Appendices Q to T

CLOVERDALE RANCHERIA OF POMO INDIANS FEE-TO-TRUST AND RESORT CASINO PROJECT

Final Environmental Impact Statement

Lead Agency
United States Bureau of Indian Affairs
Pacific Region

April 2014

Cooperating Agencies
National Indian Gaming Commission, Cloverdale Rancheria of Pomo Indians, United States Environmental Protection Agency, California Department of Transportation, Sonoma County, and City of Cloverdale

ESA

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Appendix Q

Preliminary Stormwater Quality Management Plan

ESA

CLOVERDALE RANCHERIA OF POMO INDIANS
RESORT CASINO PROJECT
Preliminary Stormwater Quality Management Plan

Prepared for

Cloverdale Rancheria of Pomo Indians

Prepared by

ESA PWA

April 22, 2011

TABLE OF CONTENTS

			Page No.
1. INTRODUCTION			**1**
1.1	PURPOSE		1
1.2	OBJECTIVES		1
2. BACKGROUND INFORMATION			**2**
2.1	LOCATION AND DESCRIPTION		2
	2.1.1	Existing Land Uses	2
	2.1.2	Soils 3	
	2.1.3	Proposed Land Uses	3
2.2	REGULATORY BACKGROUND		4
	2.2.1	Tribal, Federal, State, and Local Regulations	4
	2.2.2	National Pollutant Discharge Elimination System	5
	2.2.3	Water Quality Control Plan for the North Coast Region	5
	2.2.4	Russian River TMDL Program (303d list)	6
	2.2.5	Santa Rosa Area Standard Urban Storm Water Mitigation Plan	6
3. PROPOSED BEST MANAGEMENT PRACTICES			**8**
3.1	MEASURES TO LIMIT IMPERVIOUSNESS		8
	3.1.1	Minimized Impervious Area	8
	3.1.2	Pervious Pavement	8
3.2	MEASURES TO CONTROL SOURCES OF POLLUTANTS		9
	3.2.1	Parking lot sweeping	9
	3.2.2	Trash Storage Areas	9
	3.2.3	Roofs, Gutters, and Downspouts	9
	3.2.4	Loading and Unloading Dock Areas	10
	3.2.5	Interior Floor Drains	10
	3.2.6	Hazardous Waste Collection and Recycling	10
	3.2.7	Outdoor Material Storage Areas	10
	3.2.8	Stormdrain Signage	10
	3.2.9	Food Service Equipment Cleaning	11
	3.2.10	Vehicle and Equipment Repair and Maintenance Areas	11
	3.2.11	Vehicle and Equipment Wash areas	11
	3.2.12	Pools, Spas, and Fountains	11
	3.2.13	Integrated Pest Management	11
3.3	MEASURES TO TREAT STORMWATER AND PROVIDE FLOW CONTROL		12
		3.3.1.1 Flow-through planters	12
		3.3.1.2 Bioretention Areas	13

3.3.2 Soil characteristics for flow-through planters and bioretention areas 13
3.3.3 Vegetation selection for flow-through planters and bioretention 13
3.3.4 BMP sizing factors 13
3.3.5 Sizing and locations for treatment and flow control BMPs 14

4. MAINTENANCE OF BMPS 16

5. REFERENCES 17

LIST OF TABLES

Table 1. Hydrologic soil groups 3
Table 2. Impervious and pervious area summary for proposed project and alternatives. 4
Table 3. Designated Beneficial Uses for the Russian River 6
Table 4.Best management practice selection by contributing area type 12
Table 5. Sizing factors for best management factors 14
Table 6. BMP sizing summary for impervious areas 14
Table 7. BMP sizing summary for pervious pavement areas 15

LIST OF FIGURES

Figure 1. Project location
Figure 2. Existing drainage pattern
Figure 3. Soils map
Figure 4. Flow-through planter conceptual drawing
Figure 5. Bioretention Area conceptual drawing
Figure 6A. Alternative A proposed BMP locations
Figure 6B. Alternative B proposed BMP locations
Figure 6C. Alternative C proposed BMP locations
Figure 6D. Alternative D proposed BMP locations
Figure 6E. Alternative E proposed landuse and BMP locations

LIST OF APPENDICES

Appendix A. Development of sizing factors
Appendix B. Specifications for soils in treatment and flow control BMPs
Appendix C. Specifications for plant selection in treatment and flow control BMPs
Appendix D. Designated BMP area calculations

1. INTRODUCTION

1.1 PURPOSE

This report presents a Preliminary Stormwater Quality Management Plan (SQMP) for the Cloverdale Rancheria Fee-to-Trust and Resort Casino Project, in northern Sonoma County, California. This report describes the proposed project and presents proposed stormwater best management practices (BMPs) to manage stormwater runoff and protect water quality at the project site. As project planning continues, this Preliminary SQMP will be refined to include the proposed design of BMPs and details on operations and maintenance of proposed BMPs.

1.2 OBJECTIVES

Proposed stormwater management practices for the project have been developed in light of the Santa Rosa Area Standard Urban Storm Water Mitigation Plan (SUSMP) guidelines, the Regional Water Quality Control Board's (RWQCB) Water Quality Control Plan for the North Coast Region (Basin Plan), and the National Pollutant Discharge Elimination System (NPDES) under Section 402 of the Clean Water Act. Current stormwater management regulations recognize a need for levels of stormwater management BMPs that reduce the amount of impervious area, control the sources of pollutants, limit erosive flows, and treat stormwater before it enters a receiving stream. This report addresses each of these levels of stormwater management and is based on the following objectives:

- Identifying the regulatory framework for establishing a stormwater management strategy.
- Identifying and protecting beneficial uses of the Russian River.
- Developing a tiered approach to stormwater management that results in project-wide water quality and flow control benefits.
- Developing sizing parameters and locations for proposed BMPs.
- Providing reasonable assurance that the proposed stormwater management approach meets the goals of NPDES and the Clean Water Act.

2. BACKGROUND INFORMATION

2.1 LOCATION AND DESCRIPTION

The Cloverdale Rancheria project site is located in northern Sonoma County, California within the sphere of influence of the City of Cloverdale. The project site is 69.8 acres and is bound by the City of Cloverdale wastewater treatment plant to the north, industrial warehouses and storage facilities to the south, Highway 101 and residential neighborhoods to the west, and the Russian River and agriculture to the east. Porterfield Creek flows from the northwest corner of the project site to the southeast corner parallel to and along the east side of the Northwestern Pacific Railroad tracks which bisect the site. The project site is shown in Figure 1.

2.1.1 Existing Land Uses

There are six rural residences and associated outbuildings on the project site, including barns, horse paddocks, and corrals. The eastern portion of the project site is used as vineyards. North of the vineyards is a wastewater treatment pond operated by the City of Cloverdale.

The existing drainage pattern for the project site is shown in **Figure 2**. Drainage on both the northeastern and southwestern parcels is provided by existing agricultural ditches, as well as Porterfield Creek, which flows in a southeasterly direction along the western boundary of the northeastern parcel. Coyote Creek flows in an easterly direction along the southern edge of the southwestern parcels, crosses under the railroad via an existing culvert, and joins with Porterfield Creek before discharging into the Russian River near Kelly Road.

Drainage from the northeastern parcel, currently planted as a vineyard, generally flows from north to south. Surface runoff from the northern half of the vineyard either infiltrates into the ground or flows into Porterfield Creek and/or the Russian River (depending on location and volume of flows). Runoff from the southern half of the vineyard is channeled via natural low points into Porterfield Creek near the southeast corner of the vineyard.

Stormwater drainage from the southwestern parcels flow off-site via four culverts. Sheet-flow runoff occurs along the northwestern end of the parcels, the easternmost portion of the parcels, and along the southern boundary of the parcels, adjacent to Coyote Creek. Two of the existing culverts, located along the northeastern boundary of the parcels, pass under the railroad tracks and discharge indirectly to Porterfield Creek.

Drainage from areas located off-site is channeled onto or across the project site at several places, but primarily along its northern and western boundaries. These include areas where stormwater run-on (e.g., the flow of stormwater onto the project site) occurs associated with Heron Creek, as well as stormwater discharges from US 101 and the foothill areas to the west.

Stormwater run-on occurs along the northern end of the site associated with Heron Creek, which has a watershed area of over 1,000 acres. Prior to the construction of US 101, this creek flowed along the west side of the City's wastewater treatment plant (WWTP) and joined Porterfield Creek near the northwest corner of the site. However, during construction of US 101, Porterfield Creek was altered and caused flooding north of the site (specifically, north and west of the City's WWTP).

