27, 2004 (**Appendix C**), as referenced in **Section 3.3** of the DEIS. The FEIS has been updated to clarify that there are four wells located in two separate areas and to portray the description of the City's municipal system as described in the Ketron Report and the 2006 EIR/EA for the Plymouth Pipeline Project. Refer to the response to **Comment F1-02** for a discussion of the surrounding groundwater wells.
- P17-163** Refer to the response to **Comment F1-02** for a discussion of the City's groundwater supply system and existing overdraft condition of the City's groundwater basin. The description of the existing environment in **Section 3.3** has been updated in the FEIS to provide an expanded of on the City's water system.
- P17-164** The Ketron report dated May 27, 2004 is included as Appendix F of the Pumping Report, which is **Appendix C** of the FEIS.
- P17-165** Refer to the response to **Comment F1-02** for a discussion of the groundwater impacts from the City's wells.
- P17-166** Refer to **Appendix C** of the FEIS for a discussion of the wells in the project vicinity. **Section 3.3** of the DEIS discusses the hydrogeology in the project vicinity. Because information is limited regarding the hydraulic connectivity between on-site and off-site wells, the Tribe has committed to development of a monitoring program, including the development of thresholds to determine if the Tribe may be significantly impacting off-site wells. Refer to **Mitigation Measure 5.2.3 (D)** in **Section 5.0** of the FEIS.

- P17-167** The commenter requests information regarding how many seasons of above average rainfall would be required to make up for the identified groundwater deficit. The exact number of seasons is unknown, as the amount of rainfall received cannot be determined. The information was provided as a qualitative assessment of the overdraft condition of the City's well field. It is estimated that one season of above average rainfall would alleviate the groundwater deficit, although the exact number of seasons cannot be determined at this time.
- P17-168** Refer to **Appendix C** of the FEIS for a discussion of the wells in the project vicinity. As discussed in the Ketron report (**Appendix C**), groundwater pumping in the region has resulted in a groundwater deficit of 50 acre-feet per year during years of average rainfall. Refer to the response to **Comment F1-02** regarding the overdraft condition of the City's groundwater basin and anticipated impacts associated with the project alternatives.
- P17-169** The watershed is discussed in **Section 3.3** of the DEIS. The delineation of the watersheds identifies the drainage basins for surface waters and is not related to groundwater. The City's groundwater wells are located near the northeastern border between the two watersheds as identified in **Figure 3.3-1** of the DEIS. Based on the information provided in **Appendix C**, the City's wells are located in Watershed 2.
- P17-170** Refer to the response to **Comment P17-170** regarding the location of the City's wells.
- P17-171** As discussed in **Section 3.3** of the DEIS, all Department of Water Resources (DWR) Well Completion Reports (DWR Well Logs) for water wells within a two-mile radius of the project site were obtained, not just within Watershed 1. A discussion of the results DWR Well Logs is found in **Appendix C** of the FEIS. The FEIS has been updated with additional information presented in **Appendix C** to provide an expanded discussion of groundwater wells and the existing setting of the project region. Refer to **Section 3.3.3** of the FEIS for the updated discussion on groundwater resources.
- P17-172** **Appendix C** of the DEIS addresses the number of wells identified within Watersheds 1 and 2, including those identified in Burke Ranch.
- P17-173** The information from the well logs is summarized and included within **Appendix C** of the FEIS. The well reports are actually well completion reports required when wells are developed and reported to the permitting agency (Amador County Health Department). While the depth and construction data would not change over time, as a new well completion report would be required for physical changes to the well, the production rates and water levels may change over time.

- P17-174** As discussed in response to **Comment P17-173**, the discussion of surrounding wells and summary information of the well completion logs provided in **Appendix C** of the DEIS provide background information regarding the existing setting.
- P17-175** The Ketron report (Appendix F of the Pumping Report, which is included as **Appendix C** of the FEIS) as well as the 2006 Draft Environmental Impact Report for the Plymouth Pipeline Project both report the City's wells A and B as having a pumping capacity of 250 gpm.
- P17-176** According to the watershed map provided as **Figure 3.3-1** of the DEIS, project site well M1 is located in Watershed 2 while project wells M3 and H1 are located in Watershed 1.
- P17-177** The discussion on **page 3.3-9** of the DEIS is addressing the project site while the other statements presented by the commenter address the City's well field. The discussion in **Section 3.3** of the FEIS has been updated to clarify that areas experiencing groundwater within fractured bedrock depend upon the connectivity of the fractures. The groundwater fractures under the City's well field appear to represent a moderate basin in the area with high groundwater flows (up to 250 gpm as previously discussed). Based on the results of the pumping tests, there is no evidence that the project wells are hydraulically connected to the City's groundwater basin.
- P17-178** Refer to the response to **Comment L2-49** for a discussion of the rotational pumping strategy that would be implemented.
- P17-179 and P17-180**
Refer to the response to **Comment F1-02** for a discussion on the long-term yields of the City's wells. Although the wells are high producing wells, the California Department of Public Health has limited safe yields to 25% of the long-term pump test results due to the unreliability of groundwater in the area (City of Plymouth, 2006). Therefore, the total firm yield for pumping all four wells at once is 175 gpm.
- P17-181** Refer to the response to **Comment F1-02** for a discussion on the long-term yields of the City's wells. In 1987, a moratorium was placed on all new development within the City. The City is not allowed to permit any development that would require new water connections established, and although the City has an approximate capacity for 50 permitable connections, because of an existing cease and desist order related to wastewater disposal, the City is currently not allowed to issue permits (Howell, pers Comm. 2008). The City has been under the moratorium for nearly 22 years.

P17-182 According to Amador County court documents the City purchased the Arroyo Ditch from Amador County in 1987. The transfer of ownership was conditional in that the City was required to maintain the adequacy of the ditch to convey water. A copy of this document is not considered necessary to provide the background information necessary to meet the requirements of NEPA, as the information is readily available to the public.

P17-183 The information was obtained from the project description in Section 3.0 of the Draft Environmental Impact Report/Environmental Assessment for the Plymouth Pipeline project (City of Plymouth, 2006).

P17-184 Refer to the response to **Comment F1-02** for a discussion of the City's water supply system and the Plymouth Pipeline project.

P17-185 Refer to the response to **Comment F1-02** for a discussion of the impact that the Plymouth Pipeline project would have on the City's wells and the ability of the City to provide a sufficient water supply through 2025.

P17-186 The information obtained from water sales provides an overview of an entire year, which includes winter lows and summer peaks in demand. The discussion of the 205 gpm demand and the City's ability to meet this demand is based on instantaneous ability to meet demands as they occur. The difference between the two discussions is the consideration of the time scale. Based on response to comments and the confusion between the two differing time scales, the discussion of water sales have been removed from **Section 3.9** of the FEIS.

P17-187 The 459 customers served by the City's water system, as discussed in **Section 3.9** of the DEIS, is the number of connections for which water service is provided.

P17-188 Refer to the response to **Comment P17-181** regarding the number of permits available for connection to the City's water supply system.

P17-189 Updating the data would not alter the conclusions or approval of a project alternative. As discussed above, implementation of the Plymouth Pipeline project would reduce City pumping to well below the firm yield, even during summer peaks, thereby reducing extraction over existing conditions.

Refer to the response **Comment L2-02** regarding review and update of the existing setting and technical analysis within the FEIS, where applicable.

- P17-190** According to the project description of the EIR prepared for the Plymouth Pipeline Project, one 1.5-million gallon storage tank would be developed to serve the projected (2025) demands of the City. According to the comment letter received from the AWA, the storage tank is no longer a component of the project.
- P17-191** As discussed in response to **Comment F1-02**, the Plymouth Pipeline is designed to meet the City's existing and projected future water demand through the year 2025.
- P17-192** The supporting documentation for the statement that 50% of the wells within Watershed 1 produce greater than 50 gpm is found in **Appendix C** of the DEIS. Refer to Section 2.1 of **Appendix C** for a summary of the well completion logs within a two-mile radius of the project site.
- P17-193** The information regarding wastewater treatment by the City is from 2004. However, this data is not utilized to identify potential impacts of the project alternatives. As discussed in **Section 2.0** of the DEIS, the Tribe would construct an on-site wastewater treatment plant. The impact analysis in **Section 4.9** of the DEIS concludes that the project alternatives would have no impact on the City's wastewater treatment plant. Refer to the discussion of updating data not integral to the impacts of the project alternatives as discussed in response to **Comment P17-189**.
- P17-194** **Section 4.3** of the DEIS does not state that the addition of a 250 hotel during Phase II of Alternatives A and B would not result in increased groundwater extraction. An explanation of the water demands of the project alternatives and potable water supply is provided in **Section 2.0** of the FEIS.
- P17-195** The text within the FEIS has been updated to clarify that the firm well yield for the three wells that would be utilized to meet potable water demand for the project alternatives is 81 gpm and not 83 gpm.
- P17-196** Refer to the response to **Comment F1-02** regarding the pumping scheme of the groundwater wells.
- P17-197** Refer to the response to **Comment F1-02** regarding the overdraft conditions at the site and the implementation of the Plymouth Pipeline project.
- P17-198** Refer to **Section 3.6.3** of the DEIS for an archaeological overview of the project area. A more detailed description of the prehistoric context of the general area can be found in the confidential **Appendix K** of the DEIS. Refer to response to **Comment L2-124**

regarding the exclusion of sensitive materials within the public draft version of the DEIS.

P17-199 Refer to **Section 3.6.3** of the DEIS for an ethnographic overview of the project area. A more detailed description of the ethnographic context of the general area can be found in the confidential **Appendix K** of the DEIS. Refer to response to **Comment L2-124** regarding the exclusion of sensitive materials within the public draft version of the DEIS.

P17-200 A more detailed discussion of the history of the village of Yuleyumne is outside the scope of the DEIS, as it is more appropriately addressed through other administrative procedures and is not related to the analysis of environmental impacts associated with the project alternatives.

P17-201 The complete citation for Levy (1978) can be found both in **Section 8.0** of the DEIS and the confidential **Appendix K** of the DEIS that was submitted to SHPO. SHPO concurred with the BIA's findings during the Section 106 process as was previously discussed. Refer to **Appendix K** of the FEIS regarding SHPO concurrence.

P17-202 Refer to the response to **Comment P17-200** regarding historical context outside the scope of the DEIS.

P17-203 Regarding the history of the Tribe's territory, refer to response to **Comment P17-200** regarding issues outside the scope of the EIS.

P17-204 Regarding specific history of the Tribe's and the United States refer to response to **Comment P17-200** regarding issues outside the scope of the EIS.

P17-205 Regarding the specific history of the Tribe's ancestors refer to response to **Comment P17-200** regarding issues outside the scope of the EIS.

P17-206 Regarding the history of the Tribe's territory and its relationship to contemporary county designations refer to response to **Comment P17-200** regarding issues outside the scope of the EIS.

P17-207 Regarding the specific history of the Tribe's recognition refer to response to **Comment P17-200** regarding issues outside the scope of the EIS.

P17-208 Regarding the specific history of land issues involving the Tribe refer to response to **Comment P17-200** regarding issues outside the scope of the EIS.

- P17-209** Regarding a more detailed discussion of the history of the Tribe in the historical context section of the DEIS refer to response to **Comment P17-200** regarding issues outside the scope of the EIS.
- P17-210** A discussion of Native American consultation can be found in **Section 3.6.6** of the DEIS. As noted in that section, the NAHC indicated, in a letter dated August 25, 2003, that there are no known sacred sites within the project area. At the same time, the NAHC provided a list of twelve Native American individuals and organizations to contact. Letters were sent and follow-up phone calls were made to all of these individuals and groups in September 2003. A complete record of Native American consultation can be found in the confidential **Appendix K** of the DEIS. Refer to response to **Comment L2-124**, above, regarding the confidentiality of **Appendix K** of the DEIS and SHPO concurrence.
- P17-211** A discussion of the records search request and results can be found in **Section 3.6.6** of the DEIS. A more detailed summary of site locations within and within the immediate vicinity of the project site can be found in the confidential **Appendix K** of the DEIS.
- P17-212** Both a discussion of previous survey coverage, current survey methodology, and findings can be found in **Section 3.6.6** of the DEIS and in **Appendix K** of the DEIS. Refer to response to **Comment L2-124**, regarding the confidentiality of **Appendix K** of the DEIS and SHPO concurrence.
- P17-213** Refer to **Section 3.6.6** of the DEIS for a discussion of contemporary resources identified during the cultural resources study.
- P17-214** Regarding Native American consultation, refer to response to **Comment P17-210** regarding the consultation process.
- P17-215** The commenter introduces specific comments on the Water and Wastewater Feasibility Study included as **Appendix B** of the DEIS. Refer to the following responses to the comments on the executive summary.
- P17-216** General assumptions are used regarding the development of the project alternatives because the environmental review process precludes the development of final facility designs. Using industry standard practice, the component wastewater generation rates are selected from published engineering sources. The engineers who developed **Appendix B** utilized their profession judgment to select these rates. The facility program for Alternative A is included as Table 2-1 of **Appendix B** of the DEIS. Tables 2-1 through 2-4 of **Appendix B** provide estimated wastewater flows for the four

proposed site layout alternatives. Due to the size and complexity of the information used to generate the condensed results presented in **Tables 2-1** through **2-4**, refer to Appendix A of the Water and Wastewater Feasibility Study for a breakdown of the unit rates for the wastewater generation calculation.

P17-217 Refer to the response to **Comment L3-04** for a discussion on the sizing of the Proposed Project's wastewater facility and the ability to accommodate the projected wastewater flows. Due to the 24-hour operation schedule of a casino, wastewater generation rates vary from other commercial establishments. Actual flows from other casinos were used to predict flows from the Proposed Project.

HVAC system cooling towers are a component of the project alternatives. The final engineering plans for the project alternatives will not be finished until after an alternative is selected for development and the site has been taken into trust by the BIA.

P17-218 Table 3-5 of **Appendix B** identifies the projected total water demands during operation of the project alternatives, including the losses associated with brine production under Water Supply option 2.

P17-219 The calculation of water storage utilizes typical methodology to design a water supply system. Table 3-6 of **Appendix B** of the DEIS provides a summary of the storage requirements anticipated for the project developments, which accounts for peaks by providing four-times the average day water demand for domestic water use.

P17-220 As discussed in Section 2.3.2 of **Appendix B** of the DEIS, both the Thunder Valley Casino and Cache Creek Casino & Hotel have historically recycled approximately +/- 40% of the wastewater flow for recycled water use.

P17-221 Refer to the response to **Comment F1-02** for a discussion of the preferred water supply option and the sources that would be utilized to meet the water demands of the project, as well as groundwater availability in the project vicinity.

P17-222 As discussed in **Section 2.0** of the DEIS, the biosolids and sludge produced by the wastewater treatment plant would be dewatered and trucked off-site for disposal at a licensed landfill. The exact landfill has not been selected at this time.

P17-223 Section 3.5.1 of **Appendix B** states that the East Bay Municipal Utility District accepts brine on a fee per weight basis. The Tribe currently does not have an agreement with EBMUD for disposal of the brine.

- P17-224** Refer to Table 3-6 of **Appendix B** of the DEIS for a preliminary assessment of storage required for fire suppression. As previously discussed, the Tribe has committed to maximizing the use of recycled water throughout the project alternatives.
- P17-225** Refer to **L4-204** for a discussion of membrane-bioreactor (MBR) systems, and **Appendix C** for a discussion of the effectiveness of the treatment system. Other casinos utilizing MBR technology in the area include the Thunder Valley Casino, the Cache Creek Casino & Hotel, and the Rolling Hills Casino. All of these facilities meet federal standards for wastewater treatment and disposal.
- P17-226** Thunder Valley Casino is approximately 237,000 square feet and Cache Creek Casino Resort is approximately 414,000 square feet.
- P17-227** Cache Creek Casino Resort has a higher rate of wastewater because it is a larger facility. Thunder Valley Casino's rate of wastewater generation is less because Thunder Valley does not include a hotel.
- P17-228** The discrepancy in water demand is due to the inclusion of landscape irrigation in table 6-1 of **Appendix B** of the DEIS, which as described in Table 2-9 is not included as part of the recycled water demand, because the 10,000 gpd allocated for irrigation does not contribute to the wastewater flow. The FEIS has been updated to be consistent with Table 6-1 of the Water and Wastewater Feasibility Study.

HVAC system cooling towers are a component of the project alternatives. The water loss from the cooling towers are included in water demands of the Casino and Hotel identified in figures 6-1 and 6-2 of **Appendix B** of the FEIS.

The FEIS has been updated explaining that under the preferred water Option 2, additional water trucking would be only required to meet 8% of the potable water demand of Phase II of Alternative A.

- P17-229** Refer to the **P17-154** regarding water trucking to meet potable water demands for full build-out of Alternative A.
- P17-230** Refer to the response to **Appendix C** of the FEIS for a discussion of the wells in the project vicinity. **Section 3.3** of the DEIS, discusses the hydrogeology in the project vicinity. Refer to response to **Comment F1-02** for a discussion of the groundwater wells in the project vicinity and the pumping strategy for the project. The FEIS has been updated with additional information presented in **Appendix C** to provide an expanded discussion of groundwater wells and the existing setting of the project region.

