

SECTION 1.0

INTRODUCTION

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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 adopted by the General Council on August 10, 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 Environmental Impact Statement (EIS) pursuant to the National Environmental Policy Act (NEPA). This document has been completed in accordance with the requirements set forth in NEPA (42 U.S.C. 4321 et seq.); the President's Council on Environmental Quality (CEQ) regulations for implementing NEPA (40 C.F.R. Parts 1500-1508); and the BIA NEPA Handbook (59 IAM 3-H). NEPA requires that the BIA review and analyze the potential environmental consequences associated with the proposed action and alternatives. This 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. This EIS provides a detailed description of the proposed action and alternatives to the proposed action, including the No Action Alternative.

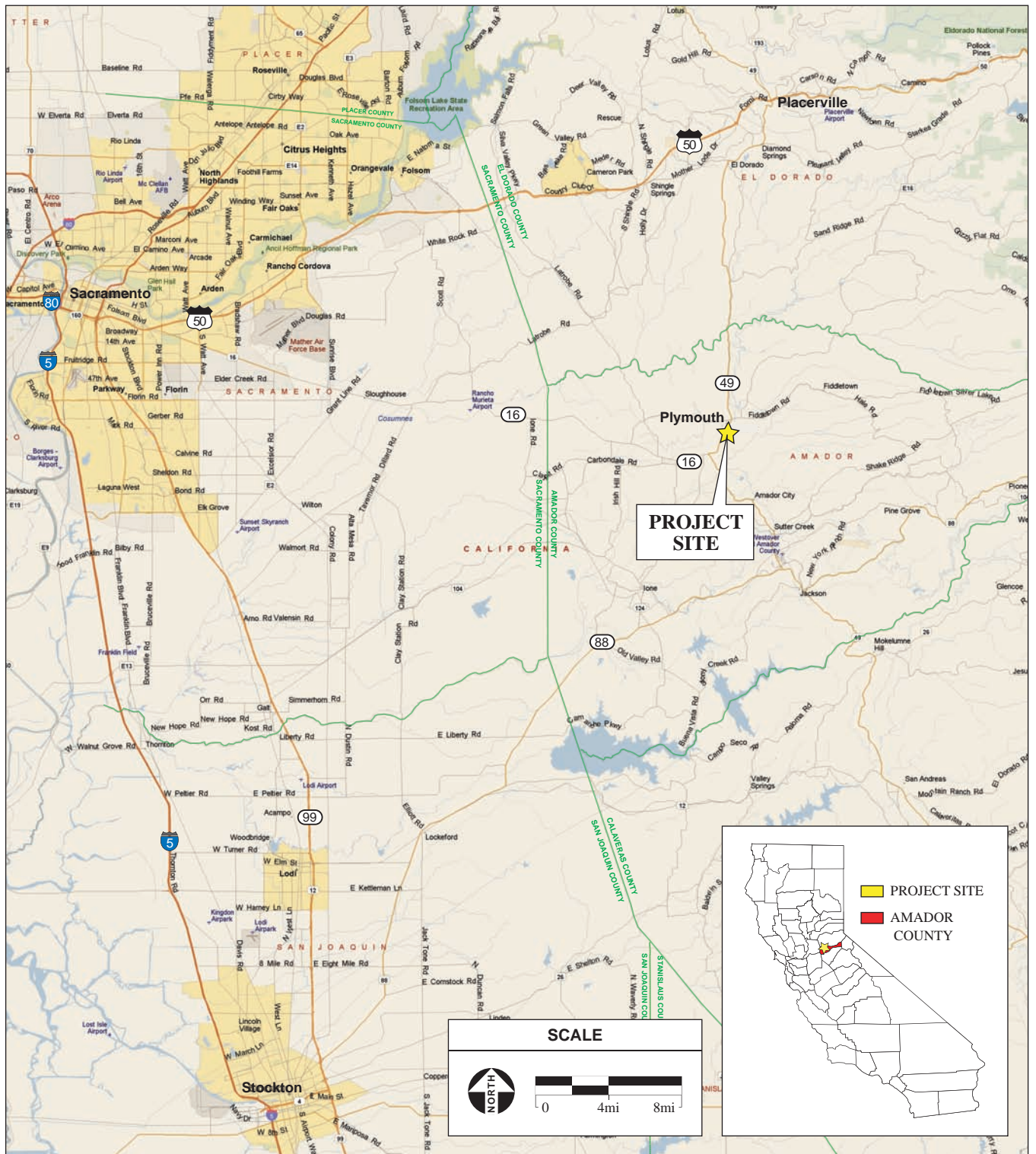
1.1.1 PROJECT LOCATION

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 State Route (SR) 49, which provides regional access to the area, two and one-half miles north of the junction of SR 16 with SR 49. **Figure 1-2** shows the vicinity of the project site. Eight of the twelve parcels (10.28± acres) are located within the City of Plymouth, while the remaining four parcels (217.76± acres) are located on unincorporated land within Amador County. **Figure 1-3** shows the twelve project parcels.