In addition to run-on associated with Heron Creek, additional stormwater flows are channeled onto the site via two existing culverts that discharge runoff from US 101 and the foothill areas to the west of US 101. The culverts discharge water at the west boundary of the project site, and the tributary area for each is approximately 20 acres.

As part of the Draft Environmental Impact Statement (DEIS) for the project, a wetland delineation has been prepared in accordance with US Corps of Engineers guidelines (ESA, 2009). This delineation found that the area of Clean Water Act jurisdictional wetlands is approximately 1.6 acres. Other isolated wetlands located on site total approximately 0.76 acres. These features include relatively permanent waters, freshwater emergent wetland, and seasonal wetland.

2.1.2 Soils

Soils at the project site have been mapped by the United States Natural Resources Conservation Service (NRCS, 1972). Soils have been classified according to their hydrologic soil group, a classification of soils by infiltration rate. The hydrologic soil group classification is summarized in Table 1.

Table 1. Hydrologic soil groups

Hydrologic soil group	Minimum infiltration rate *(inches/hour)*	Soil texture
A	0.3-0.45	San, loamy sand, or sandy loam
B	0.15-0.30	Silt loam or loam
C	0.05-0.15	Sandy clay loam
D	0-0.05	Clay loam, silty clay loam, sandy clay, silty clay or clay.

Mapped hydrologic soils groups for the project site are shown in **Figure 3**. Then entire project site is classified as hydrologic soil group D, meaning that soils are primarily clayey in texture and have a very low infiltration rate.

2.1.3 Proposed Land Uses

The proposed project (referred to as Alternative A) includes an 80,000 square-foot casino, 287,000 square-foot hotel with 244 rooms, 48,600 square-foot convention center, 28,100 square-

foot entertainment center, 3,400 garage and surface parking spaces, and other ancillary facilities. A 20,000 square-foot tribal government building is proposed on the south end of the project site. Buildings would have a height of up to two stories above grade with the exception of the hotel and parking garage which would have a height of up to five stories above grade.

Four alternatives to the proposed project are analyzed in the DEIS and are referred to as Alternatives B through E. The casino and hotel under Alternative B would be reduced in scale and would not include a convention center. Alternative C would not include a convention center and the size of the casino would be reduced further than in Alternative B. Under Alternative D, only the casino and tribal government building would be constructed. Alternative E includes commercial retail and office center with light industrial warehouse space. Table 1 provides information on the proposed land cover types associated with each alternative.

Table 2. Impervious and pervious area summary for proposed project and alternatives.

Alternative	**Pervious areas**		**Impervious areas**				
	Parking and circulation (pervious)	**Land-scaping**	**Roofs**	**Sidewalks and patios**	**Parking and circulation (impervious)**	**Total impervious**	**Impervious percentage**
	(acres)	*(acres)*	*(acres)*	*(acres)*	*(acres)*	*(acres)*	
A (Proposed project)	5.3	9.9	7.6	3.7	5	16.3	52%
B	5.6	11.6	7.1	3.5	3.8	14.4	46%
C	5.3	11.8	7.1	3.5	3.8	14.4	46%
D	4.4	16	5.9	1.5	3.8	11.2	35%
E	7.2	17.5	3.9	0	2.9	6.8	22%

Source: Cloverdale Rancheria Fee-to-Trust and Resort Casino Project Draft EIS

Under Alternatives A through D, a 0.48-acre portion of the jurisdictional seasonal wetlands and 0.04 acres of an agricultural ditch on the project site would be filled. Alternative E would fill 0.44 acres of jurisdictional seasonal wetlands and 0.04 of the agricultural ditch. This was considered a potentially significant impact in the DEIS that was mitigated through Mitigation Measure 5.5-2, which would require the preservation or creation of similar habitat at a ratio of no less than 1:1. An on-site wetland mitigation area is proposed in the western portion of the project site under Alternatives A through E to fulfill this mitigation measure.

2.2 REGULATORY BACKGROUND

2.2.1 Tribal, Federal, State, and Local Regulations

As the project site is proposed to be taken into federal trust on the behalf of the Cloverdale Rancheria of Pomo Indians, the proposed project must comply with applicable federal requirements, including Section 402 of the Clean Water Act, or the National Pollutant Discharge

Elimination System (NPDES) (as administered through the U.S. EPA Region IX), and the National Environmental Policy Act (NEPA). In addition, as part of NEPA, the project would be required to make a best faith effort to mitigate potential adverse effects per the local or state threshold guidelines. The project would voluntarily comply with the Basin Plan and SUSMP. Each of the relevant federal, state, and local regulations are described below. Aside from Section 402 of the Clean Water Act, there are no tribal laws regarding water quality or stormwater that apply to the project site.

2.2.2 National Pollutant Discharge Elimination System

The Federal Clean Water Act as amended in 1987 provides a framework for regulating stormwater discharge from municipal sources. A major component of the 1987 amendments is the NPDES which requires municipal stormwater dischargers to receive a Municipal Discharge Permit for new stormwater outfalls. Discharge permits are issued to prevent the discharge of pollutants resulting from point sources and non-point sources. Non-point source pollution is pollution that is diffuse across a site that cannot be attributed to a particular source or activity. Common non-point source pollutants in municipal areas include fertilizers, metals, oil and grease, sediment and nutrients.

Stormwater discharges in unincorporated Sonoma County are permitted through the Small Municipal Separate Storm Sewer System General Permit (General Permit, CAS000004) issued May 20, 2004 by the State Water Resources Control Board. Consistent with the requirements in the General Permit, Sonoma County adopted its Stormwater Quality Ordinance, which requires new development and redevelopment projects to implement post-construction runoff management BMPs for purposes of minimizing pollutant loads to receiving waters. The guidelines for the SUSMP, released June 3, 2005, provide information on how to comply with these requirements. Proposed BMPs presented in this report have been developed in light of these objectives.

2.2.3 Water Quality Control Plan for the North Coast Region

Region 1 of the RWQCB has established the Water Quality Control Plan for the North Coast Region (Basin Plan), which establishes water quality standards for the North Coast Basin as required by the Clean Water Act. The Basin Plan identifies beneficial uses for the surface and ground waters of the region and water quality and quantity objectives for these waters. The receiving body of water for this project is the Russian River and its designated beneficial uses are summarized in Table 2. New development and redevelopment projects must be designed to protect these beneficial uses.

Table 3. Designated Beneficial Uses for the Russian River

Existing Beneficial Use Code	Description
AGR	Agricultural Supply
COLD	Cold Freshwater Habitat
COMM	Commercial and Sport Fishing
FRSH	Freshwater Replenishment
GWR	Groundwater Recharge
IND	Industrial Service Supply
MIGR	Migration of Aquatic Organisms
MUN	Municipal and Domestic Supply
NAV	Navigation
RARE	Preservation of Rare and Endangered Species
REC-1	Water Contact Recreation
REC-2	Non-Contact Water Recreation
SPWN	Spawning, Reproduction, and /or Early Development
WARM	Warm Freshwater Habitat
WILD	Wildlife Habitat
Potential Beneficial Use Code	**Description**
AQUA	Aquaculture
PRO	Industrial Process Supply
POW	Hydropower Generation
SHELL	Shellfish Harvesting

Source: RWQCB, 2007

2.2.4 Russian River TMDL Program (303d list)

The Russian River is listed as an impaired water body under section 303(d) of the Clean Water Act (CWA). The United States Environmental Protection Agency (EPA) identified sediment and temperature as the causes for impairment for the immediate reach of the Russian River downstream of the proposed project. Further downstream, reaches are also impaired by pathogens and as a result, the RWQCB is charged with developing Total Maximum Daily Loads (TMDL) for these pollutants. In 2004, the RWQCB adopted the Total Maximum Daily Load Implementation Policy Statement for Sediment Impaired Receiving Waters in the North Coast Region, also known as the Sediment TMDL Implementation Policy, to control sediment waste discharges to impaired water bodies.

2.2.5 Santa Rosa Area Standard Urban Storm Water Mitigation Plan

The SUSMP requirements were adopted by the North Coast RWQCB in June 2003. The SUSMP requirements are part of the Storm Water Management Plan adopted by the County of Sonoma, and Sonoma County Water Agency. The SUSMP administrative boundary includes the City of Santa Rosa and unincorporated areas near the cities of Healdsburg, Windsor, Santa Rosa, Rohnert Park, Cotati, Sebastopol, Petaluma and Sonoma. The project site is not included in the SUSMP administrative boundary; however, the project is voluntarily complying with these requirements to protect downstream water resources.