P17-231 Appendix C of the DEIS describes the project water well yields. The methodology and testing methods were conducted according to accepted engineering practices. Refer to the response to **Comment F1-05** for information on the methodology used to determine long-term well yields. It took the H1 well five seconds to produce five gallons.

P17-232 The higher rates were determined using two meters, which allowed measurements higher than 50 gpm.

P17-233 Refer to the response to **Comment F1-4** and **Comment F1-5** for a discussion of the recharge of the aquifer and how the applied safety factors considered the limited recharge situation. As stated, the estimations of long-term well yields were based on individual well performance and the appropriate factors were applied to account for the uncertainties inherent in natural systems, including the recharge characteristics of the water-bearing unit.

Refer to the response to **Comment F1-02**, for a discussion of the impact that the Plymouth Pipeline project would have on local groundwater supply, the water sources for the project, and the pumping strategies that would be implemented. Refer to the response to **Comment F1-05** regarding the long-term reliability of the proposed groundwater supply for the project alternatives.

P17-234 refer to **Comment F1-02** for a discussion of the water sources for the project, the use of recycled water, trucked water and the pumping strategy that would be implemented to ensure a sustainable yield for the three project wells. Refer to **Comment F1-05** for additional information on the methodology used to determine long-term well yields.

P17-235 Refer to **Comment F1-05** for information on the methodology used to determine long-term well yields and refer to **Comment F1-02** for a discussion of the ability of the three project wells to meet the water demands of the selected project alternative.

P17-236 A follow-up hazardous materials site visit was performed with representatives from the BIA on October 22, 2008. The updated site conditions do not result in new findings that would alter the conclusions of the DEIS. Refer to the updated Phase I ESA included as **Appendix O** of the FEIS .

P17-237 Refer to the response to **Comment P17-76** regarding the exclusion of Parcels 2 and 12 from the scoping period.

P17-238 There are several buildings located off Highway 49, along the western border of the project site on the 1962 historic aerial. Several trees obscure what could potentially be

barns and outbuildings. Additionally, there appear to be several buildings along the northeast corner. Evidence of a sawmill was not observed on the site.

- P17-239** Based on historical information including a review of historical aerial photographs, topographic maps, and interviews with individuals that are knowledgeable of historic activities at the project site, a sawmill operating on the project site was not identified.
- P17-240** Refer to the response to **Comment S7-06** regarding sampling of the waste rock located adjacent to the mine site.
- P17-241** The data contained in the EDR report is derived from local, state, and federal databases and is not subject to editing by the EIS authors.
- P17-242** Sites may not be mapped within the database report for various reasons including incomplete addresses and reporting format that does not conform to the computer-generated reports that are the source of the data. The data presented in the Phase I ESA fully complies with the American Society for Testing and Materials (ASTM) Standard Practice E 1527-05 and Bureau of Indian Affairs (BIA) guidelines (620 DM Chapter 2).
- P17-243** The EIA is based upon the market study and financial projections for the proposed casino complex.
- P17-244** The document presented in the fee-to-trust application is a market study, while **Appendix R** of the DEIS is the EIA prepared for the NEPA process.
- P17-245** Pre-construction surveys with respect to special status species will be conducted prior to construction and will be performed with respect to appropriate flora and faunas bloom, breeding, nesting, or migration season; as specified in **Section 5.2.5** of the FEIS. These guidelines shall successfully document the presence or absence of a specific species within the project site.
- P17-246** A formal development proposal for submission to the local planning department is not required as the Tribal development would occur after the land is taken into trust. The “formal development proposal” for the casino project is the project description of the project alternatives as presented in **Section 2.0** of the DEIS, as modified by information provided in this FEIS.
- P17-247** Refer to the response to **Comment L2-02** regarding the age of data associated with the time lapse between the NOI and the release of a DEIS.

P17-248 Refer to the response to **Comment P9-02** regarding suggestions for an urban site for the Proposed Project, and the lack of evidence that urban casinos result in fewer environmental impacts than rural casinos. Issues regarding the Tribe's origins are not a component of the environmental review process.

P17-249 Responses to comments have been included in the FEIS. Refer to the response to **Comment P17-117** regarding the continuing environmental review process.

P17-250 Substantive comments on the content and methodology of the DEIS are responded to within the FEIS, which is released for public review as described in response to **Comment P17-117**.

P17-251 The information requested is relevant to the fee-to-trust application and does not address the DEIS.

P18 NO CASINO IN PLYMOUTH

P18-01 The commenter provides a summary of their organization and provides general comments on the compatibility of a casino with the City. No response is required.

P18-02 Refer to the response to **Comment S1-01** regarding the length of the comment period and the built-in extension to provide adequate time over the required 45-day comment period. The scheduling of the public hearing was consistent with the requirement outlined in the BIA NEPA Handbook (59 IAM 3) that public hearings should be no sooner than 15 days after the NOA is published.

Refer to the response to **Comment P15-03** regarding distribution of the DEIS in CD and hardcopy format and regarding the structure of the public hearing.

P18-03 Refer to the responses to **Comments L2-01** through **L2-03** regarding general statements that the DEIS is flawed.

P18-04 Refer to the response to **Comment P15-02** regarding the information within the NOA regarding ownership of the project parcels.

P18-05 Refer to the response to **Comment P17-39** regarding the purpose of scoping. When preparing an EIS, the project description is often altered to avoid impacts identified early on in the process. The number of parcels differs from those discussed in the two scoping meetings; however, the number of parcels has not changed since the release of the scoping report in March 2004.

- P18-06** Refer to the response to **Comment L2-29** regarding level of detail included within the project description. Refer to **Figures 5-1** through **5-5** in **Section 5.0** of the FEIS for the updated site plans of the project alternatives.
- P18-07** Refer to the response to **Comment L2-04** regarding general comments that the content within the DEIS is inadequate.
- P18-08** Refer to **Section 1.3** of the FEIS for a summary of the environmental review process and the compliance with these provisions throughout the development of the EIS for the Proposed Action and Proposed Project.
- P18-09** Refer to the response to **Comment L2-29** regarding the level of detail included within the project description, **Section 2.0**, of the DEIS. As discussed in the response to **Comment L2-01**, response to comments includes correcting factual errors within a FEIS. An updated Federal Register notice is not required, as the mistaken text concerning the Tribe's ownership does not impact the environmental review process.
- P18-10** Relevant documents provided to the BIA become part of the administrative record, including comments on the DEIS.
- P18-11** This comment is nearly identical to those previously submitted as **Comments P17-1** through **P17-7**. Refer to the corresponding responses.
- P18-12** **Section 8.0** of the DEIS lists citations of documents referenced during preparation of the DEIS. **Section 8.0** has been revised to include addition citations of documents referenced during the preparation of the FEIS.
- P18-13 through P18-27**
These comments are nearly identical to those previously submitted as **Comments P17-9** through **P17-24**. Refer to the corresponding responses.
- P18-28** Refer to the response to **Comment P18-12** regarding references to documents used during the preparation of the DEIS and FEIS.
- P18-29 through P18-43**
These comments are nearly identical to those previously submitted as **Comments P17-25** through **P17-61**. Refer to the corresponding responses.
- P18-44** This comment is nearly identical to those previously submitted as **Comments P17-62** through **P17-64**. Refer to the corresponding responses. With regard to the

determination of well yields and the conservative factors used to determine the safe yield of the project wells, refer to the response to **Comment F1-02**.

P18-45 These comments are nearly identical to those previously submitted as **Comments P17-65** through **P17-66**. Refer to the corresponding responses.

P18-46 The measures identified in **Section 5.2.3** of the DEIS to reduce off-site groundwater impacts entail reducing the Tribe's groundwater pumping rate and/or compensating well owners for and replacing potential lost water supplies. The efficacy of these mitigation measures is readily apparent in that reduction of use or subsidization of losses would directly increase water supplies available to impacted well owners.

P18-47 through **P18-57**

These comments are nearly identical to those previously submitted as **Comments P17-67** through **P17-90**. Refer to the corresponding responses.

P18-58 **Section 2.0** of the DEIS describes the alternatives to the Proposed Project. Refer to the response to **Comment L2-28** regarding the supplemental text in **Section 2.2.6** of the FEIS addressing the dismissal of the 40-acre site as a viable option for the Proposed Project.

P18-59 through **P18-74**

These comments are nearly identical to those previously submitted as **Comments P17-91** through **P17-122**. Refer to the corresponding responses.

P18-75 Refer to the response to **Comment L2-29** regarding the adequacy of the project description. Besides the no action alternative, no alternatives outside the BIA's jurisdiction were considered feasible, as only the BIA can take land into trust for the Tribe. Gaming can only occur on trust lands or on lands otherwise determined to be eligible for gaming. Gaming is considered the most feasible economic venture for the Tribe to obtain economic stability.

P18-76 Comment noted. Detailed responses are provided below as requested.

P18-77 and **P18-78**

These comments are nearly identical to those previously submitted as **Comment P17-124**. Refer to the corresponding responses.

P18-79 Comment noted. Detailed responses are provided below as requested.

P18-80 through P18-111

These comments are nearly identical to those previously submitted as **Comments P17-125 through P17-161**. Refer to the corresponding responses.

P18-112 Refer to the response to **Comment P9-02** regarding suggestions for an urban site for the Proposed Project, and the lack of evidence that urban casinos result in fewer environmental impacts than rural casinos.

P18-113 With regard to the determination of well yields and the conservative factors used to determine the safe yield of the project wells, refer to the response to **Comment F1-02**.

P18-114 through P18-127

These comments are nearly identical to those previously submitted as **Comments P17-162 through P17-178**. Refer to the corresponding responses.

P18-128 The commenter did not provide examples of missing information and therefore a specific response cannot be given. All identified missing information has been included in the FEIS. Refer to the response to Comment Refer to the response to **Comment S1-01 through S1-03** regarding the DEIS comment period. Refer to the response to **Comment P15-02** regarding the information contained within the NOA.

P18-129 Refer to the response to **Comment S4-13** and Section 3.0 of the revised TIA (**Appendix M** of the FIES) regarding the development of the trip generation rate for the project alternatives.

P18-130 The commenter estimates 880,000 kg of CO₂ from project mobile sources; however, the vehicle count is unsubstantiated. Refer to the response to **Comment L2-91** regarding the adequacy of climate change analysis within the DEIS and revision within the FEIS based on newly published emissions factors.

P18-131 Federal conformity levels have been used to determine significance because local air quality regulations do not apply to Federal Actions. **Section 4.4** of the DEIS provides a concise description of the General Conformity requirements of the Clean Air Act, including the comparison of project emissions with de minimis thresholds. Refer to the response to **Comment L2-79** regarding regional significance under the General Conformity requirements.

P18-132 CO₂ is not a criteria pollutant and currently there are no applicable Federal or State thresholds. Therefore, no conformity determination is required. Refer to the response to Comment **P18-131** regarding General Conformity requirements.

P18-133 Comment noted. AB 32 is discussed in **Section 3.4.1** of the FEIS. Climate change is further discussed in **Section 3.4.3** of the FEIS.

P18-134 Refer to the response to **Comment L2-175** regarding motor vehicle contributions to poor air quality and the analysis within the DEIS and FEIS. Refer to the response to **Comment S4-13** and Section 3.0 of the revised TIA (**Appendix M** of the FEIS) regarding the development of the trip generation rate for the project alternatives.

P18-135 The FEIS provides updated traffic counts and uses the most current air quality modeling (refer to **Appendix Q** of the FEIS). The DEIS did not underestimate project traffic (refer to **Appendix M**). Regional pollution transport is considered in the air quality modeling. See the response to **Comment P18-131** regarding climate change.

P18-136 Air quality issues are addressed in greater detail in the responses to **Comments P18-128** through **P18-135**.

P18-137 through **P18-151**

These comments are nearly identical to those previously submitted as **Comments P17-198** through **P17-214**. Refer to the corresponding responses.

P18-152 The DEIS includes technical appendices upon which the analysis is based. **Section 8.0** of the DEIS lists documents referenced in the DEIS. **Section 3.0** of the DEIS and FEIS establish the existing setting, which serves as the basis for the evaluation of potential impacts in **Section 4.0**. Refer to the response to **Comment P18-03** regarding CEQ regulations with respect to response to comments.

P18-153 through **P18-196**

These comments are nearly identical to those previously submitted as **Comments P16-3** through **P16-61**. Please refer to the corresponding responses.

P18-197 through **P18-209**

These comments are nearly identical to those previously submitted as **Comments 17-179** through **P17-193**. Please refer to the corresponding responses.

P18-210 Refer to the response to **Comment L2-168** regarding impacts to the ACSO and corresponding mitigation.

P18-211 Refer to the response to **Comment L2-02** for a discussion on the requirement to update data within the FEIS. Refer to **Section 5.1** of the FEIS for an updated discussion of regarding the voided MSA and enforcement of the recommended mitigation measures.

P18-212 through P18-215

These comments are nearly identical to those previously submitted as **Comments P17-194 through P17-197**. Please refer to the corresponding responses.

P18-216 This comment repeats a portion of **Comment P18-152**. Refer to the corresponding response.

P18-217 through P18-264

These comments are nearly identical to those previously submitted as **Comments P16-62 through P16-113**. Refer to the corresponding responses.

P18-265 Refer to the response to **Comment L3-01** for a discussion of the City's future water supply and water supply Option 1. Refer to the response to **Comment F1-02** regarding the selection of water supply Option 2 as the preferred option to meet potable water demands. The existing setting of the City's water supply is described in **Section 3.9** of the DEIS.

P18-266 Refer to **Appendix S** of the DEIS for the analysis of suitable sites for disposal of treated effluent via land application. Permitting of treated effluent disposal Option 2, the preferred option, would occur through the USEPA, not the State. The State does allow discharges of treated effluent to surface waters, with the appropriate NPDES discharge permit in place. Two such discharges now occur in Amador County from the City of Jackson Wastewater Treatment Plant and Sierra Pacific Industries and four conditional discharges are currently permitted (CVRWQCB, 2008). Refer to the response to **Comment P18-46** regarding effectiveness of recommended mitigation measures.

P18-267 Refer to the responses to **Comment L2-234 through L2-241** regarding the adequacy of the Tribal Fire Department and other incorporated fire safety provisions to reduce impacts to the AFD.

P18-268 through P18-280

These comments are nearly identical to those previously submitted as **Comments P10-03 through P10-15**. Refer to the corresponding responses.

P18-281 The commenter provides a definition of cumulative impacts and the required NEPA analysis. No response required.

- P18-282** Refer to the response to **Comment L2-79** regarding the regional significance of project emissions under the General Conformity regulation.
- P18-283** The analysis of the project alternatives does not rely on the SIP to reduce impacts. As a federal project, the analysis is required to determine compliance with the SIP through a conformity determination. Because the project alternatives would conform with the SIP, less-than-significant impacts would result to air quality.
- P18-284** Refer to the response to **Comment L2-91** regarding the expanded Greenhouse Gas analysis presented in the FEIS. Compliance with the Climate Action Team strategies and CARB early action measure are shown in **Section 4.11** of the FEIS.
- P18-285** This comment is nearly identical to **Comment P17-242**. Please refer to the corresponding response.
- P18-286 through P18-322**
These comments are nearly identical to those previously submitted as **Comments P17-215 through P17-235**. Refer to the corresponding responses.
- P18-323** This comment repeats a portion of **Comment P18-152**. Refer to the corresponding response.
- P18-324 through P18-363**
These comments are nearly identical to those previously submitted as **Comments P12-2 through P12-45**. Please refer to the corresponding responses.
- P18-364** Refer to the response to **Comment P12-08** regarding the use of driveway counts from existing local casinos to develop the trip generation rate for the gaming alternatives.
- P18-365** The commenter provides a study regarding Las Vegas casino trip generation rates. Refer to the response to **Comment P12-03** regarding the differences between Las Vegas style casino trip generation rates and Tribal casino trip generation rates.
- P18-366 through P18-367**
These comments are nearly identical to those previously submitted as **Comment P17-244**. Please refer to the corresponding response.
- P18-368** This comment is nearly identical to **Comment P17-247**. Please refer to the corresponding response.

P19 NICOLAS VILLA JR., HISTORIC TRIBAL GOVERNMENT

- P19-01** The commenter provides a letter written to the BIA regarding the Fee-to-Trust application. No comments regarding the DEIS nor the NEPA process are provided. No response is warranted.
- P19-02** The commenter provides a letter written to the Office of Indian Gaming Management regarding the Fee-to-Trust application. No comments regarding the DEIS nor the NEPA process are provided. No response is warranted.
- P19-03** The commenter provides a tribal history, but does not provide a comment on the DEIS. No response is warranted.
- P19-04** The commenter provides a document concerning Indian property rights. The commenter does not provide a comment on the DEIS. No response is warranted.
- P19-05** The commenter provides historical documents that do not pertain to the DEIS nor the NEPA process. No response is warranted.
- P19-06** The commenter provides a document concerning jurisdictional boundaries. The commenter does not provide a comment on the DEIS. No response is warranted.
- P19-07** The commenter provides a document relating to territorial claims. The commenter does not provide a comment on the DEIS. No response is warranted.
- P19-08** The commenter provides information regarding the Lead Agency and restates the content of the DEIS executive summary. No comment is given, subsequently no response is warranted.
- P19-09** The information presented by the commenter may be relevant to the Fee-to-Trust application, which is separate from the environmental review . The DEIS is not required to address the validity of the claims of the Tribe or Tribal statistics and is solely intended to analyze the environmental impacts associated with the implementation of one of the proposed project alternatives.
- P19-10** The commenter disputes the identification of the Ione Band as a “landless tribe” by the Lead Agency. No comment on the content of the DEIS or the NEPA process is given, subsequently no response is warranted.