1.1.2 SUMMARY OF THE PROPOSED ACTION AND ALTERNATIVES

The proposed Federal actions analyzed in this Final EIS involve the BIA placing 228.04± acres into federal trust for the Tribe and the NIGC approving the Tribal Government's Gaming Development and Management Contract with a professional management company. The foreseeable consequence of these actions will be the realization of one of the four development alternatives analyzed in this Final EIS. The Proposed Alternative (Alternative A) includes the development of a gaming facility, hotel, event center, guest support services, offices, and security area. In addition, the Proposed Alternative includes: surface parking (comprised of patron, employee, RV and bus parking areas), a wastewater treatment plant and disposal facility, two water storage tanks to store well water pumped from wells located on and off the site (preferred water supply alternative) or a connection to the municipal water system, one reclaimed water storage tank, surface water discharge facilities (preferred treated wastewater disposal alternative) or a treated wastewater reservoir, a stormwater detention facility, site landscaping, and a fire station. Construction would occur in two phases. The majority of components would be developed during the first phase with the hotel and event center developed during the second phase. These actions are referred to collectively as the Proposed Alternative and are described in full detail within **Section 2.0** of this Final EIS.

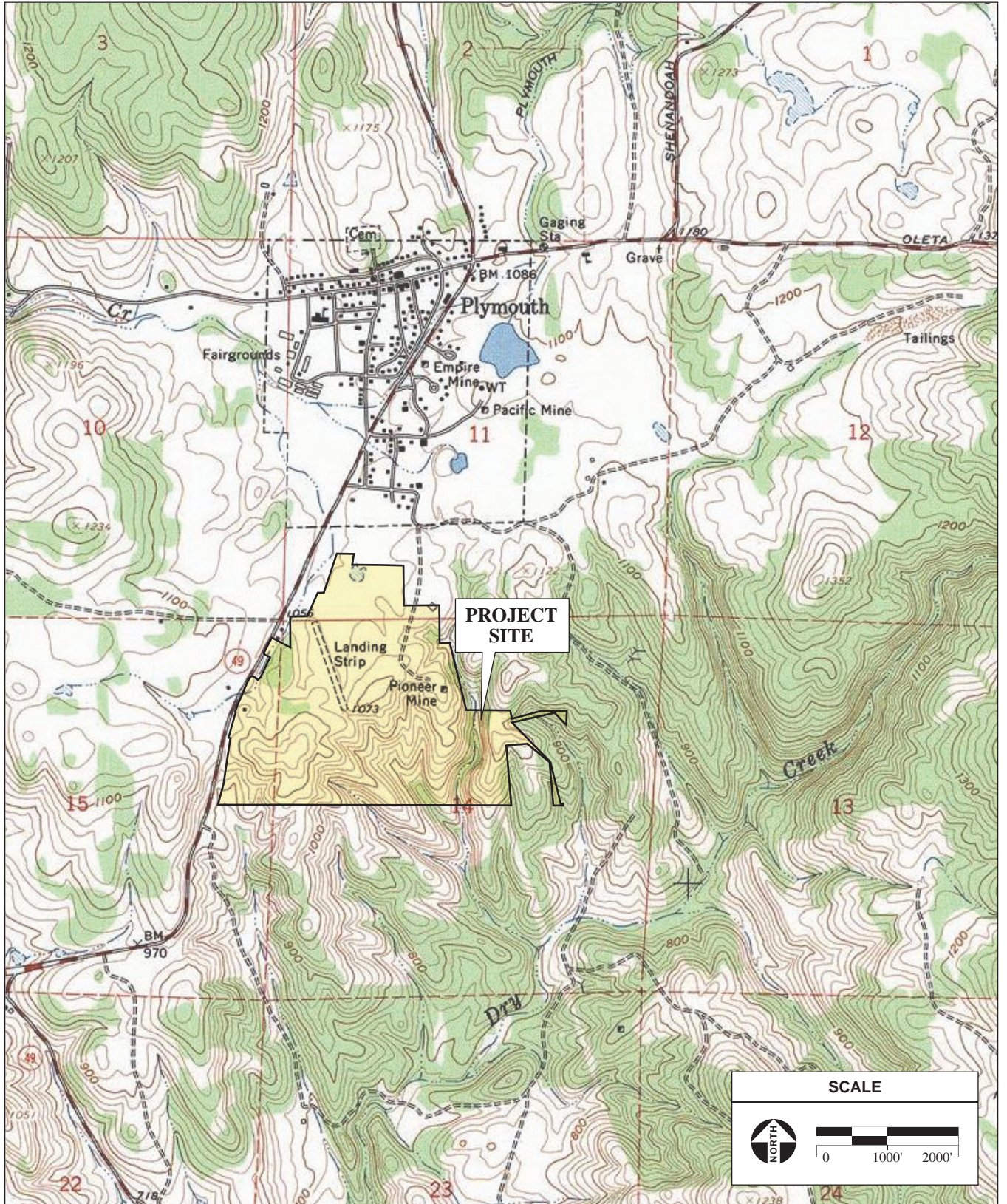
Alternative B includes the development of a reduced casino, hotel, and event and convention center. Alternative B includes the same supporting facilities as described above under the Proposed Alternative. Alternative C includes the development of a reduced casino and supporting facilities as described under the Proposed Alternative. This alternative does not include the development of a hotel or an event center. Alternative D consists of the development of a regional shopping facility and reduced supporting facilities as described under the Proposed Alternative. Alternative D does not include the two options for treated wastewater disposal described under the Proposed Alternative. Alternative E consists of no action by the BIA or the NIGC.