The goals of the SUSMP are to manage 1) storm water quality, 2) storm water quantity, and 3) to conserve natural areas within development sites. As stated above, the proposed project site is not included within the SUSMP administrative boundary but is complying with these requirements voluntarily. Preliminary storm water mitigation plans are required for projects subject to the SUSMP and must include source and treatment control BMPs as well as long-term maintenance. In particular the SUSMP requires:

- Treatment of stormwater for flows up to the 85th percentile mean annual 24-hour rainfall intensity (0.21 inches per hour), and
- Minimizing downstream erosion by limiting the post-project peak runoff from the two-year 24-hour storm event to pre-project rates.

These requirements drive the selection, sizing, and location of treatment and flow control BMPs as described in Section 3.3.

3. PROPOSED BEST MANAGEMENT PRACTICES

Proposed BMPs to manage stormwater quality and flow control focus on three tiers of application. In order of effectiveness, these are: limiting directly-connected impervious area, controlling the sources of pollutants, and treating stormwater. This tiered approach to stormwater management has been shown to be most effective in controlling non-point source pollution, and is the approach advocated by the California Stormwater Quality Association, the Bay Area Stormwater Management Agencies Association, and the RWQCB. The following section presents proposed BMPs for each of the three tiers of water quality management practices.

3.1 MEASURES TO LIMIT IMPERVIOUSNESS

Directly connected impervious area (DCIA) is the largest contributor to non-point source stormwater pollution. DCIA is any impervious area, such as parking lots, streets, driveways, rooftops, and sidewalks that drains directly to a traditional stormdrain system. When stormwater runoff flows across impervious area, it can mobilize oil, grease, sediment, and other pollutants and carry them to the stormdrain network and the receiving stream. DCIA reduces the amount of land that is available for stormwater infiltration and retention. This causes an increase in the amount and velocity of runoff, which can further degrade receiving channels. Limiting the amount of DCIA increases the amount of land available for infiltration and provides a slower pathway for stormwater. Limiting DCIA also increases the contact time of stormwater and vegetation, allowing biological and soil adsorption processes to filter and remove stormwater pollutants. The proposed project is anticipated to result in a net increase of to 16.3 acres of new impervious surface. The following BMPs have been incorporated into the proposed site design to limit the amount of DCIA.

3.1.1 Minimized Impervious Area

The proposed site plan is intended to minimize impervious area within the project site. Within the western half of the project site where the proposed casino and supporting uses would be located, 48 percent of the site would remain pervious. Under Alternatives B through E, the project site would remain 54, 54, 65, and 78 percent pervious, respectively. Alternatives A thorough D contain a five-story parking structure located at the northern end of the site. Parking structures reduce DCIA by consolidating parking under multi-story facilities instead of spread across the site.

3.1.2 Pervious Pavement

Traditional paving results in stormwater sheet-flow across a paved surface, which carries pollutants directly to the stormdrain network. Pervious pavements attenuate sheet-flow and remove both soluble and fine particulate pollutants by allowing stormwater to filter through a permeable, load-bearing surface to either infiltrate to underlying soils to an underdrain. Examples

of pervious pavements include permeable asphalt and concrete or unit pavers separated by spaces that water can drain through.

Pervious pavement on project driveways and surface parking areas is proposed to reduce runoff and further reduce the amount of DCIA on the project site. Given the low-infiltration of soils at the project site, pervious pavement will likely be underdrained. According to the SUSMP, pervious pavements provide peak flow reduction, but do not provide water quality treatment. Therefore all underdrains from pervious pavement areas will be connected to treatment BMPs, as described in Section 3.3 of this document. Areas where pervious pavement is proposed are shown for each alternative in **Figure 6**A through **Figure 6**E.

3.2 MEASURES TO CONTROL SOURCES OF POLLUTANTS

In addition to site-design elements that seek to limit the amount of impervious area, source control BMPs are proposed to prevent the introduction of pollutants to storm water runoff. All proposed BMPs will be consistent with SUSMP requirements. The following sections discuss each of the proposed pollutant source control BMPs.

3.2.1 Parking lot sweeping

Regular sweeping of parking and circulation areas can help remove sediment, debris, and other pollutants that can accumulate these surfaces. The project proponent will contract with a maintenance company to provide parking lot sweeping as part of the landscape maintenance program. Additionally, the project site will be kept free of trash, animal waste, and other debris through routine grounds keeping.

3.2.2 Trash Storage Areas

Trash and recyclables storage areas will be paved and designed to prevent runoff and run-on from adjacent areas. All trash and recyclables storage areas will contain a roof or awning to minimize direct rainfall, and dumpsters will be equipped with lids to exclude rain. If drains are installed in the storage areas, they will be connected to the sanitary sewer system.

3.2.3 Roofs, Gutters, and Downspouts

The project roof design will seek to minimize the use of unprotected metals that may leach into stormwater discharges. Additionally, all roofs and downspouts will drain to treatment BMPs or landscaped areas, which will help to remove pollutants that may build up of roofs. Landscaped areas will be designed so that drainage from roofs will not result in erosion that would carry sediment into the storm drain system.

3.2.4 Loading and Unloading Dock Areas

The drainage scheme for the site design will ensure run-on and runoff is unable to carry hazardous materials and debris from loading and unloading dock areas. Loading dock areas will be covered to prevent rainfall from mobilizing contaminants. Drains within the dock areas will be connected to the sanitary sewer system and drainage will be conveyed to the onsite wastewater treatment plant. Roof downspouts will not be directed toward dock areas.

3.2.5 Interior Floor Drains

All interior floor drains in proposed buildings will connect to the sanitary sewer to assure that interior drain water is treated before discharge.

3.2.6 Hazardous Waste Collection and Recycling

California law requires all businesses that handle hazardous materials to file a Hazardous Materials Business Plan (HMBP). Examples of materials commonly reported in a HMBP include new and used oil, gasoline, diesel fuel, propane, antifreeze, and solvents. An HMBP is generally required if a business handles quantities equal to or greater than 55 gallons of a liquid, 200 standard cubic feet of a compressed gas, or 500 pounds of a solid. If the proposed project would handle or store these quantities of any hazardous material, a HMBP will be completed and submitted to the State through the California Electronic Reporting System as well as required documentation to the County of Sonoma Fire and Emergency Services Department.

3.2.7 Outdoor Material Storage Areas

Potential contaminants in smaller quantities such as pesticides, fertilizers, and liquids will be stored in enclosed areas so as to prohibit contact with stormwater. Potential liquid contaminants will be stored in facilities protected from stormwater by curbing or earthen barriers as necessary. A spill prevention and cleanup plan will be prepared and implemented. All hazardous materials and wastes on site will be used and stored in compliance with Sonoma County's Hazardous Materials Management Ordinance.

3.2.8 Stormdrain Signage

Pollutants discharged directly into stormdrains can have a significant adverse impact on water quality of receiving streams. Household and industrial pollutants that are commonly dumped can include paint, motor oil, and other toxic materials. Stormdrain inlets in the project site will be stenciled with prohibitive language that alerts the public to the impact of dumping on receiving waters. Stormdrain signage will state, "No Dumping – Drains to Russian River," or will include similar language.

3.2.9 Food Service Equipment Cleaning

Project areas devoted to food services will include a sink or wash area devoted to purging contaminants from floor mats and equipment. Food service sinks and wash areas will be connected to the sanitary sewer. Each washing facility will be connected to a grease interceptor installed between drain inlets and sanitary sewer connection. Signs will be posted indicating that all food service equipment washing should occur within the designated areas.

3.2.10 Vehicle and Equipment Repair and Maintenance Areas

Indoor or covered outdoor locations for vehicle maintenance will be designed to prevent stormwater contact with contaminants. Secondary containment structures will be provided for storage of all hazardous materials associated with vehicle maintenance and will not contain drains. If floor drains are installed within the repair and maintenance areas, they will be connected to the sanitary sewer. Tanks, containers or sinks used for cleaning or rinsing will be connected to the sanitary sewer system.

3.2.11 Vehicle and Equipment Wash areas

Areas within the project boundaries designated for cleaning of vehicles and equipment will be paved and protected from contact with stormwater. Vehicle and equipment wash areas will be paved and will be designed to prevent run-on and runoff from the washing area. Any areas for vehicle and equipment washing will be plumbed to drain to the sanitary sewer. Signs will be posted indicating that all vehicle and equipment washing should occur only within the designated areas. Sump pumps would be located on the bottom floors of the garage structures to provide drainage for seepage and garage floor cleaning. Sump pump discharges will be treated with a sand/oil separator before conveyance to the onsite wastewater treatment plant.