P19-11 Refer to the response to **Comment P19-09** regarding comments on the Fee-to-Trust application.

P20 CAROL FOERSTER

P20-01 Comment acknowledged. Water issues are addressed in **Sections 3.3, 4.3, 3.9, and 4.9** of the DEIS.

P21 ELAINE ZORBAS

P21-01 Refer to the response to **Comment L2-331** regarding the revision of the lighting discussion with the FEIS. Refer to **Attachment II** of **Appendix Y** of the FEIS for the preliminary lighting plan for Alternative A.

PUBLIC HEARING TRANSCRIPTS (T)

COMMENTS AND RESPONSES

IONE BAND OF MIWOK INDIANS
FEE-TO-TRUST LAND TRANSFER AND CASINO PROJECT
MAY 21, 2008
AMADOR COUNTY FAIRGROUNDS, PLYMOUTH, CA

ORIGINAL

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A P P E A R A N C E S

VALERIE THOMAS, Environmental Protection Specialist

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1 MS. THOMAS: Good evening, ladies and gentlemen. Could
2 I have your attention, please?

3 Thank you.

4 And welcome to the Bureau of Indian Affairs Public
5 Hearing for the Proposed Ione Band of Miwok Indians proposed
6 Fee to Trust Land Transfer and Casino project Draft
7 Environmental Impact Statement.

8 My name is Valerie Thomas, and I am an Environmental
9 Protection Specialist with the Bureau of Indian Affairs
10 Pacific Regional Office.

11 The Bureau of Indian Affairs, as you may know, is a
12 bureau within the Department of Interior which is a
13 department in the Federal Government.

14 I will be your facilitator at this evening's public
15 hearing. I would like to introduce to you my colleague to
16 my left, Patrick O'Mallan, who is the lead Deed of Trust
17 Environmental Protection Specialist for the Pacific Region.

18 And also representing -- my supervisor and Pat's is Dan
19 Hall.

20 Dan, where are you tonight? There you are. Thank you,
21 Dan.

22 Mr. Rydzik, there's only three of us on staff, and he
23 had another obligation in Southern California.

24 We also have a cooperating agency here, which is the
25 City of Plymouth, and I understand that Mr. John Colburn,

1 the mayor of the City of Plymouth is here tonight.

2 Sir, could you stand up and see where you are?

3 Thank you.

4 Okay. And also we have the National Indian Gaming
5 Commission and the Environmental Protection Agency are also
6 cooperating agencies, but they are not present here tonight.

7 Our court reporter is Cathy LaPlante.

8 The restroom locations are to my right outside. It's
9 kind of a yellowy-green building, and the emergency exits
10 are well marked in case we have an earthquake, or anything
11 like that. Please walk smartly out the -- out the exits,
12 and we'll be fine.

13 Okay. The purpose why we are here tonight is to
14 conduct a public hearing on the Draft Environmental Impact
15 Statement, or what we call a DEIS for the proposed
16 fee-to-trust land acquisition of 228.04 acres, and the
17 subsequent development of a casino and hotel for the Ione
18 Band of Miwok Indians which is a Federally-recognized tribe
19 located near the City of Plymouth and Amador County,
20 California.

21 As you walked in, you probably noticed all the boards
22 out there. The location is clearly identified.

23 On an administrative note, I need to inform you that
24 the notice of availability for the Draft EIS stated that the
25 two -- 228.04 acres of the proposed Deed of Trust land was

1 owned in Fee Simple by the Ione Band of Miwok Indians. In
2 fact, some of the parcels are in the acquisition pipeline.

3 I will commence with a few procedural matters. Then
4 we'll present a short informational PowerPoint by Mr. David
5 Zweig, to my left, who is the president of Analytical
6 Environmental Services, the tribe's contractor for this EIS,
7 and then we'll be followed by public testimony.

8 The first speakers to be acknowledged will be any
9 Federal government officials, which I don't believe there
10 are any tonight.

11 If there are, could you identify yourself, please.

12 Okay.

13 Followed by the Chairman of the Ione Band of Miwok
14 Indians and then any other currently elected tribal leaders,
15 State and Local elected officials.

16 To reiterate, the purpose of the hearing tonight is to
17 receive input as to what you the public believe are the
18 substantive issues that you feel have or have not been
19 addressed in the Draft Environmental Impact Statement.

20 With that in mind, please understand that there is no
21 question or answer period; nor is this a forum for debate.
22 You will have the opportunity to tell me what your
23 environmental issues are that are important to you and what
24 you feel still needs to be discussed and analyzed more
25 completely for the Draft document to be published as a Final

1 Environmental Impact Statement.

2 A number of individuals have requested personal paper
3 copies of the Draft Environmental Impact Statement.
4 Unfortunately, each paper copy costs \$175 to reproduce;
5 therefore, if you want a personal paper copy, we will
6 certainly be able to get it for you, but you will need to
7 provide us with that sum of money.

8 Therefore, we will need it up front.

9 A viable alternative, though, is to be able to review
10 the paper copies that we have provided to the local library
11 and to the City Hall, or we would be pleased to provide you
12 with a CD at no cost, and if you give us your name and
13 address, which you can do tonight, or by sending us a
14 written request.

15 The next step then will be publishing the Final
16 Environmental Impact Statement. We are uncertain as to when
17 the Final Environmental Impact Statement will be available
18 for public review, as timing is dependent on the quantity
19 and the nature of the comments that we receive during this
20 comment period, and the comment period goes until July 2nd.

21 A Record of Decision, which we call a ROD will be
22 issued on or after the 30-day Final Environmental Impact
23 Statement review period.

24 There will be no more public hearings.

25 Right now I'd like to introduce David to give his

1 presentation on what the project is. I know some of you are
2 familiar with it and some may not be, so we'd like to be
3 able to give you a brief summary of what this project and
4 the proposed project entails.

5 And so, David, if you will.

6 MR. ZWEIG: Thank you.

7 I have a brief presentation on the project. It's
8 really a brief summary. I'll move through a series of
9 slides in about ten minutes.

10 I have a brief presentation. It will take ten minutes,
11 or so, and I will go through the proposed project and the
12 alternatives, and describe a little more about the NEPA
13 process.

14 The site of the proposed project and several of the
15 alternatives is right outside of town, partly within the
16 city limits and partly within unincorporated Amador County.

17 This is Highway 49. This is Main Street. The proposed
18 site is right here.

19 I think I need more hands to do this job.

20 The purpose and need for the project is described in
21 the EIS, but just very briefly, it's to restore the lost
22 land base for the Ione Tribe, increase employment
23 opportunities for both the Tribe and members of the
24 community and improve the socioeconomic status of the Tribe,
25 to provide capital for economic development and investment

1 for the Tribal Government, and acquisition of land for the
2 Tribe to exercise governmental powers, and assist in
3 providing economic self-sufficiency, thereby, eventually
4 removing tribal members from public assistance programs.

5 The NEPA process, very briefly, a Notice of Intent of a
6 Draft EIS was published in the Federal Register back in late
7 2003. A Scoping Meeting was held in November 2003. A
8 Supplemental Notice of Intent was then issued, and a second
9 Scoping Meeting was held in February 2004.

10 The Scoping Report for this EIS was released in March
11 of '04. Notice of availability for the Draft EIS was
12 published in April of '08, and, of course, here we are today
13 in May of '08 with a public hearing. So this is process --
14 EIS process started many years ago.

15 The comment period as mentioned a little earlier runs
16 through July 2nd. During this time, the BIA will be
17 receiving comments on the EIS. The next step after that is
18 the preparation of the Final EIS.

19 After the Final EIS is issued, the BIA would select a
20 preferred alternative, and the Final EIS is available for
21 public review for 30 days, and as just mentioned, we do not
22 at this time know the exact timing of that.

23 Finally, the Record of Rescission, or ROD, is issued.

24 Next slide, please.

25 The alternatives which were analyzed in the EIS are --

1 are A through E, as noted here. I have a couple of slides
2 on each one of them. Several or --

3 Another alternative at a different site was also looked
4 at and was -- was not carried through the entire EIS for
5 detailed review.

6 This is the layout of the proposed casino hotel.
7 Parking being here on the site. The casino hotel here.
8 Various supporting infrastructure here would be a 250-room
9 hotel in this alternative.

10 Next slide.

11 And this is an architectural rendition of that
12 alternative.

13 The reduced size casino and hotel is an alternative
14 where the casino is smaller, but the hotel is still the same
15 size, 250 rooms, and the purpose of looking at several
16 alternatives is to see if there are ways to minimize
17 environmental impacts while still meeting the purpose and
18 needs of the project. Architectural rendition of this
19 alternative is very similar to the last.

20 Another alternative, Alternative C, was analyzed, which
21 consists of the even smaller size casino and no hotel, and
22 the facilities are in roughly the same portion of the site
23 as the previous two alternatives. Architectural rendition
24 shows the smaller size facility.

25 A non-gaming alternative, Alternative D, was analyzed

1 in the EIS. This would be a retail development located
2 right here with supporting parking and supporting
3 infrastructure. And this is the architectural rendering of
4 the retail alternative.

5 The No Project Alternative was also analyzed in the
6 EIS, but we don't have a slide to show you for that one.

7 The environmental issues that were looked at in the EIS
8 include land resources, water quality, air quality,
9 biological resources, cultural resources, socioeconomic
10 conditions and environmental justice. Resource use
11 patterns, including traffic and transportation, public
12 services, including water and wastewater and solid waste.
13 On public health and safety, other things like noise and
14 hazardous materials, and cumulative indirect and
15 growth-inducing impacts.

16 I know I went through this very quickly, the document
17 is quite lengthy and goes into great detail on every one of
18 these subjects.

19 The -- as already stated, the EIS is available at
20 several locations, including on the Internet at this
21 website. There's fliers up at the front table that have
22 this information that you can pick up. If you want to go to
23 the website and look at it, that might be the easiest way to
24 view the entire document, and it is also available at the
25 Amador County Library and at the Plymouth City Hall.

1 And, finally, just to close out, comments are due
2 July 2nd. You can state your comments, of course, here
3 today or mail in a letter.

4 The address to mail the letter to is right here, and,
5 again, that's in the handout up front, and with that, that
6 concludes my presentation.

7 Thank you.

8 MS. THOMAS: Thank you, David.

9 We're just about ready to take the speakers in the
10 order which they were submitted, and with the exception of
11 any Federal, Tribal, State and Local elected leaders.

12 I respectfully ask everyone to limit their comments to
13 three minutes so that everyone may have an opportunity to
14 speak.

15 Time permitting after all the speakers have had that
16 opportunity, we will then ask anyone who feels that they
17 were cut short and have additional issues to cover that were
18 not already addressed by them or anybody else to come up and
19 speak for an additional three minutes.

20 If you notice, there's a timer up front. My colleague,
21 Pat, will be in charge of that, and when you come up to the
22 podium, we'll start the timer, it will be green, and when
23 you get to 45 seconds, it will turn yellow. At 45 seconds
24 when you see that turn yellow, please wrap up your comments,
25 and then when the light turns to red, there will also be a

1 little beep, and I will ask you to yield the podium to the
2 next speaker.

3 So to best participate in this formal hearing process,
4 we offer the following recommendations, which I like to call
5 the ground rules.

6 Summarize your main points within your three-minute
7 public speaking period, and you'll be able to gauge that
8 time with the timer. Your details are best provided in a
9 written format, and we'll be able to collect them from you
10 at your convenience but before the end of the comment
11 period, which, again, is July 2nd.

12 Any substantive comments that we receive during the
13 comment period, which includes this meeting tonight, will be
14 addressed in the Final Document and noted in the Record of
15 Decision.

16 Please be as specific as you can. Only those comments
17 that specifically offer constructive advice, which we call,
18 substantive comments, will be reviewed for the possible
19 revision of this Draft EIS.

20 I ask that you avoid personal attacks. We realize and
21 understand that there are strong, strong feelings pro and
22 con about this project. The best opportunity for you to
23 state your views convincingly is through a brief, factual,
24 dispassionate presentation.

25 And understand, it's okay to disagree. We just would

1 like you to do it in a manner of mutual respect.

2 I will ask you to avoid clapping or carrying on side
3 bar conversations so that Cathy can capture every word for
4 the record.

5 One final matter prior to the speakers, when you are
6 called up to speak, please face me, state your name for the
7 court reporter and then address your comments to me, not the
8 audience.

9 This hearing is for you to tell me, the BIA's
10 representative, what you feel are the substantive issues
11 regarding this proposed project. The court reporter will
12 not record any comments other than those that are addressed
13 to me directly.

14 So with that said, we will now go into our formal
15 hearing, and our first speaker is Mr. Matthew Franklin,
16 Chairman of the Ione Band of Miwok Indians.

17 MR. FRANKLIN: Good evening. I would like to welcome
18 everyone to tonight's public hearing.

19 My name is Matthew Franklin. I'm the Chairman of the
20 Ione Band Miwok Indians. On behalf of the Tribe and Tribal
21 Council I would like to thank you for taking an interest in
22 our project and coming out tonight to make comments on our
23 Draft EIS.

24 This has been a long process for us, and we wanted to
25 make sure that we did a thorough job on our environmental

1 documents so we can understand the impacts our project will
2 have on the land and community.

3 I want to thank you for your patience. It's not only
4 been a long process for us, but we know for the community as
5 well. We would to develop the best document not only for
6 ourselves, but also for the community.

7 Tonight we are here to listen to your comments and
8 concerns. Though this process is being run by the Bureau of
9 Indian Affairs, we are here because we are your neighbors,
10 and we want to hear what you have to say.

11 The Tribe will be listening carefully to all concerns
12 the may arise, and we will do our best to be good neighbors
13 and be the utmost professional as we navigate this
14 land-to-trust, deed-of-trust process.

15 As we enter our road to tribal economic
16 self-sufficiency we would like to thank you for taking time
17 out of your evenings to come and submit your comments to the
18 Bureau of Indian Affairs on our project.

19 I would like to say thank you and welcome again to the
20 Draft EIS Public Comment.

21 MS. THOMAS: Thank you, sir.

22 Are there any State-elected officials in the meeting
23 tonight? Okay.

24 Any Local-elected officials that would like to speak
25 tonight? Okay.

1 MR. COLBURN: I'll defer to later.

2 MS. THOMAS: Thank you, sir.

3 Would you like to come up and address --

4 MR. COLBURN: I'll defer to later.

5 MS. THOMAS: All right. Fine. That sounds great.

6 Thank you.

7 Our next speaker is Nic Villa, Jr., Chief of Ione Band
8 of Miwok Indians.

9 MR. VILLA: Thank you. My name is Nic Villa, Jr., and
10 I live on the Jackson Valley Indian Reservation, which is
11 Trust Land near Ione, so this little charade you're putting
12 on is just that.

13 I just came back from Washington D.C. where I met with
14 very influential people, and this is going to be a very
15 enlightening project, and all I can say is turn off the
16 light because the party is over.

17 MS. THOMAS: Thank you, sir.

18 The next speaker is Joan Villa the Historic Ione Band
19 of Miwok, Tribal Member.

20 MS. VILLA: Yes. My name is Joan Villa. I live on the
21 Jackson Valley reservation.

22 We prepared a document, but we're very reluctant to
23 give it to you because as we went through the Environmental
24 Document prepared by the Bureau, we found exhibits that we
25 had submitted to a Federal Court against the Bureau in these

T1-01
cont.

T1-02

1 documents attempting to represent Mr. Franklin and his
2 group, and so if there's additional documents in here, we
3 need to sit down with the Bureau and go over them. We are
4 not willing to leave them with you.

T1-02
cont.

5 We have a document that land was taken into the Trust
6 on behalf of the Ione Band of Miwok Indians by the Secretary
7 on October 28, 1908 and that -- we have that document.

8 We also have noticed in the Environmental Impact Report
9 that the Bureau states that there was a General Council
10 election of their constitution approved in March of 2002
11 approved by the Bureau in September of 2002. However,
12 that's untrue because the Bureau seems to have forgotten it
13 held a secretarial election.

14 The people that were alleged voters were not approved
15 until July of 2002, so there couldn't have been a
16 Constitutional election in March of 2002. I have those
17 documents here, including all the ballots.

T1-03

18 So we would like to set a meeting with you and go over
19 these facts because these are the basic facts of why there's
20 no need for a reservation for the Ione Band Miwok Indians to
21 have one.