SOURCE: Microsoft Streets & Trips, 2003; AES, 2005

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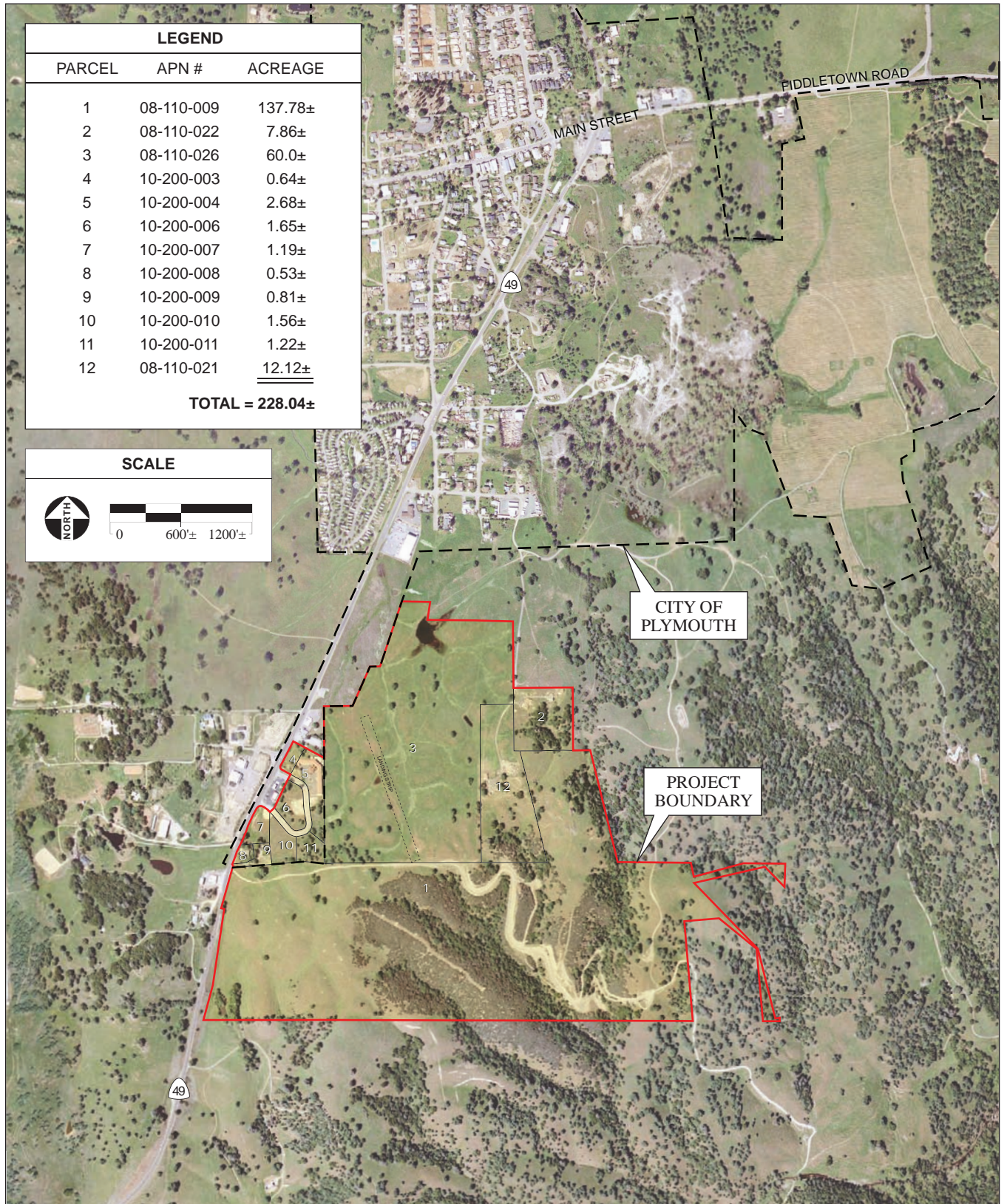
Figure 1-1
Regional Location Map