3.2.12 Pools, Spas, and Fountains

The proposed project may include pools, spas, and/or fountains in one or more location. Discharge drains would not be connected to the storm drain system. Discharge from pools, spas, and fountains would be conveyed to the onsite wastewater treatment facility.

3.2.13 Integrated Pest Management

The proposed project will follow Integrated Pest Management (IPM) strategies to reduce the use of pesticides on the project site. Pesticide use would be minimized through a combination of biological controls such as the use of natural predators, plant selection, physical maintenance such as trimming, and reduced risk chemical controls such as soaps or oils. Additionally, landscaping will be designed to be consistent with mosquito vector control guidelines to avoid water ponding.

3.3 MEASURES TO TREAT STORMWATER AND PROVIDE FLOW CONTROL

Treatment control and flow control BMPs are the final element in a multi-tiered approach to stormwater management. Treatment BMPs are facilities are that are designed to remove pollutants once they have been mobilized in runoff. They work by filtering pollutants through soil media, adsorption of pollutants onto soil particles, and uptake of nutrients through vegetation. Flow control facilities are structural measures designed to limit the rate of runoff from a site. Impervious surfaces increase the rate and volume of runoff from a site by reducing the area where rainfall is able to infiltrate. Flow control facilities temporally store this excess runoff volume and allow it to discharge at a lower rate.

In many cases, treatment control and flow control facilities can be combined to serve both purposes. Flow control is necessary in areas where new impervious surfaces are proposed, such as roofs, patios, sidewalks and impervious parking and circulation. For the proposed project and alternatives where flow control facilities are necessary they have been combined with treatment control facilities. For areas where pervious pavement is proposed, flow control is not necessary. Pervious pavement mimics the pre-project infiltration ability. However, treatment control is still required for pervious pavement. See Table 4 for a summary of treatment control and flow control BMPs.

Table 4.Best management practice selection by contributing area type

Contributing area type	Treatment required	Best management practice
Rooftops, raised patios, and parking structures	Flow control and treatment control	Flow-through planters with flow control and storage
Rooftops, at-grade patios, and impervious pavement	Flow control and treatment control	Bioretention areas with flow control and storage
Pervious pavement	Treatment control only	Bioretention areas without flow control

3.3.1.1 Flow-through planters

Flow-through planters are proposed to treat runoff from roof areas, elevated patios, and parking structures. A flow-through planter is an above ground soil and vegetation system that relies on soil infiltration and biological processes to slow, store, and remove pollutants from runoff. They improve stormwater quality, and reduce overall volume and discharge rate. Proposed flow-through planters would receive runoff from roof downspouts or sheet flow across surfaces and infiltrate runoff thorough a planted, engineered soil mix. A perforated PVC pipe, which would be connected to the stormdrain system, would underdrain the system. A conceptual design of a flow-through planter is given in **Figure 4**.

In accordance with the SUSMP, the engineered soil mix would have an infiltration rate of between 5 and 10 inches per hour. (Soil mix specifications are described in Section 3.3.2 and Appendix B.) Sizing factors have been calculated to ensure that this rate would meet the

requirements of the SUSMP and the NPDES permit (detaining the post-project two-year peak flow rate to less than existing conditions). Storage for excess runoff, up to the two-year 24-hour runoff volume would be provided above the planting area.

3.3.1.2 Bioretention Areas

Like flow-through planters, bioretention areas rely on soil infiltration and vegetative uptake to treat stormwater. The primary difference between bioretention areas and flow-through planters is bioretention areas do not have an impermeable base and are usually installed-at grade. Bioretention areas used at the project site will contain the same planted engineered soil mix used for flow-through planters. Underdrains will be installed, which will carry infiltrated runoff to the stormdrain system. For bioretention areas that will also provide flow control, a storage volume for the two-year, 24-hour runoff will be provided above the planting surface. A conceptual design for bioretention areas is shown in **Figure 5**.

3.3.2 Soil characteristics for flow-through planters and bioretention areas

Native soils at the project site do not provide sufficient infiltration to be used in treatment BMPs. Therefore, an engineered soil mix will be used. Soils selected for bioretention areas and flow-through planters will meet two objectives:

- Soils will be designed for a minimum infiltration rate of five inches/hour and a maximum infiltration rate of 10 inches/hour.
- Soils must retain sufficient moisture to support plant growth.

The engineered soil mix will be composed of non-compacted soil with the following characteristics: 10-20% topsoil, 50-60% fine sand, and 30-40% compost as measured by volume. Detailed specifications for soils used in treatment BMPs are give in Appendix B.

3.3.3 Vegetation selection for flow-through planters and bioretention

Vegetation for planting in flow-through planters and bioretention areas will be selected based on irrigation preferences, ability to tolerate heat, and ability to tolerate temporary inundation. No invasive species will be planted in structural BMPs. Weeds will be controlled primarily by manual methods and soil amendments. In the event of invasive species establishment, non-selective natural herbicides may be used. The Santa Rosa SUSMP provides guidance for selection of planting species. This project will adhere to these guidelines as closely as practicable. These guidelines are included as Appendix C of this report.

3.3.4 BMP sizing factors

Unitless sizing factors have been developed for treatment and flow control BMPs. A sizing factor approach has been selected for consistent application across alternatives. Actual areas and

volumes may be adjusted during final design of the project. These factors are used to demonstrate the ability of the project to comply with stormwater quality and flow control requirements. Sizing factors meet the following objectives:

- To meet the water quality treatment guideline the treatment area is sized to treat the 85th percentile mean annual 24-hour rainfall intensity (0.21 in/hr).
- Where required to meet the peak flow control guideline, the storage volume will be sized to limit the post-project two-year, 24-hour peak flow rate to pre-development conditions.

Sizing factors are shown in Table 5. Detailed calculations behind the development of these factors is given in Appendix A.

Table 5. Sizing factors for best management factors

Contributing area	Sizing factor for treatment facilities	Treatment area	Detention volume
		(feet^2/acre)	*(feet^3/acre)*
Impervious areas	7.8%	3,400	3,430
Pervious pavement	1.6%	700	--

3.3.5 Sizing and locations for treatment and flow control BMPs

Locations and sizes for proposed treatment and flow control BMPs for the proposed project and each project alternative are shown in **Figure 6**A through **Figure 6**E. Locations and sizes were developed by delineating contributing watersheds and calculating the contributing area. Then, sizing factors were applied to the contributing areas to arrive at the required BMP area. Table 6 and Table 7 summarize the required areas and the area designated for BMPs. For each alternative, the area designated exceeds the area required for treatment and flow control. As the project design continues, the areas will likely be refined to conform with site grading and utilities requirements. The final areas for BMPs will be equal to or exceed the areas required as shown in Table 6 and Table 7. Detailed tables describing the contributing watershed areas and individual BMP areas for each alternative are given in Appendix D.

Table 6. BMP sizing summary for impervious areas

Alternative	Total impervious area	Area required for combined treatment and flow control BMPs	Area designated for combined treatment and flow control BMPs
	(acres)	*(acres)*	*(acres)*
Alternative A	16.3	1.27	1.50
Alternative B	14.4	1.12	1.32
Alternative C	14.4	1.12	1.32
Alternative D	11.2	0.87	1.06
Alternative E	6.8	0.53	0.58

Table 7. BMP sizing summary for pervious pavement areas

Alternative	Total pervious pavement Area *(acres)*	Area required for treatment BMPs *(acres)*	Area designated for treatment BMPs *(acres)*
Alternative A	5.3	0.08	0.12
Alternative B	5.6	0.09	0.14
Alternative C	5.3	0.08	0.14
Alternative D	4.4	0.07	0.12
Alternative E	7.2	0.12	0.14

4. MAINTENANCE OF BMPS

As property owner, the Cloverdale Rancheria of Pomo Indians will be responsible for maintenance of BMPs at the project site. After final design is complete a maintenance plan will be developed for all stormwater BMPs on the project site. Maintenance activities are likely to include:

- Removal of trash and debris
- Pruning and clipping of vegetation
- Replacement of dead or dying vegetation
- Filling voids in eroded areas
- Replacing damaged underdrains
- Clearing of clogged outlets

The maintenance plan will include maintenance checklists, schedules and reporting requirements.

5. REFERENCES

Bay Area Stormwater Management Agencies Association (BASMAA), 1999. Start at the Source-Design Guidance Manual for Stormwater Quality Protection: New York, Forbes Custom Publishing.