22 Thank you.

23 MS. THOMAS: Thank you.

24 Our next speaker is Jack King, and while Mr. King is
25 coming up, the next speaker after him will be Raymond Estel

T1-04

1 or Esten.

2 MR. KING: I like it to be noted that I've been
3 conducting EIS's and EIR's, and CEQA and NEPA were both
4 passed in 1969 and 1970, so I'm very familiar with the
5 process.

6 I'm going to try to keep this as succinct as possible.

7 First of all, no project proposal has ever been
8 submitted to the public. There is this ridiculous excuse
9 for public relations that surely came out in 2003, but that
10 did not qualify as a proposal or a project description.

11 Without a project proposal, the DEIS is obviated, it's
12 null and void. This entire exercise is academic. We don't
13 have an EIS procedure in process without a proposal. We
14 need to see a detailed proposal that meets County, State and
15 Federal regulations in terms of its content, and there
16 are -- no such document exists, so this is just moot.

17 A DEIS is a public-disclosure document requiring full
18 documentation, which is inadequate. Specific facts and
19 figures and numbers, in details specific plans for all major
20 ancillary and incremental developments are required by law;
21 they don't exist.

22 There is no evidence presented in the DEIS that field
23 library surveys were conducted on some of the subject land.
24 Instead, plagiarism of former studies was incorporated into
25 this DEIS, specifically [unintelligible] to proposals in two

T1-04
cont.

T1-05

1 EIR's were grabbed wholesale.

2 And I've spoken to the people who did field surveys for
3 that, and they said they have not been consulted and said
4 their documents were just ripped off and incorporated into
5 this DEIS.

T1-05
cont.

6 What surveys seem to have been done were done in the
7 wrong time of the year. You talk about looking at raptor
8 and migratory bird nesting in September and November, and
9 they're nesting right now in April and May, not in September
10 and November. They're not there anymore. They're
11 migratory.

T1-06

12 Agency consultation corporation is inadequate.
13 Specifically the reference that they don't have to apply by
14 California law. That's ridiculous.

T1-07

15 This needs to be a continuing process, and the
16 necessary permits and will-serve letters, very important,
17 must be obtained and appended to the DEIS. They're not
18 there.

T1-08

19 California State and Local law agency and procedures
20 must be obeyed along with the federal juris prudence and
21 legislation. Verification of Intent to mitigate adverse
22 impact is lacking. It's mentioned and, push, go off
23 somewhere else.

T1-09

24 Again, where are the specific plans and will-serve
25 letters? We need numbers.

T1-10

1 The Cumulative Impact Section is a bad joke. It merely
2 addresses Amador County's other two casinos, one existing
3 the other iffy, but not other proposed developments. It
4 never made the proposed suburban development in the theory.

T1-11

5 MS. THOMAS: Mr. King, your three minutes is up, and if
6 you could provide us with your written comments, we sure
7 appreciate it.

8 MR. KING: I have many written comments, but they'll
9 come in time.

10 MS. THOMAS: Thank you, very much, sir.

11 MR. KING: I said exactly what I wanted to say.

12 MS. THOMAS: The next speaker is Raymond Esten,
13 followed by Mr. Dick Minnis.

14 MR. ESTEN: I'm Raymond Esten. A life resident of
15 Plymouth and descendant of a pioneer to the area, and I'd
16 like to speak in favor of the casino.

17 There's -- the mines closed in the '40s, and the lumber
18 industry is depressed. We are in bad need of jobs. This
19 casino will provide about 1,500 jobs to the area and
20 probably upward of \$60,000,000 in payroll, which will filter
21 down through the community and turn over about five times
22 and help all the businesses not only in the Plymouth
23 community but in Amador County itself.

T1-12

24 The hotel will bring in \$250,000 a year in DOT tax, and
25 a numerous other benefits that add up for the Plymouth

1 community itself, about a hundred million dollars in
2 benefits to the community, and I think that although there
3 are negatives to the project, that what the Tribe is offered
4 to the community will more than mitigate the negative
5 impacts.

T1-12
cont.

6 Thank you.

7 MS. THOMAS: Thank you, sir.

8 And just for administrative purposes, was everybody
9 able to hear our last speaker in the back? Okay.

10 What we'll do is we will ask speakers to put the mic up
11 near their lips, and that way everyone will be able to hear.

12 Thank you.

13 MR. MINNIS: Good evening. My name is Dick Minnis. I
14 have a copy of the EIS. I have a copy of both appendixes.
15 I was not provided the 28 appendices -- to the appendices
16 for the tribal study.

17 I'd like to read a quote from -- I have a number of
18 problems, four pages mathematical areas of the tribal study.

19 The primary one, summary, page one, Appendix M, there
20 are no published trip generation rates for casinos by the
21 transportation industry standard. The Institute of
22 Transportation Engineers. The generation rates used within
23 were developed by Analytical Environmental Services and
24 surveyed of eight existing casinos in the region.

T1-13

25 That is patently, false Statement.

1 1992 published in the Journal of the Institute of
2 Transport Engineers is an depth mathematical study relating
3 traffic for casinos. The casinos' square footage and hotel
4 rooms proves without a doubt 26 casinos verified this is a
5 method that the San Diego area governments use in estimating
6 traffic count.

T1-13
cont.

7 You can use this method for the Jackson Rancheria and
8 come up within 100 trips of the actual Caltrans number on
9 Ridge Road.

10 The traffic study is garbage. Garbage was in; garbage
11 comes out. It needs to be redone using the SANDAG method
12 that -- because the current data under reports the number of
13 trips by almost 45 percent. It leaves out the Latrobe Road.
14 Doesn't count half a dozen intersections that are just
15 totally ignored, ignores the traffic that is generated
16 within Plymouth, assumes there's no traffic on Philtown
17 Road, assumes everybody coming from Sacramento that will
18 either use 16 or come up to Placerville and come down 49
19 instead of Latrobe. This is a seriously-flawed document.

T1-14

20 In my opinion, the traffic study appears to have been
21 brought by a process of retro analysis, where the money
22 allocated for mitigation was determined in advance, and the
23 data was then processed to achieve the desired results.

T1-15

24 How else do you explain the under county casino trips,
25 the discrepancy between traffic volumes and ADT's, the

1 emissions of significant artillery roads and intersections
2 and the reliance on Sacramento County general plan
3 improvements for mitigation.

T1-15
cont.

4 The is seriously flawed, both the data collection
5 analysis. It seriously underestimates potential traffic
6 impact for this proposed project, and is essentially
7 worthless as a tool for determining mitigation.

T1-16

8 The traffic analysis needs to be redone using current
9 data, which includes all affected roads, intersections and a
10 valid methodology, and is now significantly underestimates a
11 significant traffic problem.

T1-17

12 One other comment. They estimated a 2.2 percent
13 growth. In 2007, the growth on Highway 16 west of 49 was
14 3.9 percent in one year.

T1-18

15 The traffic study's flawed. Needs to be redone.

16 The other comment I'd like to make real quick is only I
17 was able to do this because I had a written copy. It would
18 have been impossible using a CD with all the appendices
19 scattered through it to actually be able to analyze this
20 data. You need to give us more time to look at this if you
21 want to be fair.

T1-19

22 MS. THOMAS: Thank you, very much.

23 MR. MINNIS: Thank you.

24 MS. THOMAS: Next speaker is Walt Dimmers, and he will
25 be followed by Billie Blue Elleston.

T1-20

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MR. DIMMERS: Yes. My name is Walt Dimmers. I live within line of site of the proposed casino.

T1-20
cont.

My cursory review of the EIS indicates very clearly that it is inadequate, incomplete, missing appendices and, quite frankly, a waste of taxpayer's money. Particularly in the area of other values.

T1-21

There are a host of subjects that are not even mentioned in that section. They need to be -- it needs to be completed.

I will draw attention to those in writing with my input before July the 2nd.

One more comment, you made the statement that the properties were in acquisition pipeline. I'm not sure what that means, but the announcement of the release of EIS stated that the land was owned -- the parcels were owned in fee by the Tribe. That misled the public.

T1-22

It was patently not true, and as far as I know -- well, I'm sorry.

I don't know the current status, but as of the date of publication, none of those parcels was owned by the Tribe.

Thank you very much.

MS. THOMAS: Thank you, sir.

Billie Blue Ellestin followed by Jerry Cassesi.

MS. ELLESTIN: Thank you. My name is Billie Blue Ellestin, and I am a member of the Ione Band of Miwok

T1-23

1 Indians. I'm also a chairperson of the Cultural Heritage
2 Commission Committee, and we meet quite frequently on a
3 number of issues, and we support the casino.

4 We've worked very hard for it, and I think the location
5 is out of town, and I think what -- it would be an excellent
6 location.

7 Not only that, I think it would keep the money here in
8 Plymouth. It won't go to Sacramento with the grocery stores
9 and hotel, the schools, the fire department, and everything
10 else that will eventually build around it because there is
11 plans to build 500 homes.

12 We want to keep the money here. We want to put people
13 to work, not only for us but for you and for our children
14 and our future generations to come.

15 And I think, you know, Chairman Franklin and the
16 committees have worked very, very hard, and I thank you.

17 MS. THOMAS: Thank you, ma'am.

18 Our next speaker is Jerry Cassesi followed by Butch
19 Cransford.

20 MR. CASSESI: Thank you. I want to commend you for
21 getting my name correctly. It doesn't happen very often.
22 Maybe it will make up for the rest of the stuff I was to
23 say.

24 I want to protest this whole process because it's
25 severely flawed. You can't get a -- I tried to get a CD

T1-23
cont.

T1-24

1 when this thing first came out. I made three trips to the
2 County Office, and they weren't available. Getting a hard
3 copy, forget it. It's impossible.

T1-24
cont.

4 This is a gigantic project. You're giving us three
5 minutes here to comment on it, which I find unreal. I know
6 we'll get time later, but three minutes is just impossible,
7 and not having this document and having timelines on when
8 you can -- have to respond is irresponsible.

T1-25

9 I should tell you, I'm Chairman of the Friends of
10 Amador County, and we've been involved with this Indian
11 Gaming thing for years now, for about nine years now, and I
12 want to speak from my heart.

13 I'm going to tell you that this whole process is a
14 fraud on the public, and as -- it's a fraud not only on a
15 non-Indian public, but it's a fraud on Indian public.

16 I've never seen anything in my entire adult life that
17 seems to be, how do I want to put it, corrupt I guess is the
18 only way I can put it.

T1-26

19 You can't get documents. You ask for documents; you
20 can't get them. They give you some lame excuse. Even
21 Indians themselves, I've sat in meetings where tribal
22 members tried to get tribal recognition, and they weren't
23 given a time and day, and the next person that gets up is a
24 chairman of a big time casino, and BIA is falling over
25 themselves giving that fellow his answers, but the poor guy

1 who is trying to get recognized who can't hire a lobbyist
2 for millions of dollars doesn't get the time of day, and
3 this thing is it --

4 This whole Indian Gaming thing seems to resolve around
5 money and money only, and when there's an opportunity to
6 make it, it happens, and when that goes in, then you squash
7 the competition.

8 You got tribes that are squashing competition for a
9 casino down the road because it happens to be another tribe.

10 You know, when we voted this Indian Gaming thing, I
11 don't think any voter in the State of California, none of
12 the ones I've talked to, and I've talked to a whole lot of
13 people, thought it was going to end up this way.

14 If you really wanted to help Indians out, why don't you
15 let them build casinos along the freeways where it would be
16 easy access, you wouldn't be killing us on these two-lane
17 roads. They make more money, and we'd be alive and our
18 children would be alive.

19 MS. THOMAS: Thank you, sir.

20 Our next speaker is Butch Cranford followed by Evida
21 Malick.

22 MR. CRANFORD: Thank you. Good evening.

23 This proposed casino was a bad idea in 2003, and this
24 Draft EIS delivered more than four years after the scoping
25 sessions. Does nothing to change the fact that it's still a

T1-26
cont.

T1-27

T1-28

1 bad idea in 2008.

2 A proposed casino is simply an abomination of the City
3 of Plymouth, surrounding communities of Amador County, the
4 State of California, an abomination of State and Federal
5 law.

T1-28
cont.

6 Understand that this project will be vigorously opposed
7 by citizens, citizens groups, City of Plymouth, Amador
8 County and the State of California.

9 My reading of this EIS simply shows me that it
10 continues the well-documented tradition by the Franklin Ione
11 Band of EIA, solicitor in the Department of Interior of
12 providing inaccurate, inadequate, incomplete, misleading,
13 outdated and false information. Using more than 2000 pages
14 to, once again, mislead and mis-inform the public.

T1-29

15 This DEIS, like your Fee-to-Trust application, I'd like
16 the request for a restored opinion. Like their
17 fiction-filled department restored land opinion does nothing
18 more than to provide the public, the City, the County and
19 State more inaccurate, inadequate, misleading, outdated and
20 false information about this project.

T1-30

21 About its negative impacts, about the origins of the
22 Franklin Ione Band, about their landless claims and about
23 their claims they are a restored Band with historical and
24 modern connections to Plymouth.

T1-31

25 As noted even in the Federal Register contained false

T1-32

1 misleading statement that the Tribe currently holds 228
2 acres in Fee.

T1-32
cont.

3 As of that date, records at the Amador County
4 Assessor's Office and Recorder's Office indicated that the
5 Tribe held no such -- no such properties.

6 The written comment provided on the tribes is
7 inadequate and incomplete misleading Fee-to-Trust
8 application more than 400 days ago has not been responded to
9 by the BIA or the DOI, and it remains unknown when the
10 written comments provided by the public, City, County and
11 State on that application will be responded to.

T1-33

12 Responded to by the Regional Director as required by
13 the Gaming checklist. However, we are now expected to
14 review and comment on this massive 2,000-plus page document
15 in only 75 days.

16 It is not difficult to identify the incomplete
17 elements, inadequate analysis, outdated data, fraudulent
18 claims and misleading statements contained in this document.
19 Every element reviewed to date meets all those standards.

20 The assured comprehensive comments will be delivered to
21 the BIA, to the regional office prior to the deadline for
22 comment as instructed in the letter from AES and as
23 instructed in the Federal Register notice.

T1-34

24 I will close.

25 MS. THOMAS: Thank you, sir.

1 MR. CRANFORD: The only modern connection that this
2 tribe has with this community is this casino proposal. They
3 don't even have a post office box here.

4 MS. THOMAS: Thank you, sir.

5 Our next speaker is, I believe, Elida Malick, followed
6 by Gayle Risberg.

7 MS. MALICK: Well, I've had to cut my comments pretty
8 severely, but I'll submit the balance what I was going to
9 say in writing, but I would just like to share that there
10 does seem to be some apparent attempts by the Bureau to
11 subvert the ability of this public to adequately review this
12 document and have ability to comment on it.

T1-35

13 The Tribe has had over four years to professionally
14 produce this Draft EIS; yet, the public is given only 33
15 days to arrive here this evening to make comments, and a
16 mere 42 days more to provide written comments.

17 The letterhead on the letter of Notice of Intent to
18 file the Draft EIS states the Department of Interior, it was
19 distributed under a generic cover that could have easily
20 been mistaken for junk mail.

21 Although the letter states that interested parties can
22 receive a copy of the draft document; in fact, only select
23 individuals have been provided a copy, and others have been
24 informed that they would have to pay \$175 for a copy.

T1-36

25 May I remind you that our tax dollars have already paid

1 for the production of this document, and if there is any
2 additional expense, then that should be borne by the
3 developer, that is, the Tribe.

T1-36
cont.

4 Two or three copies available at public venues of this
5 document -- of a document this lengthy available only during
6 working hours for an entire community, an entire county to
7 review in only 75 days is wholly inadequate.

T1-37

8 Electronic versions have proved impossible to navigate
9 due to the number of appendices and cross-references and
10 have suffered continual technical difficulties.

T1-38

11 Additionally, a simple 25-day extension requests for
12 extension of the comment period made on behalf of this
13 community by our congressman was denied by the Bureau.

T1-39

14 And tonight, our attempts to have some type of input
15 has been yet confiscated again to a mere three minutes.

T1-40

16 In Section 3.7 of the socioeconomic conditions and
17 environmental portion of the document it says, all together,
18 tribal attitudes and expectations promote -- all together
19 tribal attitudes and expectations promote increasing
20 participation in and benefit from the regional economy and
21 conditions on continuation of a long tradition of
22 comfortable co-existence and cooperation with their
23 non-Indian neighbors.

T1-41

24 We fully understand that this Franklin Ione Band
25 expects to split the regional economy. However, all the new

1 Ione Band members that number over 500 since the debut of
2 planned casino are complete strangers to Amador County and
3 the Plymouth area, making the implications of the word,
4 tradition, another sham.

T1-41
cont.

5 And in the face of 85 percent of Amador County and
6 73 percent of the City of Plymouth say, no more casinos,
7 especially here in Plymouth, is clear that there's a
8 disconnect on what cooperation of the non-tribal community
9 means.

T1-42

10 Casino gambling, the drugs, the drunk drivers, the
11 crime -- I'll be done in just a second -- and all the
12 negative impacts that are known to come with casinos is not
13 the dream that we have for your neighborhood or for our
14 children.