SOURCE: "Amador City, CA" USGS 7.5 Minute Topographic Quadrangle, Sections 11, 14, & 15, T7N, R10E, Mt. Diablo Baseline and Meridian; AES, 2005

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Figure 1-2
Site and Vicinity



SOURCE: Airphoto USA Aerial Photograph, 4/1/2004; AES, 2007

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Figure 1-3
Aerial Parcel Map

1.1.3 IONE BAND OF MIWOK INDIANS

It is only relatively recently that the Tribe has been restored to recognition and reorganized. Given its lack of tribal land and uncertain organization and status, the Tribe has lagged far behind other tribes in California who have long provided their tribal members with opportunities for economic development, employment, education, housing, and other services. Consequently, the Tribe has determined that it now needs to move with deliberate dispatch to acquire land in trust and promote gaming and related development to address the unmet needs of its members including employment, education, and socio-cultural programs.

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 since pre-colonial times, 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 its full panoply of sovereign powers and self-determination and encourage the Tribe and its members toward self-sufficiency.

The project site lies near the place in Amador County where treaties were negotiated to reserve more than seven million acres of land for the Indians in California including ancestral lands of the Tribe now located in present day Amador, El Dorado, Calaveras, San Joaquin, Sacramento and Placer counties. The U.S. Senate failed to ratify those treaties and the Tribe was left landless for decades. While the BIA in 1915 proposed to acquire lands in Amador County for the Tribe, that effort was never completed because the BIA was not able to obtain clear title to the land. As a result, the Tribe was denied reservation lands and remains landless to this day.

1.2 PURPOSE AND NEED

The Tribe proposes that the BIA accept the 228.04± acres into federal trust for the Tribe and NIGC approve the Tribe's gaming development and management contracts in order to permit the Tribe to conduct tribal government gaming authorized under the Indian Gaming Regulatory Act (IGRA). One of IGRA's purposes is "to provide a statutory basis for the operation of gaming by Indian tribes as a means of promoting tribal economic development, self-sufficiency, and strong tribal governance" 25 U.S.C. §2702(1). The gaming tools afforded the Tribe by IGRA are among the most effective means by which the Tribe can meet the diverse and urgent economic needs of its members.

In consideration of the present state of the Tribe and its increasing membership, it is necessary that the Tribe regain an ancestral land base upon which it can become self-sufficient. The history of the Tribe, and the modern-day needs of the Tribe and its tribal membership, provide a strong

basis for acquiring lands and proclaiming acquired lands a reservation under 25 U.S.C. sections 465 and 467, wherein Congress granted to the Secretary of the Interior the authority to acquire lands in trust for Indian tribes.

Unless the Tribe is able to acquire these lands in trust and is able to conduct gaming, the Tribe will remain unable to meet its need for economic development, self-sufficiency, and self-governance, and will be unable to provide its quickly growing Tribal member population with employment and educational opportunities and critically needed social services.

The purpose and need is as follows:

- 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 Tribal 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.

To confirm that revenues raised from gaming are used to “promote tribal economic development, tribal self sufficiency, and strong tribal government,” the Indian Gaming Regulatory Act (25 U.S.C. Section 2710(b)(2)(A)) 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.