California Stormwater Quality Association, 2003. California Storm Water Best Management Practice Handbook, New Development and Redevelopment

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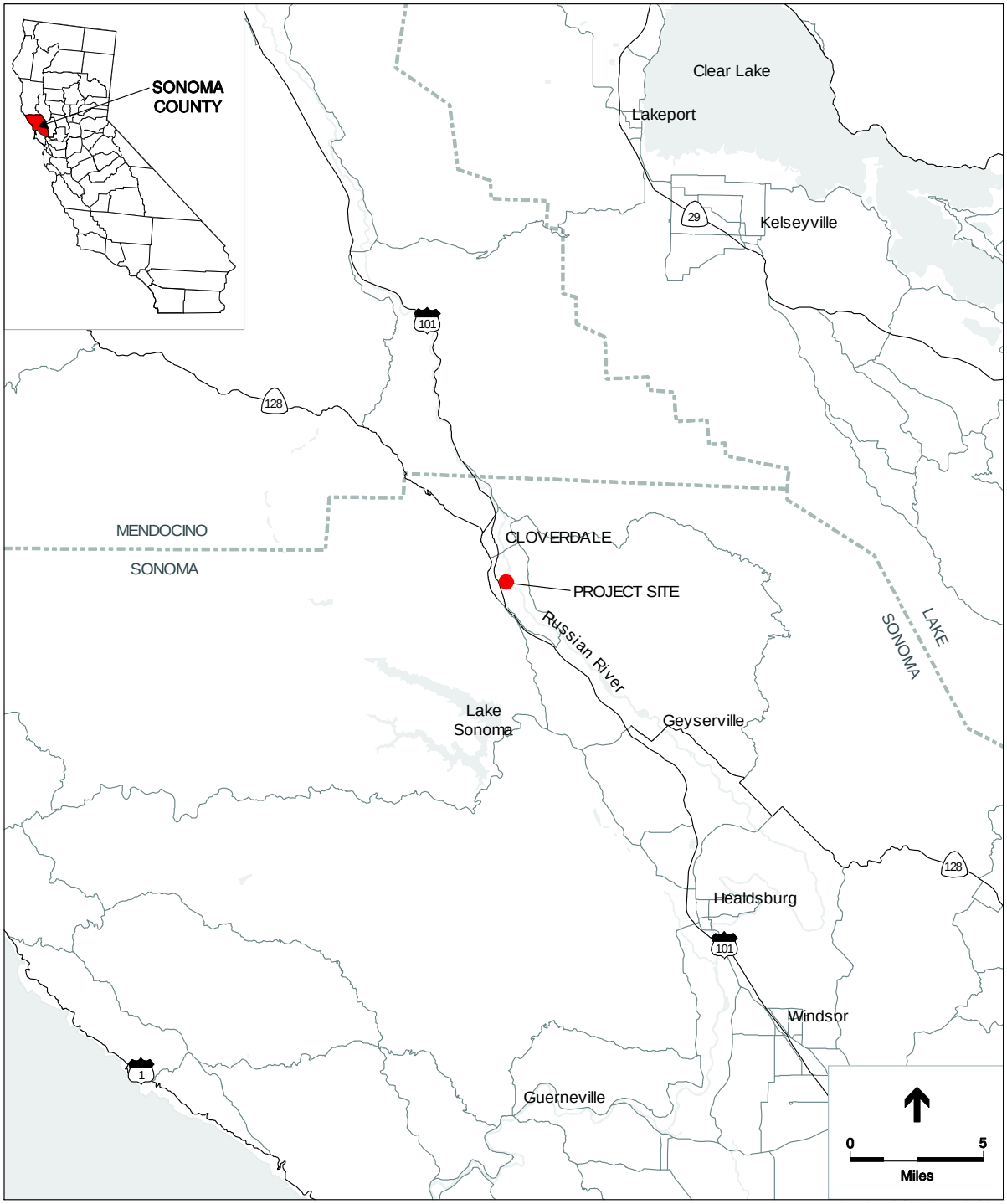
NRCS (Natural Resources Conservation Service), 1972. Soil Survey, Sonoma County, California. United States Department of Agriculture.

Sonoma County, City of Santa Rosa, Russian River Watershed Association, 2005. Guidelines for the Standard Urban Storm Water Mitigation Plan (SUSMP).

Sonoma County, 2011. Code of Ordinances, Chapter 11A, Stormwater Quality.



Source: Cloverdale EIS (ESA 2010)

figure ***1***
Cloverdale Rancheria

Project Location

PWA Ref# D207737.00

ESA PWA

Indicates direction of flow

0 500 1,000 Feet

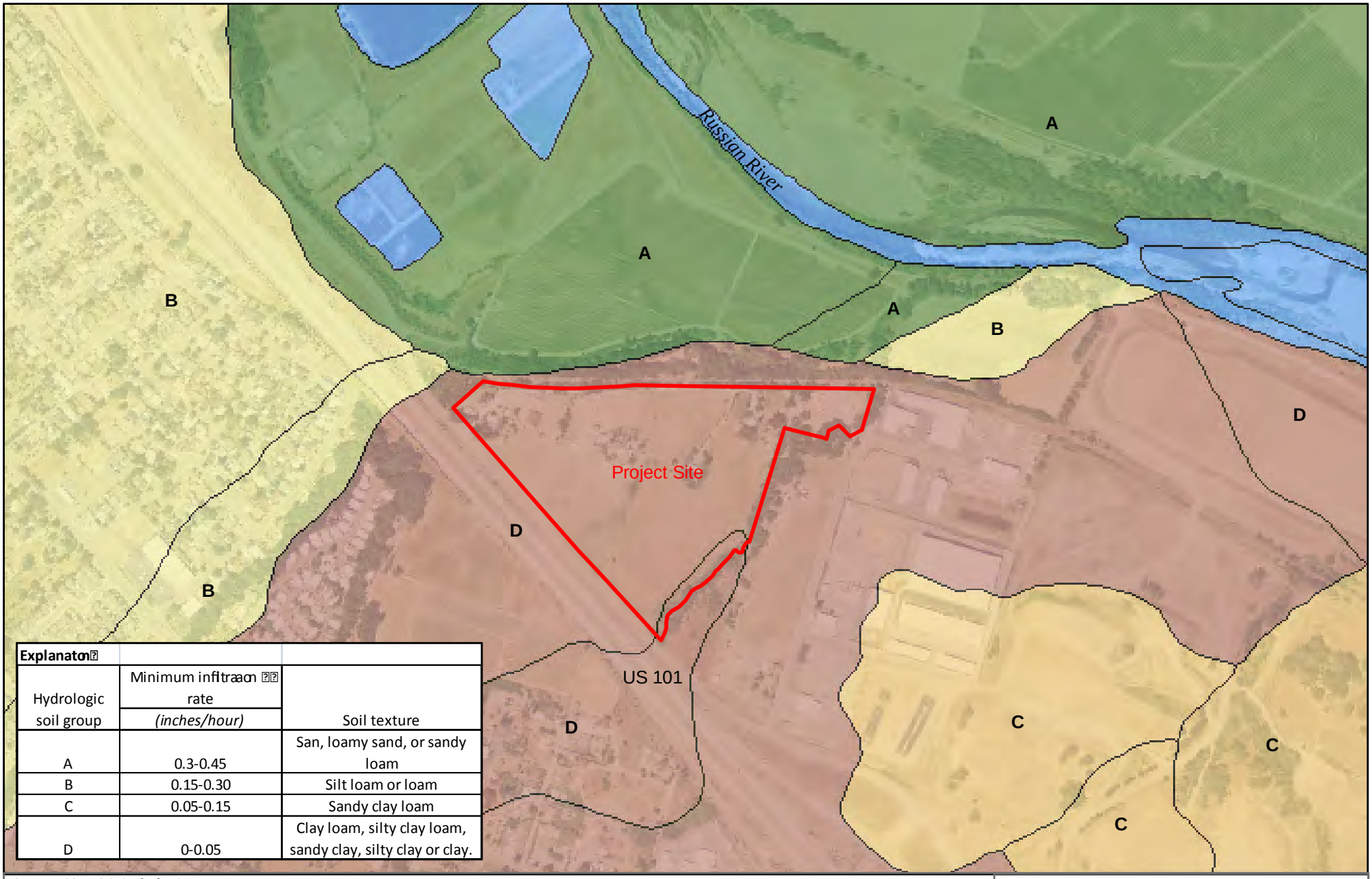
figure 2

PWA Ref# -207737.00

Cloverdale Rancheria

Existing drainage pattern

ESA PWA



Explanation		
Hydrologic soil group	Minimum infiltration rate (inches/hour)	Soil texture
A	0.3-0.45	San, loamy sand, or sandy loam
B	0.15-0.30	Silt loam or loam
C	0.05-0.15	Sandy clay loam
D	0-0.05	Clay loam, silty clay loam, sandy clay, silty clay or clay.