15 Thank you.

16 MS. THOMAS: Thank you, ma'am.

17 And I would ask that you hold your applause.

18 Thank you very much.

19 Our next speaker is Gayle Risberg followed by Charlie
20 Ginsberg.

21 MS. RISBERG: Good evening. One of the --

22 MS. THOMAS: Excuse me, ma'am. Could you restate your
23 name for the record, please?

24 MS. RISBERG: Gayle Risberg. I live in Amador County.

25 One of the items on your EIS was restoration of loss of

T1-43

1 land. Mr. Matt Franklin already has land. It's called
2 Wilton Rancheria, and the historic Ione Band has 40 acres in
3 Jackson Valley, so right there there's a flaw, and
4 without -- knowing that we do have land, this shouldn't go
5 forward.

T1-43
cont.

6 Thank you.

7 MS. THOMAS: Thank you, ma'am.

8 Our next speaker is Charlie Ginsberg followed by Carol
9 Foerster.

10 MR. GINSBERG: My name is Charlie Ginsberg, and I feel
11 that the Appendix F regarding the fire services is
12 inadequate.

13 It calls for a one-staffed engine which will probably
14 meet the needs of the casino itself, but it relies on the
15 volunteers for additional support in a major incident.

T1-44

16 During the hours of 8:00 to 5:00, Monday through
17 Friday, the majority of the volunteers are at work, and I
18 believe AFPD could provide records that would show that they
19 only respond to the average one firefighter during this
20 time. With --

21 In my experience, the vehicle accidents I've been to in
22 the last five years I would estimate that 75 percent involve
23 at least one party who resides out of county. Several of
24 these are tourists visiting or skiers, but I believe that
25 over 50 percent are casino patrons with --

T1-45

1 With three casinos within 15 miles of this facility, I
2 expect an increase traffic that casino patrons travel
3 between these facilities, and that would cause additional
4 accidents and vehicle fire -- or fires, wild land fires, but
5 from vehicle causes and thrown-out cigarettes.

T1-45
cont.

6 It is essential that we avoid a situation like we have
7 at Jackson Rancheria where the tribal fire department cannot
8 go off the reservation. They cannot respond to a person
9 having a heart attack across the street, and they can't go
10 to a vehicle accident on New York Ranch Road.

T1-46

11 I believe provisions should be made to mitigate the
12 impacts by having at least two staffed engines, one
13 dedicated to respond to the local area and provide for the
14 health and safety of not only the casino patrons but the
15 County residents from the moment they cross the County line
16 in the northern portion of the County.

T1-47

17 MS. THOMAS: Thank you, sir.

18 Our next speaker is Carol Foerster followed by Gary
19 Colburn.

20 MS. FOERSTER: Hello, Members of Bureau of Indian
21 Affairs Committee.

22 My name is a Carol Foerster, an active member of the
23 community of Plymouth and Amador County.

T1-48

24 I have worked closely with the Ione Band Miwok Indians
25 and Analytical Environmental Services on the water portion

1 of the EIS for the past four years.

2 Both the Tribe and AES have been caring and
3 professional in working with the land owner of the 137 acres
4 included in the 228 acres of the EIS and the adjacent land
5 where the wells are located.

T1-48
cont.

6 I have been the contact person for the land owner and
7 observed how they have spent enormous time and effort on the
8 water portion of the EIS.

9 When attending meetings in Sacramento and Plymouth, I
10 observed the Tribe and AES's dedication to detail, and I
11 feel every aspect was addressed in the water portion of the
12 EIS.

T1-49

13 Thank you for hearing my comments, and I feel the water
14 portion of EIS is complete.

15 MS. THOMAS: Thank you, ma'am.

16 Our next speaker is Gary Colburn followed by Katrina
17 Lewis.

18 MR. COLBURN: Gary Colburn, Plymouth, California,
19 life-long Main Street resident. Several times member of the
20 Plymouth City Council going back 50 years.

21 MS. THOMAS: Sir, could you speak up?

22 MR. COLBURN: I have followed this process closely from
23 the very beginning five years ago, and I've listened to most
24 of these people you've heard here tonight who don't even
25 live in the city of Plymouth.

T1-50

1 I live here. I'm watching the kids and my neighbors
2 grow up. I am watching the impacts that are taking place on
3 this community. I can say without a doubt I have worked in
4 a casino at Lake Tahoe for 27 years and totally familiar
5 with casino operations, and I support the construction of
6 this casino 100 percent.

7 One of the main reasons being is if this beautiful
8 little town is going to survive, we are going to have to
9 have this casino. The impacts that we have already suffered
10 in this town was this laundering of money, the refusal of
11 our government to listen and debate this issue. Tonight is
12 the first night that I've been to a meeting in this town
13 where it was on the agenda, except for one little short
14 period in the last three years.

15 And I keep hearing these people get up and saying,
16 well, we need more time, and we have to discuss this, and so
17 forth.

18 The Ione Band of Miwok Indians has done everything
19 possible to open dialogues with the authorities of Amador
20 County.

21 When the thing first came up, all the entities of
22 Amador County, transportation, schools, sheriff's
23 department, district attorney, and so forth, got on the
24 bandwagon to stop the casino and blackball any efforts to
25 open dialogues.

T1-50
cont.

T1-51

1 I think today they are paying the price. They talk
2 about traffic, and the figures being mistaken. They said
3 they've been talking about these for the last four years,
4 but today my main concern is I listen to the people with
5 their ethnic problems, their moral issues, the fact that
6 I've watched them degrade Native-Americans to the point of
7 where I hear people on the streets of this town talk about
8 how Native-Americans are not even citizens, it's sickening,
9 it's disgusting, and the Bureau of Indian Affairs and the
10 Interior Department must with a greatest haste for the
11 protection of all the people, the thousand in this town get
12 this casino built.

T1-51
cont.

13 We need your help. We are being torn to shreds in this
14 town and not by the Tribe but by the people who come up to
15 this podium. Thank you.

16 MS. THOMAS: Thank you, sir.

17 Our next speaker is Katrina Lewis followed by Maria
18 Nunez.

19 MS. LEWIS: Good evening. My name is Katrina Lewis,
20 and I am Tribal Council secretary for the Northfork
21 Rancheria Indians.

22 I believe any economic development that will benefit
23 Indian people is a good thing. They are required the
24 Northfork Rancheria supports the Ione Band of Miwok Indians
25 of their casino project.

T1-52

T1-52
cont.

1 Thank you.

2 MS. THOMAS: Thank you, ma'am.

3 Our next speaker is Maria Nunez followed by Glenda
4 Nelson who is the Tribal Chair of the Enterprise Rancheria.

5 MS. NUNEZ: Maria Nunez. A private citizen of Plymouth
6 and member of Concerned Citizens of Plymouth.

7 When this issue came before us in 2003, our concern was
8 never, yes, casino, no, casino. It was the simple issue of,
9 okay, what can this do for Plymouth because even back then,
10 we knew we were in trouble, and we also accepted the fact
11 that in 1988 IGRA law was passed, Native-Americans were
12 given the right to petition for a casino.

T1-53

13 The deciding factor is the Department of Interior.
14 They understand the law. I'm a simple person, use simple
15 language. The Native-Americans were given this right by all
16 American citizens; therefore, we support that. Okay.

17 Now, the issue is the EIS. Again, a simple person
18 living here in Plymouth knows that their waterways have
19 risen beyond being payable by most of the members in this
20 community.

21 The Tribe has offered to work in conjunction with the
22 City to help us with our problems. They have been pushed to
23 the side, but the opportunity was presented.

T1-54

24 We all know that we're paying \$67 of \$55 from two years
25 for our sewage. The Tribe has offered to work in

1 conjunction with the City to address our wastewater problem.

2 We have been in a moratorium since 1984. We need help.
3 We're going to die.

4 The Tribe has proved to be honorable. They have
5 presented themselves proudly before our City Council many
6 times, never offering bribes, never saying, we're going to
7 do this for you. They have simply repeatedly asked: Would
8 you sit down and open a line of communication?

9 I work at the Jackson Rancheria. I heard Mr. Minnis
10 speak about the traffic impacts. Well, I try to get out
11 from work at 11:00 at night, and I see two cars going
12 towards the Rancheria, and I see eight cars heading up
13 further on Ridge Road. Sometimes takes me awhile to get on
14 the road home, so if that study means that all those ten
15 cars are being put toward the Rancheria, well, that's not
16 true.

17 I go to work at 3:00 in the afternoon. There is no
18 traffic on Ridge Road, so I don't know how the studies are
19 done. I don't understand them, but I'm tired of hearing the
20 Jackson Rancheria being blamed for all this impact, so it is
21 up to you to decide how this EIS is because most of us don't
22 understand it.

23 We just know that this town is dying. The Tribe has
24 acted honorably, and we trust you to address the issues with
25 the EIS.

T1-54
cont.

1 I thank you for letting me speak.

T1-54
cont.

2 MS. THOMAS: Thank you, ma'am.

3 Our next speaker is Glenda Nelson, the Tribal
4 Chairperson for Enterprise Rancheria, followed by Joe
5 Colburn.

6 MR. ANGLE: My name is Arthur Angle. I'm Vice-Chairman
7 of Enterprise Rancheria, and I'll speak for Glenda Nelson.
8 She got caught in traffic in Sacramento.

9 As Tribal Chairman of Enterprise Rancheria, we as
10 Tribal Council support the Ione Band of Miwok Indians.
11 Their casino would be very grateful for this community.

12 The EIS Statement is required to have support of
13 Federally-recognized tribes.

T1-55

14 MS. THOMAS: Sir, can you speak into the mic?

15 MR. ANGLE: And we support Federally-recognized -- we
16 support the Ione Band.

17 The Tribal Council of Enterprise Rancheria will send
18 the Bureau of Indian Affairs a resolution supporting this
19 casino and also comps.

20 Thank you, very much.

21 MS. NELSON: Can I say something also?

22 MS. THOMAS: Yes, ma'am.

23 MS. NELSON: My name is Glenda Nelson. I'm the
24 Chairman of Enterprise. This is our Vice-Chair Art.

25 I'd like to say our full Tribal Council is here, and we

T1-56

1 are supportive of the Miwok Band -- I'm sorry -- the Ione
2 Band of Miwok Indians.

T1-56
cont.

3 I think it's important that you know that we as Indian
4 people are supportive of the economic development, and we
5 are supportive of this tribe.

6 Thank you.

7 MS. THOMAS: Thank you, ma'am.

8 Our next speaker is John Colburn, followed by John
9 Morla, and Mr. Colburn is the mayor of the City of Plymouth.

10 MR. COLBURN: Yes. I'm here not representing the City.

11 The City is working very diligently on -- with their
12 staff of trying to review the EIS.

13 I must say that as a member of the Council, was
14 disappointed in the fact that we did ask for an extension of
15 time.

T1-57

16 It's been taking five-and-a-half years or
17 four-and-a-half years to get this EIS to the point it is,
18 and we're only allowed the 70 days in order to respond to
19 it.

20 We did have trouble getting the materials, but we're
21 disappointed in the fact that we weren't given an extension
22 as requested by our Congressman's office.

23 We were also disappointed in reviewing the information
24 supposedly where a supportive party of the application. We
25 got a draft years ago, we wrote about 150 pages worth of

T1-58

1 comments on that draft, and we picked this draft up
2 currently before us and no substantive change. That was
3 disappointing to us.

T1-58
cont.

4 We -- personally myself, they talk about the water
5 issues. Again, we've had a hard time trying to find out
6 even what size casino they're going to build, and what the
7 water issues are going to be in this Draft EIS.

8 You have water numbers all the way from 250,000 gallons
9 a day down to 98,000 gallons a day. It's all over the
10 board. If you go into the water elements, it states
11 different numbers all through this, and I realize they're
12 different alternatives, but it's very unclear what the water
13 issues -- what the real demand is going to be.

T1-59

14 And also there's claims in here about current well
15 issues there and the production of these wells that we know
16 are not truthful, and there's no written material to back it
17 up.

T1-60

18 Also we're very concerned about the traffic element.
19 We had hoped at one time as a cooperating agency that
20 traffic studies would have been done. The City of Plymouth
21 would have been a part of that. Instead the City has gone
22 out and done a traffic study on their own. That's almost
23 complete, and it seems to be in contrast with the
24 numbers that the -- in the traffic study here.

T1-61

25 And it's disappointing also all the numbers in the

T1-62

1 appendices weren't available for us to review in the traffic
2 element, and also that the segment K was missing, and that
3 was the heritage.

T1-62
cont.

4 So a lot of disappointment in this EIS. We are
5 reviewing it. We only have a small staff, and it's going to
6 be expensive for the City, but we needed time, and it
7 appears the Regents is not willing to give us time, so
8 you'll get the answers that we best can give you.

T1-63

9 Thank you.

10 MS. THOMAS: Thank you, very much, sir.

11 Our next speaker is John Morla, and this is the last
12 speaker card that I have.

13 Is there anyone else who would like to speak? Please
14 fill out a speaker card, so that I can acknowledge you.

15 Thank you.

16 MR. MORLA: My name is John. Member of the Ione Band
17 Miwok Indians. I grew up here all my life. The traffic is
18 going to come anyway with or without a casino. It's just
19 going to happen.

20 Me and my family support the casino. I think the City
21 of Plymouth will benefit a lot. I've lived here all my
22 life. Swam in the river here. This is a broke, broke
23 county. They need any kind of help they need and jobs, so
24 we support the casino. Thank you.

T1-64

25 MS. THOMAS: Thank you, sir.

1 Is there anyone else -- okay. Great. I'll wait for
2 those cards to come up.

3 Our next speaker is Henry Olvara, III, followed by
4 Patrick Henry.

5 MR. OLVARA: Hi. I would just like to say I'm a man --
6 member of the Ione Band of Miwok Indians.

7 MS. THOMAS: Sir, could you state your name for the
8 record.

9 MR. OLVARA: Henry Olvara, III, okay.

10 And I hear a lot of people up here, like the gentleman
11 was saying, talking bad about what the Tribe has done to get
12 this rolling and get it going, but what a lot of people
13 don't understand as well we had an opportunity as a tribe,
14 say, about ten years ago to actually get a casino going, get
15 the ball rolling and do what we have to do, and if we would
16 have then, we probably would have already had it going, but
17 we understood as the Tribe that we weren't ready
18 financially, stable.

19 We weren't ready to take that step. We waited. We got
20 our stuff together, as you can say, you know. We -- we
21 wanted to do it the right way. In other words, we wanted to
22 take the time to make sure we did it right.

23 And we as a tribe totally understand everything that
24 comes with that -- with doing it through the community,
25 putting in a casino, and we --

T1-65

1 Like I was saying, we want to have open communication
2 where we can address these issues.

3 Me growing up -- my family would never have a chance to
4 live in an area where our cultural heritage is from. I know
5 a lot of people say that we weren't here, but do the
6 history, and you will find, there's been artifacts, there's
7 been plenty of artifacts found throughout the Plymouth area
8 and the coastal -- the hills.

9 Nonetheless, we as tribal members, as a Band, stick
10 together with all our other tribes, with Jackson, with
11 Shasta, with other tribes. We don't --

12 I heard people talking that we down each other, and
13 whatnot, which is totally not what happens. We help each
14 other. We try to help the community do what we can as a
15 tribe.

16 I myself growing up, we never had a chance -- I never
17 had a dentist growing up because my family never had
18 opportunities to afford a dentist, to afford doctors. We
19 now are barely getting those opportunities.

20 My sister had to pay her whole school, struggling,
21 which is fine too, but we now can actually get in a position
22 to help ourselves.

23 And I know everyone here has made a decision for their
24 family, a financial decision to either go with something to
25 better their family or make a different decision, and this

T1-65

1 is our family, and we're trying to make a decision to better
2 ourselves as a family and better our people, and not only
3 that, better the community and the people within the
4 community.

T1-65
cont.

5 So that's all I have to say. Thanks.

6 MS. THOMAS: Thank you, sir.

7 Last card that I have is Patrick Henry.

8 MR. HENRY: Yes, I'm Patrick Henry, and I live here in
9 Plymouth.

10 I am not going to point out what has been pointed out
11 repeatedly, review of this document in the short amount of
12 time that is provided. It's not unreasonable, but it's
13 impossible. Plus the fact that many things were omitted
14 from the full copy provided to me by the BIA.

T1-66

15 I studied just a very small portion of the Draft EIS,
16 and, in particular, air quality and CO2 emissions. We have
17 pointed out not just now, but we pointed out back in 2003
18 that there's a significant amount of traffic that's added by
19 the casino.

T1-67

20 Coming with that traffic is a thing called CO2
21 emissions. I went through this using the Internet and came
22 up with the fact that this casino, projection of it is going
23 to add 880,000 kilograms of CO2 to our environment.

24 You can combine this with an Article that appeared in
25 the Register Dispatch two weeks ago on the 9th of May where

T1-68

1 it points out that the American Heart Association says --
2 actually it's the American Lung Association, which was
3 verified by the EPA has done a study and shown that Amador
4 County is at the bottom of the list already.

T1-68
cont.