1.3 OVERVIEW OF THE ENVIRONMENTAL REVIEW PROCESS

NEPA requires that an Environmental Impact Statement (EIS) be prepared for every Federal action that may significantly affect the quality of the human environment. This document has been completed in accordance with the requirements set forth in NEPA (42 U.S.C. §4321 *et seq.*); the Council on Environmental Quality (CEQ) Regulations for Implementing NEPA (40 C.F.R. §§ 1500-1508); the BIA's NEPA handbook (59 IAM 3); and the NEPA Procedures of the National Indian Gaming Commission (NIGC).

There is one "Lead Agency" and several "Cooperating Agencies" that oversaw the drafting of this document. The BIA is the Federal agency charged with reviewing and approving tribal applications pursuant to Part 151 of Volume 25 of the Code of Federal Regulations (25 C.F.R. Part 151) to take land into federal trust status. It is because of this authority that the BIA assumed the "Lead Agency" role for completion of the EIS. The BIA contracted Analytical Environmental Services to prepare the EIS and associated documentation. In accordance with 40 CFR §1506.5, a third-party agreement with a statement of having no financial or other interest in the outcome of the project has been executed. 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. Prior to release of this Final EIS, the BIA independently reviewed the EIS for content including context and intensity of potential environmental effects resulting from development of each proposed alternative and associated mitigation measures.

The NIGC is the Federal agency charged with regulating gaming activities on "Indian Lands" as mandated by IGRA, as amended. The NIGC serves as a "Cooperating Agency" because the project includes the development of a gaming facility with an associated Gaming Management Contract between the Tribe and an outside management company. Other Cooperating Agencies identified for this process include Region 9 of the United States Environmental Protection Agency (USEPA) and the City of Plymouth. The BIA extended the Cooperating Agency status opportunity to Amador County and the California Department of Transportation (Caltrans), neither of which accepted this role.

This Final EIS analyzes and documents the environmental consequences associated with: 1) the proposed transfer of 228.04± acres of land into Federal trust status for the Tribe, and 2) approval of the proposed Gaming Management Contract. Additionally, the Final EIS analyzes a full range of alternatives including, A) the Preferred Casino and Hotel Alternative, B) the Reduced Casino with Hotel Alternative, C) the Reduced Casino Alternative, D) the Retail Development Alternative, and E) the No Action Alternative. These alternatives include a number of associated facilities that are also analyzed in the respective sections. This document also includes a

discussion of feasible mitigation measures designed to reduce the recognized environmental effects.

The BIA published a Notice of Intent (NOI) in the Federal Register on November 7, 2003, describing the Proposed Action and announcing the BIA's intent to prepare an EIS. CEQ Regulations for implementing NEPA require a process referred to as "scoping" for determining the range of issues to be addressed during the environmental review of a Proposed Action (40 CFR §1501.7). The scoping process entails a determination of issues by soliciting comments from agencies, organizations, and individuals. A 30-day public comment period began with the publication of the NOI in the *Federal Register* and ended on December 8, 2003. In addition to accepting written comments, the BIA held a public scoping hearing on November 19, 2003 at the Amador County Fairgrounds in Plymouth to accept comments. Approximately 150 people attended the public hearing and verbal comments were transcribed for the administrative record. During the 30-day NOI comment period, the BIA formally requested Cooperating Agency participation from the USEPA, NIGC, Caltrans, City of Plymouth and Amador County. The USEPA, the NIGC, and the City of Plymouth accepted Cooperating Agency status and serve as Cooperating Agencies for the development of the EIS. Amador County declined and Caltrans did not respond to the request.

On January 20, 2004, the BIA published a supplemental NOI in the *Federal Register* to announce an additional public scoping hearing with the comment period beginning on January 20, 2004 and ending on February 20, 2004. The BIA held a second public scoping hearing on February 4, 2004 at the Amador County Fairgrounds in Plymouth. Approximately 130 people attended the second public scoping hearing and verbal comments were transcribed for the administrative record. The issues that were raised during the NOI comment period have been summarized within the *Ione Band of Miwok Indians Fee-to-Trust and Casino Project EIS Scoping Report* published by the BIA in March 2004. This report is available for review at the BIA's Pacific Region Office at 2800 Cottage Way, Room W-2820, Sacramento, CA 95825-1846. The Draft EIS addressed the issues and concerns summarized within the scoping report.