Source: SSURGO (soils data)

Note: Soil group trends alphabetically from high infiltration rate to low infiltration rate

N

0 190 380 760 1,140 1,520 Feet

Project Area
Opne water
Hydrologic Soils Group
A
B
C
D

figure 3
Cloverdale Rancheria

Hydrologic Soils Group on Project Site

PWA Ref# - 207737.01

ESA PWA

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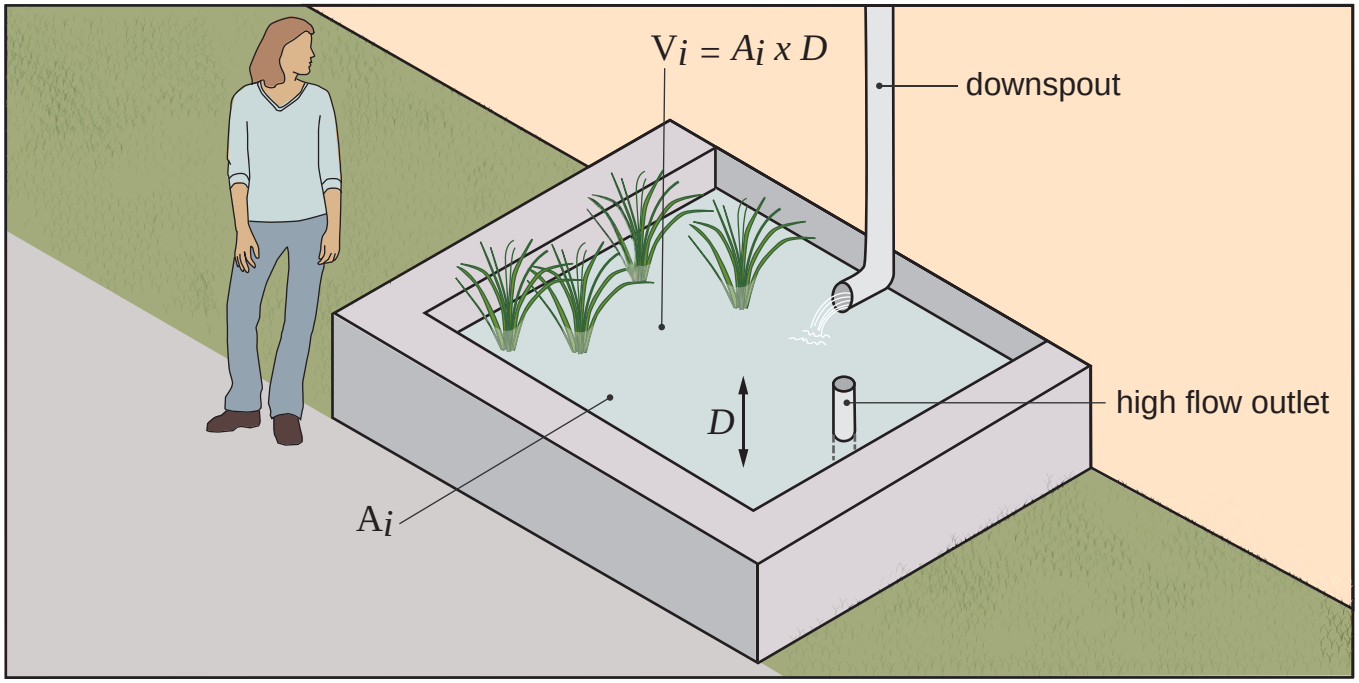