5 The article finally concludes that we need to not add
6 anymore traffic to this community.

7 I would say without a doubt it's interesting that the
8 reason for it is the emissions that are coming from down
9 below our neighboring counties. This was recognized in the
10 EIS, Draft EIS; however that was ignored.

T1-69

11 We are already on the bottom, and the traffic that will
12 be added is going to push us lower, so I just thought I'd
13 point that out. I would have loved to have done more, but I
14 didn't have time.

15 All the reference that are used in the EIS are very
16 old. Most of them are at least -- at least like five or six
17 years old. Everything in the favor of the casino is
18 underestimated, like the traffic, and ignoring what you
19 point out, namely that our neighboring counties are adding a
20 lot of harmful things to our atmosphere and then not doing
21 anything about it I think is wrong, so those are my
22 comments. Thank you.

T1-70

23 MS. THOMAS: Thank you, sir.

24 I have two more cards. Three more. Great.

25 Jerome Encinas, followed by Jacquie Van Huss.

1 MR. ENCINAS: Good evening. Thank you very much for
2 letting me speak tonight.

3 My name Jerome Encinas. I'm from Pioneer, California,
4 I want to say, I fully support the Tribe's endeavors.

5 I seen firsthand what casinos have done from Southern
6 California to Northern California, and not only they help
7 the Tribe to become self-reliant and provide for the people,
8 but I've also seen the growth and stimulus that's done to
9 the community.

T1-71

10 As you guys know, California has got some major budget
11 problems out there, and part of fixing that budget is
12 providing jobs.

13 This casino will provide jobs and allow people -- not
14 just the Tribe, but the regular citizens here to become
15 self-reliant.

16 I thank you in advance for your favorable
17 consideration.

18 MS. THOMAS: Thank you, sir.

19 Our next speaker then is Jacquie Van Huss, who is
20 former Northfork chairperson.

21 MS. VAN HUSS: Good evening. I'm Jacquie Davis Van
22 Huss, and I'm the former Chairperson of Northfork Rancheria.
23 Thank you for letting me speak. Hello, Ione.

T1-72

24 I'm just here to give my support for Ione's economic
25 development project. I have read the EIS and, believe me,

1 I've read numerous EIS's. Ione has mitigated on the
2 negative impacts.

T1-72
cont.

3 Ione is a good tribe. If the community believes that
4 there are issues after the casino will be built, Ione is the
5 type of tribe that will mitigate and take care of any issues
6 that they have -- so I'm just here as a citizen and a
7 Federally-recognized Indian to give my support for this
8 project.

T1-73

9 MS. THOMAS: Thank you, ma'am.

10 Our next speaker is Jon Colburn followed by Thomas
11 Lozano.

12 MR. COLBURN: I hope everybody has got their
13 turn and --

14 MS. THOMAS: No, sir.

15 MR. COLBURN: You said we can -- you want me to wait?

16 MS. THOMAS: I would appreciate that, sir, and I will
17 let you know when the people can come up who have already
18 spoke. Thanks. I appreciate it.

19 Thomas Lozano then, followed by, I believe, Gayle
20 Risberg also spoke, but after Thomas Lozano, I'll give some
21 clarification. Thank you.

T1-74

22 MR. LOZANO: Good evening. My name is Thomas Lozano,
23 and I'm the Tribal Council for Enterprise Rancheria. We are
24 here in fully support of the economic development project
25 that the Miwok Indians are currently pursuing. We believe

1 in their EIS, in support of their EIS. We've read through
2 it thoroughly.

T1-74
cont.

3 Again, we're a Federally-recognized tribe since 1915,
4 locally recognized tribe since 1915 who fully support this
5 project.

6 Also for everyone here, I would like for them to
7 represent this hearing fairly by also taking the opportunity
8 to interview Matt Franklin on his thoughts about this
9 project.

T1-75

10 Thank you for your time, and have a great evening.

11 MS. THOMAS: Thank you, sir. Okay.

12 Do we have any speakers who have not had a chance to
13 speak and would like to add their comments that have not
14 been addressed already this evening? Okay.

15 If not, I would like to open up the floor to those
16 people who have spoke already who would like to complete
17 their comments, and if they have any additional information
18 that has not already been brought up.

19 Thank you.

20 Mr. John Colburn.

21 MR. COLBURN: Yeah. Sorry about that. Three minutes
22 was short.

23 Back in 2003 one of the issues I brought before the
24 scoping session at that time was the impact on our schools,
25 and we're talking anywhere here -- we still get numbers in

T1-76

1 from 1,500 to 2,000 employees.

2 The housing is not here, but the housing will come.
3 The housing has come in Jackson, Jackson Rancheria. There's
4 been no provisions in the CIF's or no studies done on the
5 impact on our schools. It's very dear to my heart because I
6 have grandkids in our school system. Our school --

T1-76
cont.

7 Property here is currently at -- maxed out and in
8 temporary buildings, and there's just no provisions for the
9 schools and educating the added employees.

10 As you know, most of the employees in the casino
11 industry are younger family, entry-level people and have
12 most amount of kids. We expect with 2000 employees we're
13 probably going to have somewhere between 4 and 600 kids.

14 Now, notably they're not all in Plymouth, but a
15 majority of them, eventually the housing will come here, and
16 there's no provisions for building added schools and the
17 school rooms that are needed for that.

T1-77

18 And the current money that is available through
19 property taxes just is not paying for the needs of the
20 education of the students and the County.

T1-78

21 So that is a major, major impact that has been
22 completely ignored in this EIS, and I wish you would take a
23 look at it.

T1-79

24 MS. THOMAS: Thank you, sir.

25 Gayle Risberg, please. Did Ms. Risberg leave or --

1 MS. RISBERG: I decline.

2 MS. THOMAS: Thank you, ma'am.

3 MS. NELSON: Hello. As you know, I spoke once. My
4 name is Glenda Nelson, and I think I can shed some light on
5 the subject that was just brought up.

6 Not only am I a chairperson of a Rancheria, I am a
7 business manager of a public school, and we are in an area
8 where we have two casinos, and the public schools system is
9 very important to the Indian people. Education is our top
10 priority.

11 In the Oroville area, the casinos donate more than any
12 other business to our public school system. I can tell you
13 they put roofs on schools. They've helped enormous amount
14 of children, and we actually have gone into consortium for
15 higher education. We have a lot of fairs.

16 There's an enormous amount of stuff that we as Indian
17 people do for all children, not just for the Native-American
18 children.

19 You don't see a lot of publication about it because we
20 don't need the tax write-off, and I think that it is really
21 amazing that a lot of people don't understand how much
22 education means to us; that we're deprived from education.
23 A lot of our elders didn't have an opportunity to be
24 educated, so thank you very much.

25 MS. THOMAS: Thank you, ma'am.

T1-80

1 Is there anyone else who already spoke who has
2 information that has not already been discussed here this
3 evening?

4 MR. COLBURN: Gary Colburn, Plymouth, California.

5 I meant to tell you that I had another commentary point
6 in the County's only official newspaper, and I will be
7 sending a copy of that to you, pretty much explains
8 everything I feel about this.

T1-81

9 As far as the school issue is concerned, people that go
10 to casinos don't bring their kids with them, and we have a
11 school problem at this point in time, but I must remind you
12 and everybody in this room that when this matter was first
13 presented by Ione Band of Miwok Indians, the School Board
14 was one of them that refused to even discuss the matter with
15 a tribe, as was all the other agencies in Amador County.

T1-82

16 It's kind of like crying wolf at the last minute. What
17 my basic fear is is that the longer they stall this
18 situation, the more hopeful they are of destroying this
19 casino. Plymouth needs this casino. Thank you.

20 MS. THOMAS: Thank you, sir.

21 Is there anyone else who has already spoken who needs
22 additional time?

23 MS. NUNEZ: Thank you.

24 With all the --

25 MS. THOMAS: Please state your name.

1 MS. NUNEZ: Maria Nunez. Citizen of Plymouth.

2 There's been so many false facts presented that I hate
3 to disagree with both Mr. Colburns this evening.

4 When the school issue was addressed and when the Tribe
5 first came to the City Council in April of 2003, they in the
6 original MSA had placed a hundred thousand dollars to the
7 School District.

8 The City received the letter from Mr. Carry, and who
9 was then the -- whatever they call them -- Board of
10 Directors of the school, whatever they call them, but he
11 very politely thanked the Ione Band of Miwok Indians for the
12 contribution, but since their leaders were the Board of
13 Supervisors, he was told to regretfully decline that hundred
14 thousand dollars, but if in the future the opportunity arose
15 for them to make that offer again, he would be very happy to
16 speak with Mr. Franklin and the Tribe, and that is on record
17 in the City Hall in letter form. Thank you.

T1-83

18 MS. THOMAS: Thank you, ma'am.

19 I see we have one more speaker.

20 MR. MINNIS: Dick Minnis. I just want to comment that
21 I think it's an indicative process if you observed it from
22 the back. That the majority of the speakers came up and
23 said I'm for or I'm against, and there are very few people
24 who have had the opportunity to comment on statistical data,
25 which was what this meeting was supposed to be about, the

T1-84

1 Environmental Impact Statement.

2 I commented on the inadequacies of the traffic study.
3 I didn't come up here emotionally saying yes or no for the
4 casino. It was supposed to be about the Environmental
5 Impact Statement.

T1-84
cont.

6 Most of us who had the data were limited to three
7 minutes, and the rest of this seems to be a cheerleading
8 show or people opposed to it voicing their emotions.

9 That defeats the purpose of what this meeting was
10 supposed to be about, and I think it's indicative of the
11 fact that you didn't give enough copies of EIS to be read by
12 the public so germane comments could be made.

T1-85

13 I have one other small issue on the traffic that I
14 forgot to mention.

15 AES, after coming up with their own methodology by
16 saying, there was no published way to count traffic for
17 casinos, then references the SANDAG method, which is how the
18 Buena Vista casino did it. That data was available by AES,
19 but by not using it, they undercounted the traffic for this
20 casino by over 5,800 cars. That's a serious flaw.

T1-86

21 MS. THOMAS: Thank you, sir.

22 MR. COLBURN: I just want to express, again and
23 Mr. Minnis has given you a perfect example of why I say this
24 is a fraudulent process.

T1-87

25 It's misinformation being put out there. The other

T1-88

1 thing I would like to point out is I believe that having the
2 Pacific Region EIA office as the lead agency presents in my
3 opinion a huge conflict of interest.

4 Some other office ought to be the lead agency here, and
5 I won't go into detail, but I think everybody at that panel
6 knows the history there and the possible conflict of
7 interest.

8 MS. THOMAS: Thank you, sir.

9 If there are no other speakers who wish to speak
10 tonight and present information that has not already been
11 presented tonight, that would then conclude this meeting.

12 And what I would like to do at this point then is to
13 remind you that you may send in your written comments by the
14 end of the comment period, which is July 2nd, and at this
15 point I would like to ask Mr. Franklin to come up and say a
16 few words before we say good night.

17 MR. FRANKLIN: We would like to thank everyone for
18 coming out tonight to share their comments, and, although,
19 we do know this is a public comment period run by the Bureau
20 of Indian Affairs, it was specifically for the EIS process.

21 Please be aware the Tribe is listening. We'll do our
22 best to be the best neighbors in the community, and we will
23 continue to outreach to Local elected officials, State
24 elected officials and Federal officials to make sure that we
25 do the right thing for the community and for the Tribe.

T1-88
cont.

1 That we look at all the impact that we're going to
2 bring and continually try to address our concerns with our
3 agency working for us.

4 So, again, we like to thank you for coming, and please
5 be well aware that we will take the comments and concern and
6 do our best to address them and also be good neighbors.

7 Thank you and good night.

8 MS. THOMAS: Thank you.

9 Then this concludes our meeting.

10 (Proceedings concluded at 7:26 p.m.)

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REPORTER'S CERTIFICATE.

I, CATHERINE D. LAPLANTE, a Certified Shorthand Reporter for the State of California, do hereby certify:

That I am a disinterested person herein. That the foregoing hearing was reported in shorthand by me, CATHERINE D. LAPLANTE, a Certified Shorthand Reporter of the State of California, and thereafter transcribed into typewriting; that the foregoing is a true and correct record of the proceedings given.

IN WITNESS WHEREOF, I hereby certify this transcript at my office in the County of Placer, State of California, this 23rd day of June, 2008.



CATHERINE D. LAPLANTE, CSR #10140

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RESPONSE TO COMMENTS

PUBLIC HEARING

T1-01 Comment noted.

T1-02 **Section 1.0** of the DEIS accurately identifies that the Tribe is currently landless and is eligible to have the Department of the Interior (DOI) accept land into federal trust on behalf of the Tribe. Tribal Resolution 2005-19 (passed on November 16, 2005) acknowledges that the approval of the fee-to-trust application would establish the Tribe's initial reservation. As such, the comment is incorrect in the assertion that the Tribe has an existing reservation and no further analysis is warranted. Also, refer to response to **Comment L2-09**.

T1-03 The language in **Section 1.0** of the FEIS was revised to reflect that the Tribal Constitution was adopted by the General Council on August 10, 2002.

T1-04 Pursuant to CEQ Regulations 40 C.F.R Section 1508.22, the BIA published a Notice of Intent (NOI) in the *Federal Register* on November 7, 2003, which initiated the 30-day public scoping period ending on December 8, 2003. The scoping process is a public disclosure process that identifies the scope of topics and significant issues to be analyzed in the EIS (40 C.F.R. 1508.58). The BIA held an initial public scoping meeting on the Draft EIS on November 19, 2003 at the Amador County Fairgrounds. On January 20, 2004 the BIA published a supplemental NOI in the *Federal Register* announcing a second public comment period from January 20, 2004 to February 20, 2004. A second scoping hearing was held on February 4, 2004 also at the Amador County Fairgrounds. All comments received during scoping were incorporated into the March 2004 Scoping Report and were considered in the analysis of alternatives included in the DEIS. A description of the Proposed Project is provided in **Section 2.0** of the DEIS.

T1-05 As outlined in response to **Comment L2-96**, changes were made in **Sections 3.5** and **4.5** of the FEIS to clarify the nature of biological surveys conducted. The language in **Section 5.2.5** the FEIS has been revised to clarify the protocols to be utilized during pre-construction surveys. Pre-construction biological surveys will be conducted prior to the initiation of construction activities including ground disturbance or tree removal, and shall be performed with respect to flora and fauna blooming, breeding, nesting, or

migration seasons, as required by the U.S. Fish and Wildlife Service (USFWS) and outlined in **Section 5.2.5**.

T1-06 Refer to response to **Comment T1-05**. **Section 4.5** of the DEIS identifies potential impacts to migratory bird and raptor species, and in **Section 5.2.5 (O)** of the DEIS mitigation is provided to reduce these impacts. The mitigation identified in the DEIS would reduce potential impacts to migratory bird species (including raptors) to a less than significant level.

T1-07 The following agencies were consulted during the preparation of the EIS:

- USDA Natural Resources Conservation Service (NRCS)
- U.S. Environmental Protection Agency (USEPA), Region 9
- U. S. Army Corps of Engineers (USACE), Sacramento District
- U.S. Fish & Wildlife Service (USFWS), Region 1
- U.S. Indian Health Service
- Ione Band of Miwok Indians
- Amador County
- City of Plymouth

Development of the project will not occur until the project site is taken into trust. At that time, jurisdiction would be with the Tribe and federal agencies. Contrary to the comment, **Section 1.0** of the DEIS identifies the following State approvals that would be required upon approval of a Preferred Alternative:

- Consultation with the California State Office of Historic Preservation, (i.e. State Historic Preservation Officer (SHPO)) under Section 106 of the National Historic Preservation Act.
- The Office of the Governor would approve the Tribal State Gaming Compact.
- Caltrans approval of an Encroachment Permit to permit the construction of improvements along the property frontage with Highway 49.

T1-08 **Table 1-1** of the DEIS identifies federal and State permits and approvals that would be required upon approval of a Preferred Alternative. Some permits and approvals cannot be obtained until a project is approved and final designs are completed.

T1-09 Refer to the response to **Comment T1-07** regarding Tribal sovereignty and the applicability of State and local policies and procedures to trust lands. CEQ directs all federal agencies to include in an EIS the appropriate means to mitigate adverse environmental impacts (40 C.F.R 1502.16(h)). Recommended mitigation measures are

included in **Section 5.0** of the FEIS. CEQ also requires that a Mitigation Monitoring and Enforcement Plan (MMEP) be adopted and summarized in the Record of Decision (ROD) (40 C.F.R. 1505.2(c)).