The Draft EIS was distributed to federal, tribal, state, and local agencies and other interested parties for a 75-day review and comment period. The CEQ Regulations (40 C.F.R. §1506.10(c)) require that agencies provide at least 45 days for comments on a Draft EIS, subject to the provisions of 40. C.F.R § 1506.10(d). The review and comment period began after the Notice of Availability (NOA) was published in the *Federal Register* on April 18, 2008 (**Appendix W**). The NOA provided the time and location of the public hearing on May 21, 2008 to present the proposed project with alternatives to the public, and accept comments. Public notice was also published in *Amador Ledger Dispatch* on April 22 and May 20, 2008 (**Appendix W**).

The BIA received a total of 36 comment letters in addition to the comments received during the public hearing. **Appendix Y** includes a list of all comment letters received and statements made

at the public hearing. 40 C.F.R. § 1503.4 requires that, “ All substantive comments, or summaries thereof where the response has been exceptionally voluminous, should be attached to the final statement whether or not the comment is thought to merit individual discussion from the agency in the text of the statement.” Therefore, all substantive comments or representations thereof, where identical comments have been submitted by multiple parties, have been included in the Final EIS.

Responses have been provided for each substantive comment submitted during the public comment period of the Draft EIS. These responses are provided within the Response to Comments document included within **Appendix Y** and are reflected in appropriate modifications made thought the text of the Final EIS where necessary and appropriate.

The BIA will publish this Final EIS and will file it with the USEPA. The USEPA will then publish a NOA for the Final EIS in the *Federal Register* marking the beginning of the 30-day review period that the BIA and NIGC, upon conclusion of which, may decide on each corresponding decision of the Proposed Action.

At the time the BIA and NIGC makes ~~its~~ their decisions, ~~they~~ each will prepare a concise public Record of Decision (ROD), which states: what the decision is, identifies all the alternatives considered in reaching the decision, and discusses preferences among alternatives based on relevant factors including economic and technical considerations and the BIA’s and NIGC’s statutory mission (40 C.F.R § 1505.2). The ROD also identifies and discusses all factors that were considered in making the decision and discusses whether all practicable mitigation measures have been adopted to minimize environmental effects. If all practicable measures are not adopted by the lead agency, the ~~BIA-ROD~~ must state why such measures were not adopted. The CEQ requires that, “Mitigation 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” (40 C.F.R. § 1505.3). Specific details of adopted mitigation measures shall be included as appropriate conditions in the ROD by the lead agency.

1.4 REGULATORY REQUIREMENTS, PERMITS, APPROVALS AND CONSULTATION

Implementation of the project alternatives would require Tribal, Federal, and State permits, approvals, and consultation. **Table 1-1** identifies each responsible agency and the potential permit or approval required.

TABLE 1-1
POTENTIAL PERMITS, APPROVALS AND CONSULTATION REQUIRED

Agency	Potential Permit, Approval, or Consultation	Alternative	Permit/Approval Applicant
Tribal			
Tribe	Compliance with Tribal/State Compact.	A, B, C	Tribe
	Approval of land use plan for a regional shopping facility.	D	Tribe
Federal			
NIGC	Approval of Tribal gaming ordinances.	A, B, C	Tribe
	Approval of Development and Management Contract.		
Secretary of the Interior	Transfer of a twelve-parcel, 228.04-acre project area into federal trust status for the Tribal Government.	A, B, C, D	Tribe
USEPA	National Pollutant Discharge Elimination System (NPDES) General Permit for Stormwater Discharges From Construction Activities as required by the Clean Water Act.	A, B, C, D	Tribe
	Issuance of NPDES permit for the discharge of treated effluent to a surface water.		
	Review of the underground disposal of treated wastewater as a Class V injection well under the Underground Injection Control (UIC) program.		
	Water quality certification (or waiver) under Section 401 of the Clean Water Act.		
U.S. Army Corps of Engineers	Approval of permit(s) under Section 404 of the Clean Water Act for the filling of jurisdictional wetlands/waters.	A, B, C, D	Tribe
U.S. Fish and Wildlife Service	Section 7 Consultation under the Federal Endangered Species Act if endangered species may be affected by the project.	A, B, C, D	BIA/Tribe
State			
California State Historic Preservation Office	Consultation under Section 106 of the National Historic Preservation Act.	A, B, C, D	BIA
Office of the Governor	Tribal-State Gaming Compact	A,B,C	Tribe
California Department of Transportation	Approval of an Encroachment Permit to permit the construction of improvements along the property frontage with SR 49.	A, B, C, D	Tribe

Alternatives:

A = Preferred Casino and Hotel Alternative; B = Reduced Casino with Hotel Alternative; C = Reduced Casino; D = Retail Development.