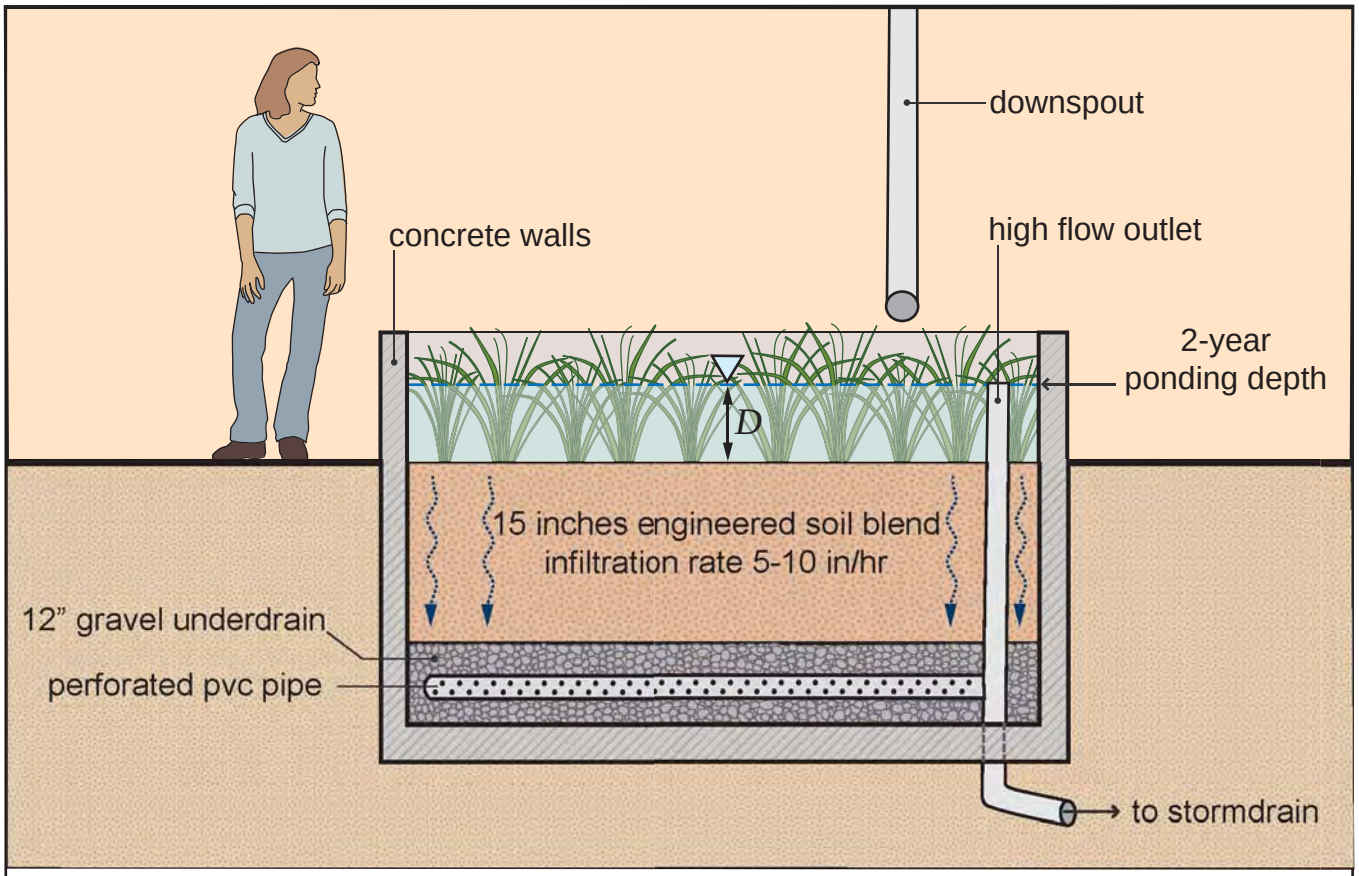

figure 4

Cloverdale Rancheria

Flow-through Planter Concept

ESA PWA

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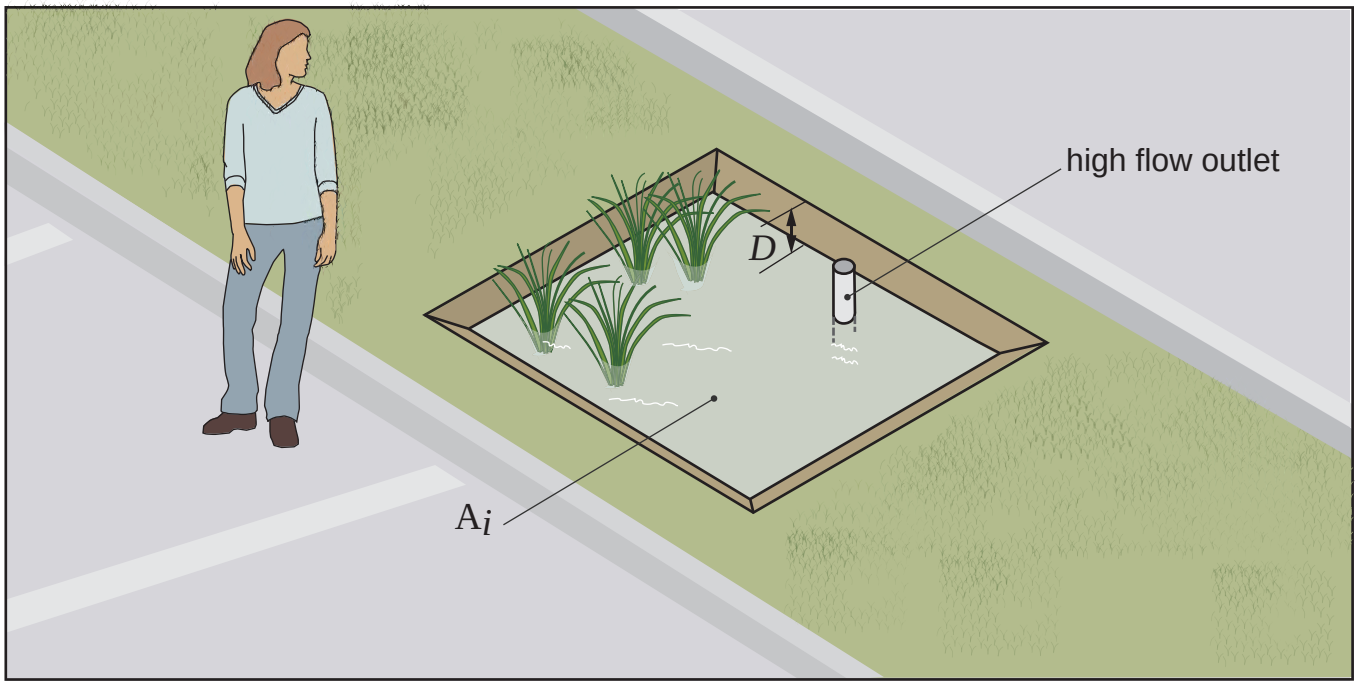

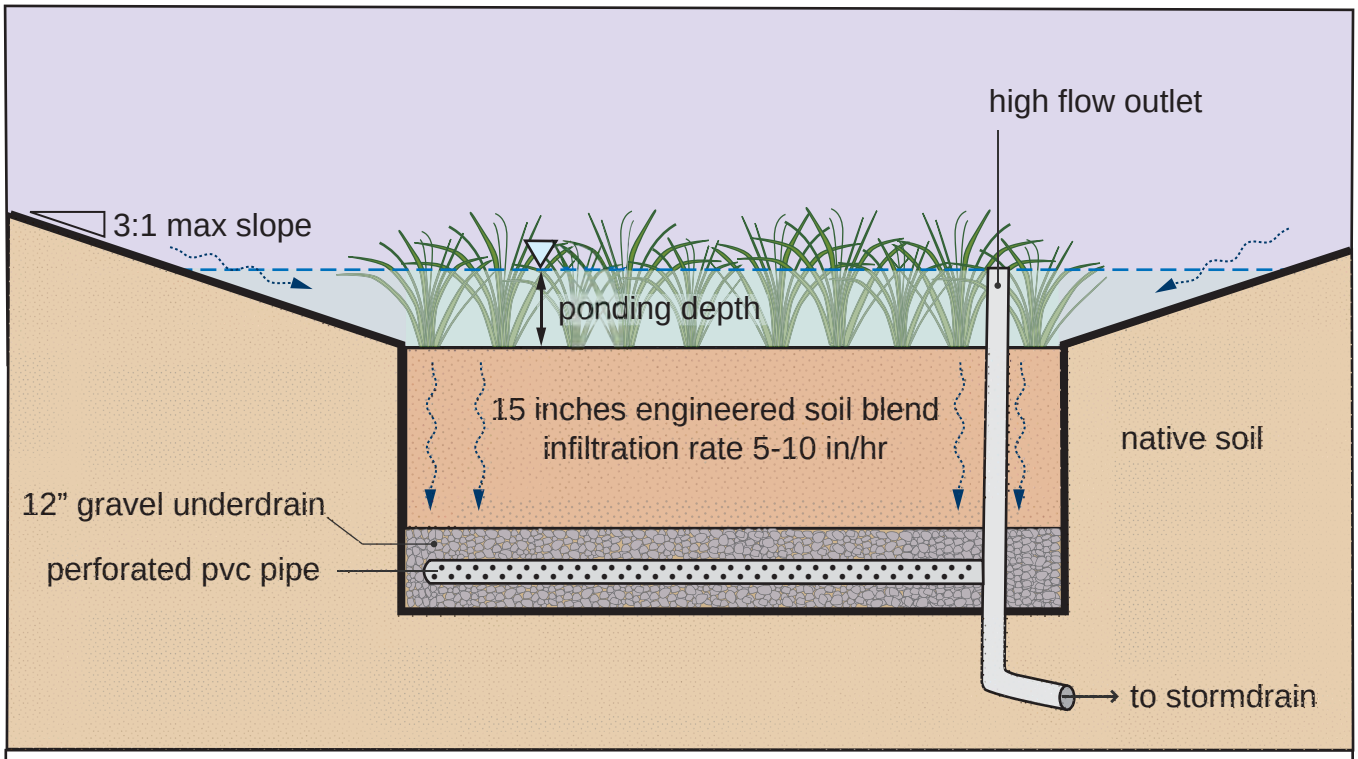

figure 5

Cloverdale Rancheria

Bioretention Areas

ESA PWA

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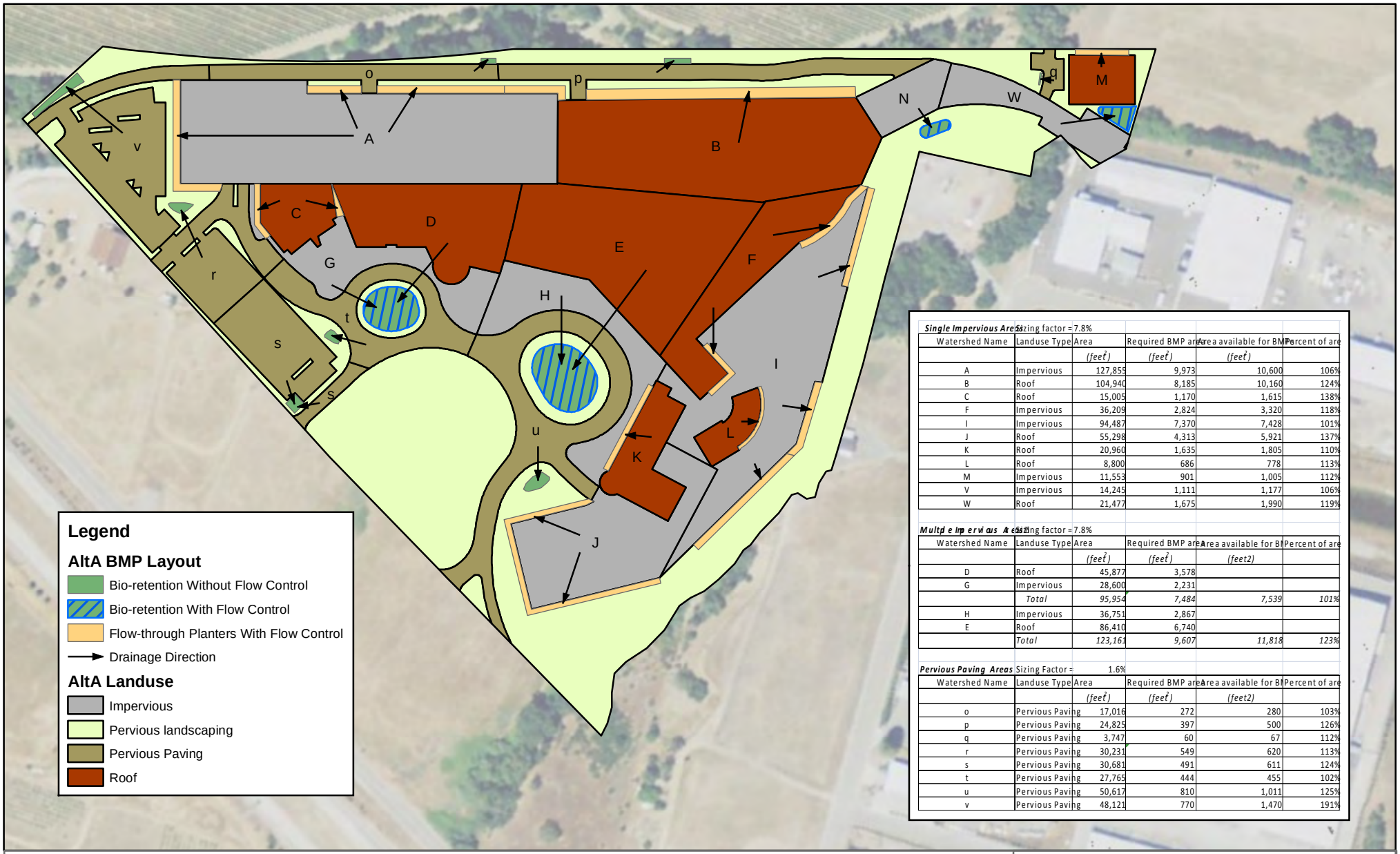