- T1-10** Refer to the response to **Comment T1-04** for a discussion of the adequacy of the project description and **Comment T1-08** regarding requests for additional will serve letters to be provided in the FEIS.
- T1-11** Cumulative environmental effects are discussed in detail in **Section 4.11** of the DEIS. The timeframe of the cumulative effects analysis extends to 2025 and beyond. The purpose of the cumulative effects analysis, as defined by the CEQ, is to ensure that federal decisions consider the full range of consequences. To capture ongoing development projects in Amador County, the cumulative analysis provided in **Section 4.11** of the DEIS addresses residential and commercial growth as identified in regional growth projections and local land use plans. As discussed in **Section 4.11** of the DEIS, Amador County identified parcels available for residential development near Martell, Jackson, Ione, Sutter Creek, Plymouth, Camanche Village, Pioneer, and Pine Grove (Amador County, 2005). Much of this development would be infill in existing subdivisions and residential areas. Nevertheless, the development of these parcels was accounted for in the cumulative environment for the analysis of traffic, air quality, and other relevant issue areas. Refer to the response to **Comment S4-03** regarding the cumulative environment discussed in the revised TIA.
- T1-12** Comment noted. Socioeconomic impacts of the Proposed Project and project alternatives are identified in **Section 4.7** of the DEIS.
- T1-13** Refer to response to **Comment P12-3** and response to **Comment P12-4** regarding trip generation rates identified in the DEIS.
- T1-14** Refer to response to **Comments P12-4** and **P12-5**, regarding the methodology use in the Traffic Impact Assessment (TIA) and the SANDAG methodology.
- T1-15** Refer to response to **Comment P12-44**.
- T1-16** Refer to response to **Comments P12-4** and **P12-5** regarding the methodology use in the TIA and the SANDAG methodology.
- T1-17** Refer to **Comments P12-18** and **P12-23**, regarding revisions made to the TIA.

- T1-18** Growth rates are identified in **Section 4.8** and **Section 4.11** of the FEIS. The comment references a 2.2 percent annual growth rate based on Caltrans historical data that was applied to turning movement counts to generate the 2006 EPAP turning movement volumes. The revised TIA includes annual growth rates for Amador, Sacramento, San Joaquin, and El Dorado counties of 3 percent, 2.5 percent, 3.5 percent, and 1 percent, respectively. These growth rates were applied to the Phase I ADT roadway volumes to determine Phase II and cumulative conditions. The language in the FEIS was revised accordingly.
- T1-19** Refer to **Comments P12-18** and **P12-23** regarding revisions made to the TIA. The DEIS CD was distributed as an alternative to the paper hard copy of the DEIS. As stated in the Notice of Availability (NOA) of the DEIS, hardcopies were available at the Amador County Library, Jackson Main Library, and the City of Plymouth Clerk's Office for review. The document was also made available on the internet at www.ioneeis.com. The County office would not have a CD copy to distribute, as it is the responsibility of the Lead Agency to distribute the document. Refer to the responses to **Comment Letter S1** regarding the DEIS comment period.
- T1-20** No response required.
- T1-21** No response required.
- T1-22** The project site parcels are currently owned by various entities under the control of the Tribe and/or its development partners. Prior to trust acquisition, the Tribe will acquire the land in fee title. The Tribe is aware that the Secretary will require the Tribe to furnish title evidence to determine any encumbrances on the land and the extent to which those encumbrances may or may not interfere with the Tribe's planned use of the land.
- T1-23** No response required.
- T1-24** Refer to response to **Comment T1-19**.
- T1-25** In keeping with BIA policy to ensure equal opportunity to speak, commenters were restricted to three minutes during the public hearing, but were allowed more time after all those who spoke were given a chance to comment. As shown in the transcripts provided as **Comment T1**, the BIA facilitator asked if any further commenters wished to speak prior to closing the meeting. Furthermore, pursuant to 40 CFR Section 1503.1, the public was given the opportunity to submit written comments on the DEIS for a 75-day comment period, which is 30-days longer than the 45-day comment period required by NEPA.

- T1-26** No response required.
- T1-27** No response required.
- T1-28** Refer to response to **Comment T1-04**.
- T1-29** No response required.
- T1-30** No response required.
- T1-31** **Section 3.6.4**, page 3.3-6 of the DEIS provides an accurate and thorough discussion of the Tribe's ancestral ties to the project area.
- T1-32** Refer to response to **Comment T1-22** regarding the ownership of the project site parcels.
- T1-33** The information requested is relevant to the Fee-to-Trust application, which is a related but separate process. No response is required. Refer to the responses to **Comment Letter S1** regarding the DEIS 75-day comment period.
- T1-34** Comment noted. All written comment received were responded to within the appropriate sections of the DEIS.
- T1-35** Refer to the responses to **Comment Letter S1** regarding the length of the DEIS public comment period.
- T1-36** The NOAs that were mailed to interested parties in part, as determined by comments received during the scoping process. The BIA is conscious of costs attributed to all parties involved in the development of the DEIS. Refer to response to **Comment T1-19**.
- T1-37** Refer to the response to **Comment T1-36** and responses to **Comment S1**. As noted, interested parties could contact the BIA to obtain a copy of the DEIS. The DEIS was also made available on the Internet at www.ioneis.com, which can be accessed 24-hours a day.
- T1-38** Refer to response to **Comment T1-19** regarding the distribution of the DEIS.
- T1-39** Refer to the responses to **Comment Letter S1** regarding the response to Congressman Lungren's letter.

- T1-40** Refer to the response to **Comment T1-25** regarding the three-minute time limit utilized to ensure equal opportunity among those who wished to comment at the public hearing.
- T1-41** No response required.
- T1-42** Socioeconomic impacts are identified in **Sections 4.7** and **4.11** and mitigation is recommended in **Section 5.0** of the DEIS. Comments concerning popular support for gaming do not have bearing on the NEPA process.
- T1-43** Refer to response to **Comment T1-02** regarding the Tribe's status as a landless tribe.
- T1-44** Refer to response to **Comment L2-234**.
- T1-45** Refer to response to **Comment L2-234** regarding the Tribe's commitment to fire safety.
- T1-46** Refer to response to **Comment L2-234** regarding the Tribe's commitment to fire safety.
- T1-47** Refer to response to **Comments T1-44** and **T1-46** regarding the Tribe's commitment to fire safety.
- T1-48** No response required.
- T1-49** No response required.
- T1-50** No response required.
- T1-51** No response required.
- T1-52** Beneficial socioeconomic impacts of the Proposed Project are identified in **Sections 4.7** and **4.11** of the DEIS.
- T1-53** Refer to response to **Comment T1-01**. Project-related impacts to water resources are identified in **Sections 4.3** and **4.11** of the FEIS.
- T1-54** As discussed in **Section 2.0** of the DEIS, the Tribe will develop an on-site wastewater system. Meeting the water demand of the project alternatives is discussed in **Section 2.0**, while potential environmental consequences are discussed in **Sections 4.3** and **4.9** of the FEIS. The existing transportation network, traffic generated by the project alternatives, and potential impacts are addressed in **Sections 3.8** and **4.8** of the FEIS. Mitigation

recommended in **Section 5.0** of the FEIS would reduce significant impacts to less than significant levels.

T1-55 No response required.

T1-56 No response required.

T1-57 Refer to the responses to **Comment Letter S1** regarding the BIA's response to Congressman Lungren's letter.

T1-58 In accordance with 40 CFR 1501.6(a)(2), lead agencies should utilize the recommendations of cooperating agencies with jurisdiction or special expertise to the maximum extent possible, consistent with their own responsibilities as lead agency. All substantive comments submitted by cooperating agencies during preliminary review were considered during the preparation of the DEIS. As appropriate, substantive comments were addressed through modifications to the text and analysis included within the DEIS. Consistent with its responsibility as lead agency, the BIA appropriately utilized the comments and recommendations submitted by cooperating agencies to the maximum extent possible. However, not every comment received from cooperating agencies warranted further analysis or revisions in the DEIS. Additionally, when subsequent analysis was conducted, the outcome did not always lead to the conclusions stated by commenters. Regardless, every comment received during preliminary review of the DEIS was considered by the BIA prior to release of the DEIS.

T1-59 As discussed in **Section 2.0** of the DEIS, water demands include water for potable and non-potable uses. Based on the commitment by the Tribe to maximize recycled water use, the FEIS has been clarified to address how each project alternative would meet potable and non-potable demands. A Water and Wastewater Feasibility study was included as **Appendix B** of the DEIS which further explains the estimated water demand of the project alternatives. **Sections 4.9** and **4.11** of the FEIS identify impacts of the Proposed Project and project alternatives on water resources. Mitigation is provided in **Section 5.2.3** to reduce potential impacts to less than significant levels.

T1-60 The production rate of the groundwater wells was determined through an engineering study which included testing of the wells (**Appendix C** of the FEIS). As discussed in response to **Comment F1-05**, the pumping tests to determine long-term well yields were performed using established procedures and analysis by a California Registered Engineer. The pumping tests were performed in the test wells while groundwater was being extracted from the City of Plymouth's wells. Therefore, the response of the aquifer and results of the pumping tests reflect the effects of pumping from the City of Plymouth's

wells, which would be reduced after completion of the Plymouth Pipeline Project. These results were used to calculate the long-term yield values.

- T1-61** A site specific TIA dated July 2005 was prepared for the DEIS and was included as **Appendix M** of the DEIS. An updated traffic study, dated October 2008, was prepared that includes updated traffic information and additional intersections and roadway segments. This revised TIA is included as **Appendix M** of the FEIS. The City's traffic study has not been submitted to the BIA nor has it identified any errors in the TIA included in the DEIS. As such, no further analysis is required.
- T1-62** It is unclear what the comment referred to regarding 'Segment K'. A complete version of the EIS including the TIA appendix is available upon request from the BIA as well as on the Internet at www.ioneeis.com. Refer to the response to **Comment L2-124** regarding the exclusion of sensitive information from the public version of the DEIS.
- T1-63** Comment noted. Refer to the responses to **Comment Letter S1** regarding the length of the DEIS public comment period.
- T1-64** Beneficial socioeconomic impacts of the Proposed Project are identified in **Sections 4.7** and **4.11** of the DEIS.
- T1-65** Comment noted.
- T1-66** Comment noted.
- T1-67** Comment noted. URBEMIS 9.2.4 was used to update the air quality emission estimates identified in **Section 4.11** of the DEIS. The URBEMIS 9.2.4 air quality model includes emission factors for CO₂, and **Section 4.11** of the FEIS provides CO₂e emission estimates for the proposed project.
- T1-68** The environmental setting and environmental impacts of the Proposed Project on air quality are identified in **Section 3.4** and **Section 4.4** of the FEIS, respectively. Mitigation to reduce project-related impacts to air quality is provided in **Section 5.0** of the FEIS.
- T1-69** Comment noted. **Section 3.4** of the FEIS discusses impacts that the Sacramento Valley has on the local air quality in Amador County. Refer to response to **Comment T1-67** regarding the air quality impact analysis included in the FEIS.
- T1-70** Comment noted. A revised TIA is provided as **Appendix M** of the FEIS and applicable language in **Sections 4.4, 4.8, and 5.0** of the FEIS has been revised accordingly.

Mitigation measures are provided in **Section 5.0** of the FEIS that would reduce or eliminate air quality and traffic impacts.

- T1-71** Beneficial socioeconomic impacts of the Proposed Project are identified in **Sections 4.7** and **4.11** of the FEIS.
- T1-72** Mitigation is recommended in **Section 5.0** of the FEIS.
- T1-73** No response required.
- T1-74** No response required.
- T1-75** No response required.
- T1-76** **Section 4.7** of the FEIS identifies impacts to local schools. Refer to response to **Comment L2-154** regarding mitigation to be provided by the Tribe to the Amador County Unified School District to reduce potential impacts to a less than significant level.
- T1-77** Refer to response to **Comment T1-76** regarding impacts to local schools.
- T1-78** Refer to response to **Comment T1-76** regarding impacts to local schools.
- T1-79** Refer to response to **Comment T1-76** regarding impacts to local schools.
- T1-80** No response required.
- T1-81** No response required.
- T1-82** No response required.
- T1-83** No response required.
- T1-84** No response required.
- T1-85** Refer to response to **Comment T1-25** regarding the procedures for giving oral comments at the DEIS public hearing. Refer to response to **Comment T1-19**.
- T1-86** Comment noted. The DEIS used traffic counts completed in 2004 to develop a project specific trip generation rate (refer to **Section 4.8** of the DEIS). The SANDAG trip generation rate was used to identify traffic impacts created from the Proposed Project and

project alternative's traffic interaction with traffic from the Buena Vista casino. An underestimation of 5,800 vehicles per day is unsubstantiated. An updated TIA is included as **Appendix M** of the FEIS.

T1-87 No response required.

T1-88 The EIS was prepared by the BIA with assistance of a third-party consultant consistent with CEQ regulations and the BIA's NEPA Handbook (59IAM3).

ATTACHMENT I

ARCHITECTURAL VIEWSHEDS

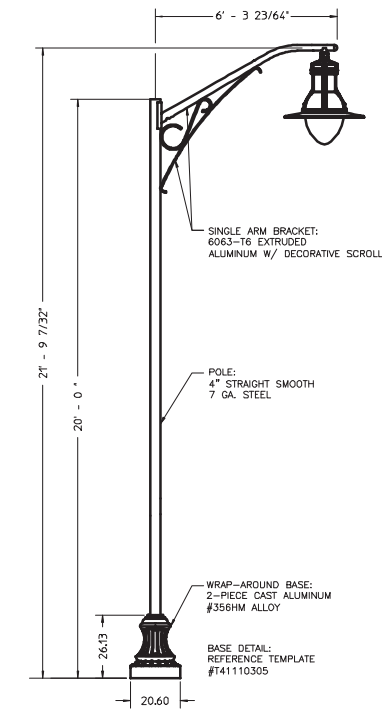
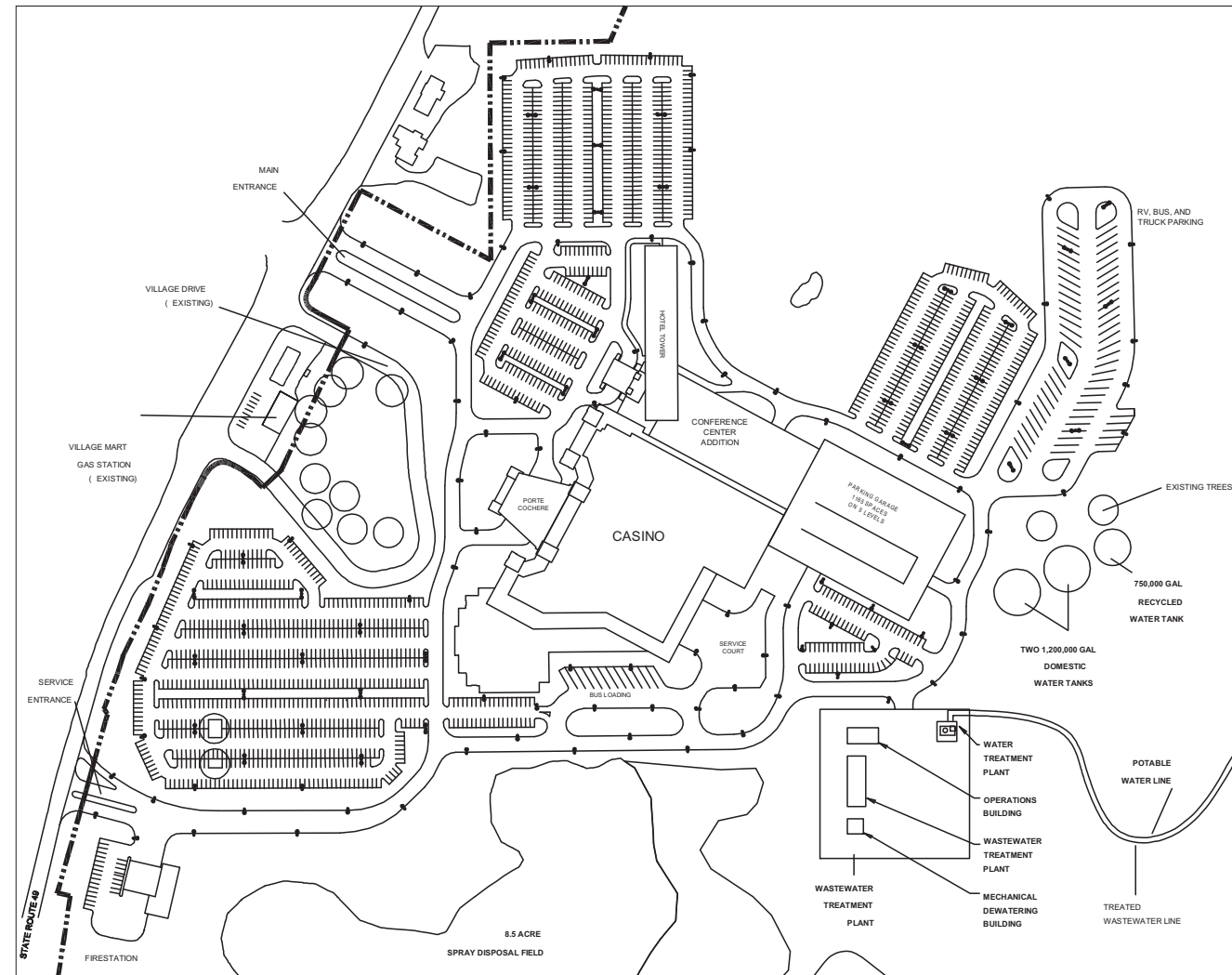
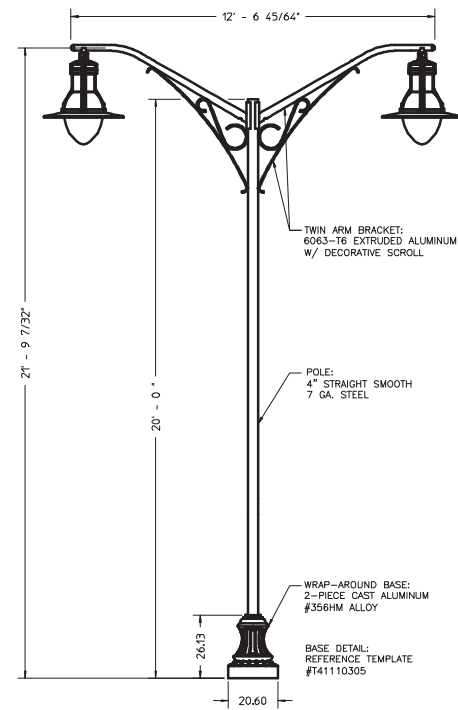






ATTACHMENT II

PROPOSED LIGHTING PLAN



Calculation Data

Calculation Summary						
Label	CalcType	Units	Avg	Max	Min	Avg/Min
Village Drive	Illuminance	Fc	2.41	9.2	0.5	4.82
Large Parking Lot	Illuminance	Fc	2.90	9.6	0.5	5.80
Upper Parking Lot	Illuminance	Fc	2.70	8.9	0.4	6.75
Hotel Tower Parking Lot	Illuminance	Fc	2.94	10.4	0.4	7.35
Conference Center Parking Lot	Illuminance	Fc	3.11	12.5	0.4	7.78
RV-Bus Parking Lot	Illuminance	Fc	2.53	9.5	0.5	5.06
Bus Loading & Parking	Illuminance	Fc	2.05	9.5	0.4	5.13
Service Court	Illuminance	Fc	1.98	10.4	0.2	9.90
Service Court Area Parking	Illuminance	Fc	2.56	10.1	0.2	12.80
Main Entrance	Illuminance	Fc	2.14	8.3	0.3	7.13
Porte Cochere	Illuminance	Fc	2.64	9.6	0.5	5.28
Firestation	Illuminance	Fc	2.65	10.3	0.1	26.50
Service Entrance Road	Illuminance	Fc	2.35	10.6	0.2	11.75
Lower Main Entrance Rd	Illuminance	Fc	2.55	10.0	0.4	6.38
Upper Main Entrance Rd	Illuminance	Fc	2.72	10.2	0.2	13.60

Luminaire Schedule						
Symbol	Qty	Label	Arrangement	Lumens	LLF	Description
⦿⦿	40	B	BACK-BACK	40000	0.830	TF9, 400W MH, TYPE V, BACK TO BACK, 22' MH
⦿	B7	A	SINGLE	40000	0.830	TF9, 400W MH, TYPE III, GL, 22' MH

SITE LIGHTING DESIGN NARRATIVE:

THE SITE LIGHTING PLAN INDICATES DESIGN INFORMATION REGARDING THE TYPE AND NUMBER OF THE LIGHT STANDARDS, COVERAGE AND AVERAGE LIGHTING LEVELS PER SQUARE FOOT.

THE SITE LIGHTING DESIGN WILL CONFORM WITH THE REQUIREMENTS OF THE 2006 CALIFORNIA CODE AND THE CITY OF PLYMOUTH DESIGN GUIDELINES SPECIFIED IN THE "1997 DOWNTOWN REVITALIZATION STRATEGY", AND CHAPTER 19.50 OF THE PLYMOUTH MUNICIPAL CODE.

THE SITE LIGHTING STANDARDS SHALL BE OF VINTAGE TYPE IN COMPLIANCE WITH THE CITY OF PLYMOUTH GUIDELINES FOR REINFORCING THE HISTORIC ARCHITECTURAL FEATURES ENVISIONED BY THE CITY.

LUMINAIRE SHALL HAVE PRISMATIC REFLECTOR REDIRECTING LIGHT TO MAXIMIZE EFFICIENCY AND LIMIT GLARE. A DECORATIVE SKIRT DEFINE LUMINAIRE SHAPE TO ACHIEVE IESNA, CUTOFF OPTIC REQUIREMENTS.

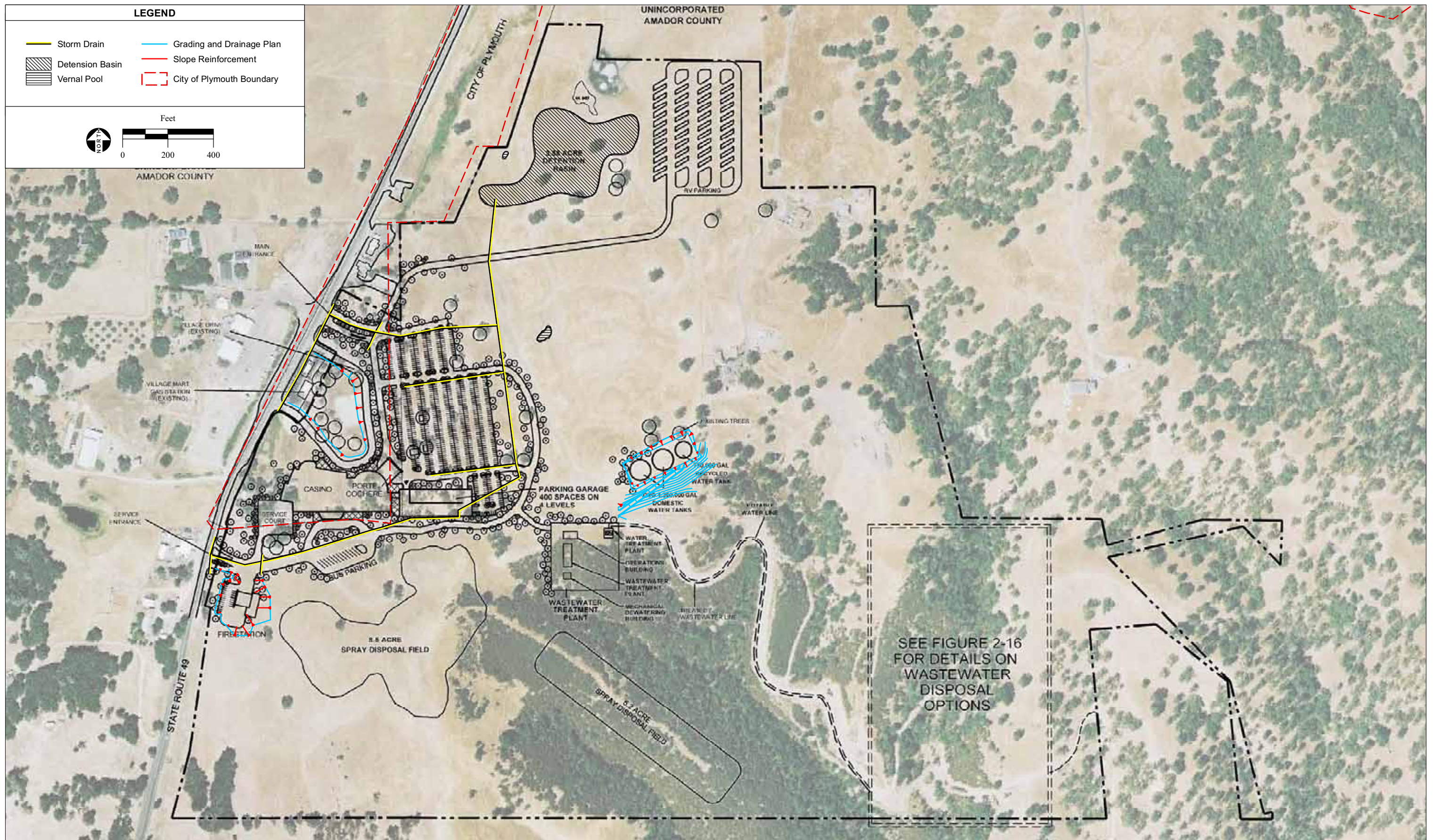
HIGH EFFICIENCY HPS OR METAL HALIDE LAMPS.

DARK BRONZE POLE DESIGN SHALL COMPLEMENT THE LUMINAIRE AND THE CITY ARCHITECTURE HISTORIC GUIDELINES.

SURFACE PARKING	720,000 SF	0.07 - W/SF (Average)
ROAD	244,000 SF	0.09 - W/SF (Average)

ATTACHMENT III

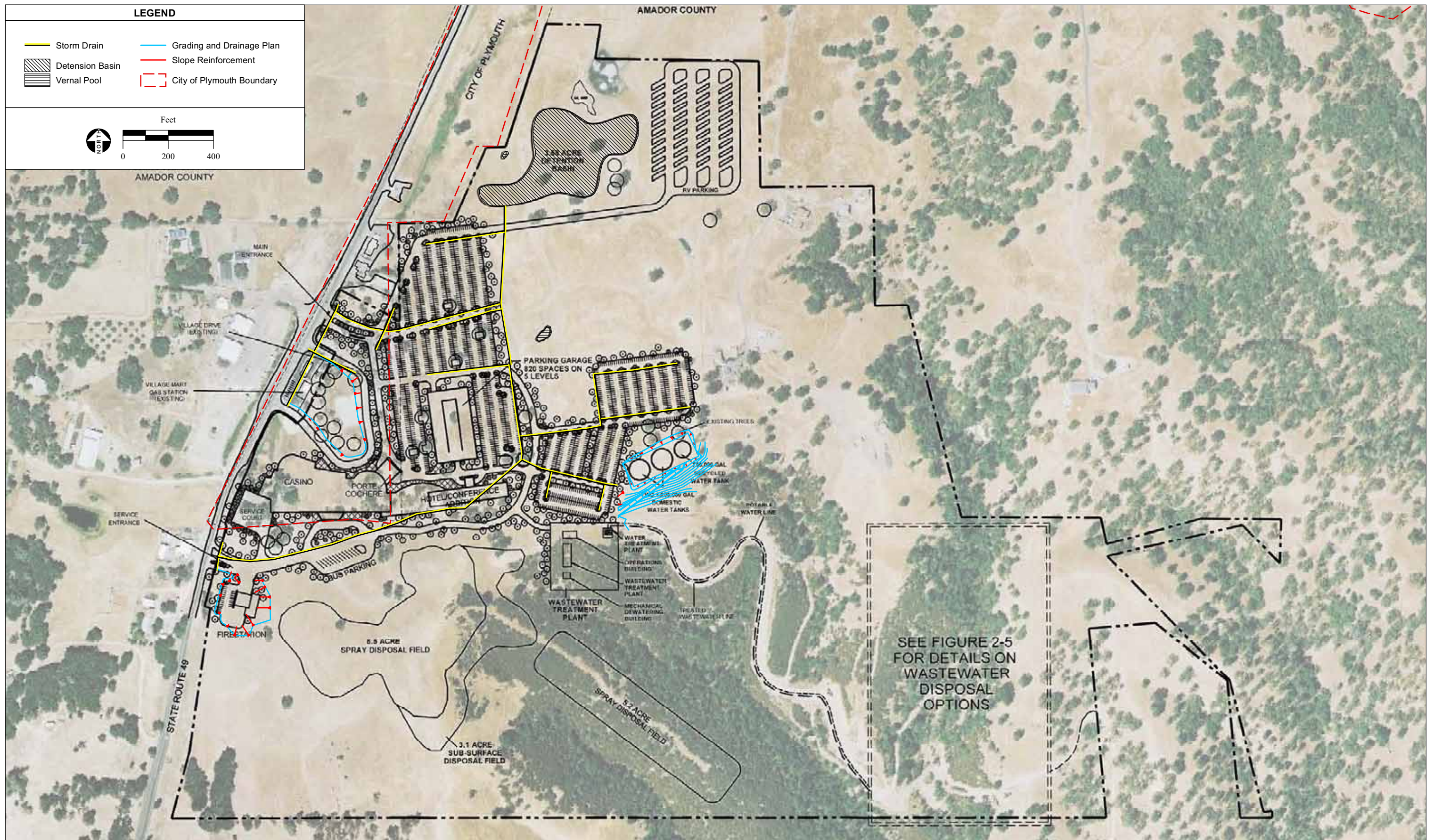
UPDATED GRADING AND DRAINAGE PLANS – ALTERNATIVES A THROUGH C



SOURCE: Airphoto USA Aerial Photograph, 11/1/2002; American Aerial Mapping, 2003; Claybar Engineering, 2004; Thalden Boyd Emery Architects, 2008; AES, 2009

Ione Band of Miwok Indians EIS / 203525 ■

Figure 7
Alternative C - Grading and Drainage Plan

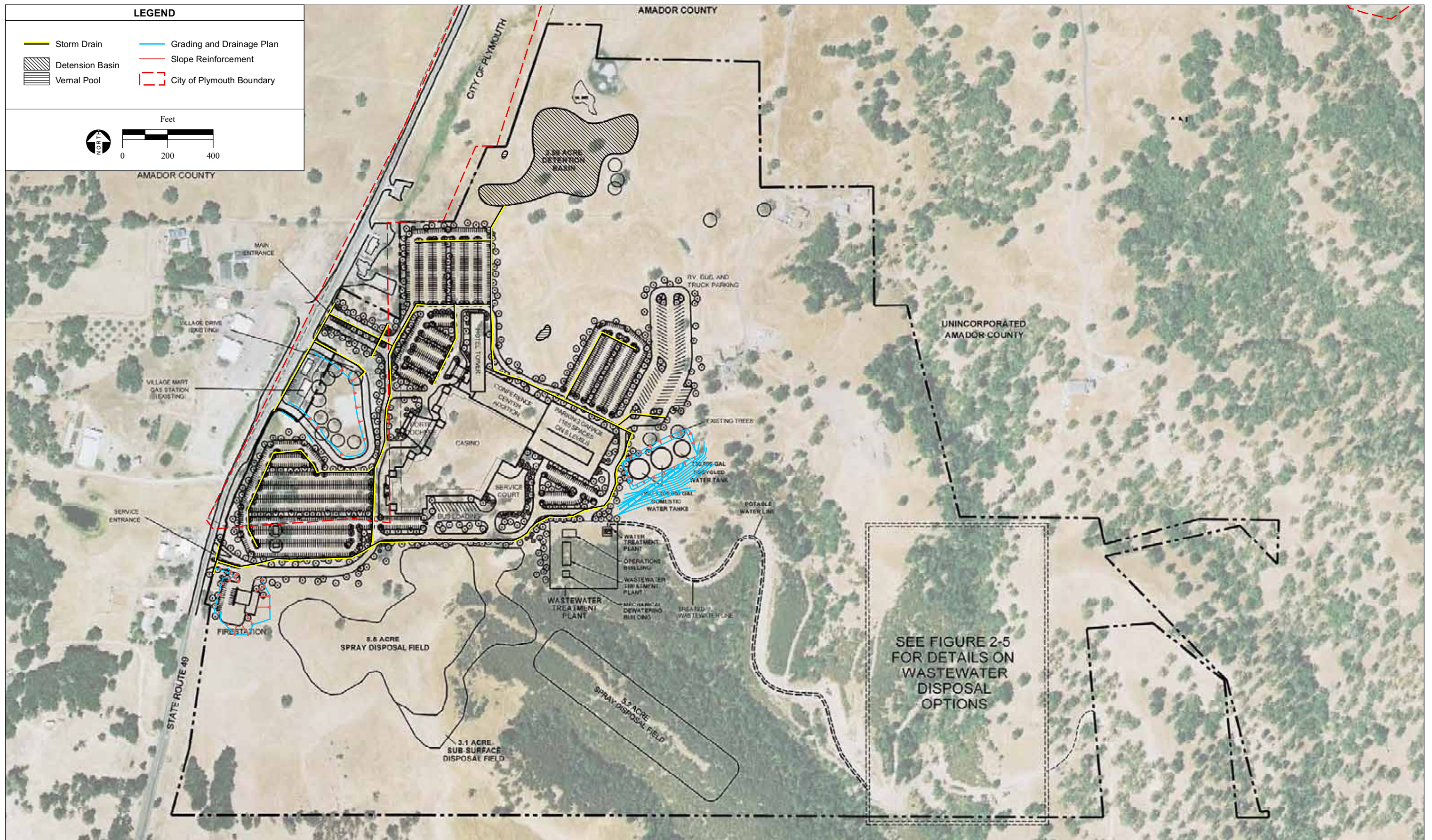


SOURCE: Airphoto USA Aerial Photograph, 11/1/2002; American Aerial Mapping, 2003; Claybar Engineering, 2004; Thalden Boyd Emery Architects, 2008; AES, 2009

Ione Band of Miwok Indians EIS / 203525 ■

Figure 6

Alternative B - Grading and Drainage Plan



SOURCE: Airphoto USA Aerial Photograph, 11/1/2002; American Aerial Mapping, 2003; Claybar Engineering, 2004; Thalden Boyd Emery Architects, 2008; AES, 2009

Lone Band of Miwok Indians EIS / 203525 ■

Figure 5
Alternative A - Grading and Drainage Plan