Single Impervious Areas Sizing factor = 7.8%

Watershed Name	Landuse Type	Area	Required BMP area	Area available for BMPs	Percent of are
		(feet²)	*(feet²)*	*(feet²)*	
A	Impervious	127,855	9,973	10,600	106%
B	Roof	104,940	8,185	10,160	124%
C	Roof	15,005	1,170	1,615	138%
F	Impervious	36,209	2,824	3,320	118%
I	Impervious	94,487	7,370	7,428	101%
J	Roof	55,298	4,313	5,921	137%
K	Roof	20,960	1,635	1,805	110%
L	Roof	8,800	686	778	113%
M	Impervious	11,553	901	1,005	112%
V	Impervious	14,245	1,111	1,177	106%
W	Roof	21,477	1,675	1,990	119%

Multiple Impervious Areas Sizing factor = 7.8%

Watershed Name	Landuse Type	Area	Required BMP area	Area available for BMPs	Percent of are
		(feet²)	*(feet²)*	*(feet2)*	
D	Roof	45,877	3,578		
G	Impervious	28,600	2,231		
	Total	*95,954*	*7,484*	*7,539*	*101%*
H	Impervious	36,751	2,867		
E	Roof	86,410	6,740		
	Total	*123,161*	*9,607*	*11,818*	*123%*

Pervious Paving Areas Sizing Factor = 1.6%

Watershed Name	Landuse Type	Area	Required BMP area	Area available for BMPs	Percent of are
		(feet²)	*(feet²)*	*(feet2)*	
o	Pervious Paving	17,016	272	280	103%
p	Pervious Paving	24,825	397	500	126%
q	Pervious Paving	3,747	60	67	112%
r	Pervious Paving	30,231	549	620	113%
s	Pervious Paving	30,681	491	611	124%
t	Pervious Paving	27,765	444	455	102%
u	Pervious Paving	50,617	810	1,011	125%
v	Pervious Paving	48,121	770	1,470	191%

Source:

Note:

N

0 125 250 500 750 1,000 Feet

figure 6a

Cloverdale Rancheria

Alternative A Drainage Basins and Land Use

PWA Ref# - 207737.01

ESA PWA

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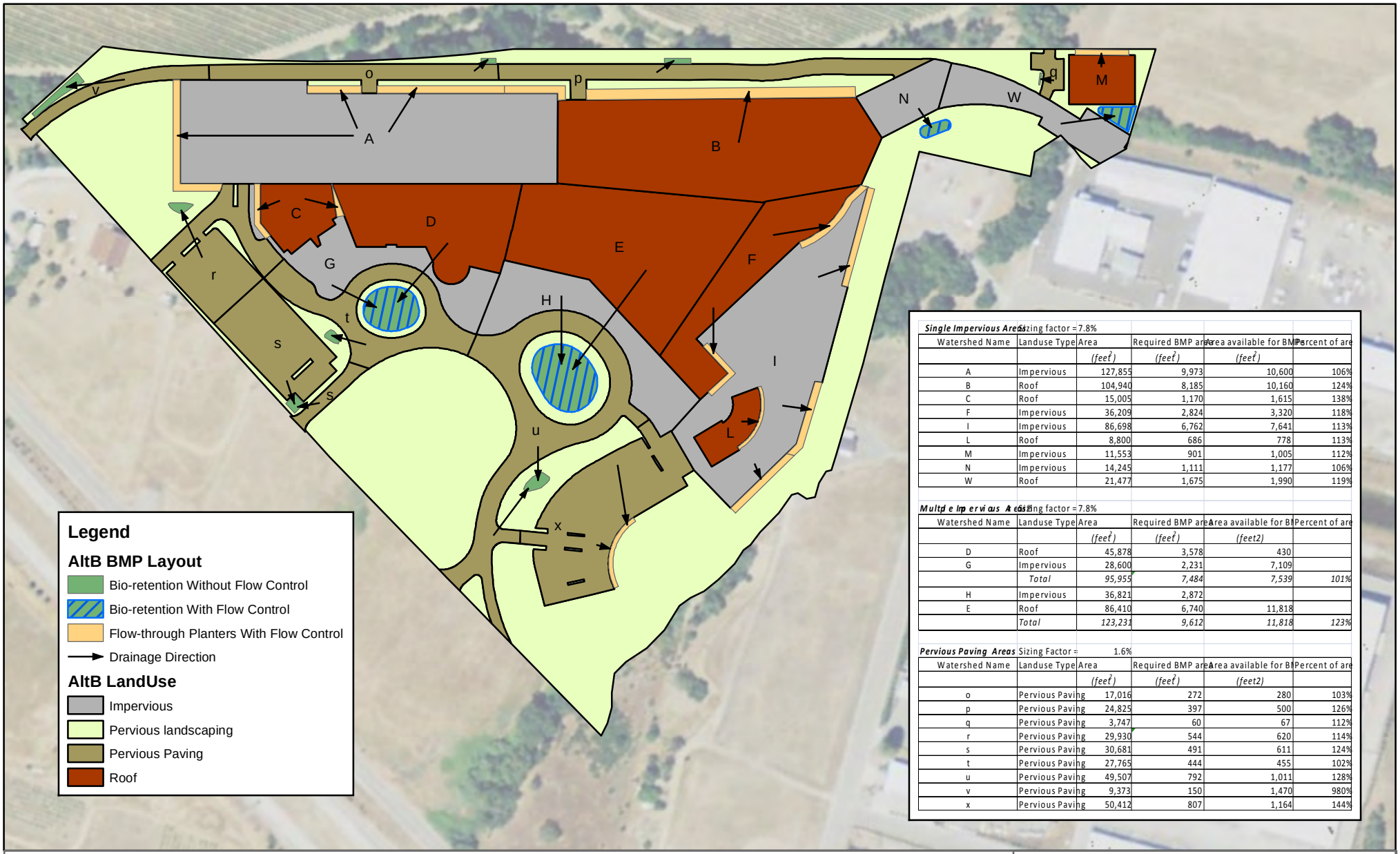

Single Impervious Areas Sizing factor = 7.8%

Watershed Name	Landuse Type	Area	Required BMP area	Area available for BMP	Percent of are
		(feet²)	*(feet²)*	*(feet²)*	
A	Impervious	127,855	9,973	10,600	106%
B	Roof	104,940	8,185	10,160	124%
C	Roof	15,005	1,170	1,615	138%
F	Impervious	36,209	2,824	3,320	118%
I	Impervious	86,698	6,762	7,641	113%
L	Roof	8,800	686	778	113%
M	Impervious	11,553	901	1,005	112%
N	Impervious	14,245	1,111	1,177	106%
W	Roof	21,477	1,675	1,990	119%

Multiple Impervious Areas Sizing factor = 7.8%

Watershed Name	Landuse Type	Area	Required BMP area	Area available for BMP	Percent of are
		(feet²)	*(feet²)*	*(feet2)*	
D	Roof	45,878	3,578	430	
G	Impervious	28,600	2,231	7,109	
	Total	*95,955*	*7,484*	*7,539*	*101%*
H	Impervious	36,821	2,872		
E	Roof	86,410	6,740	11,818	
	Total	*123,231*	*9,612*	*11,818*	*123%*

Pervious Paving Areas Sizing Factor = 1.6%

Watershed Name	Landuse Type	Area	Required BMP area	Area available for BMP	Percent of are
		(feet²)	*(feet²)*	*(feet2)*	
o	Pervious Paving	17,016	272	280	103%
p	Pervious Paving	24,825	397	500	126%
q	Pervious Paving	3,747	60	67	112%
r	Pervious Paving	29,930	544	620	114%
s	Pervious Paving	30,681	491	611	124%
t	Pervious Paving	27,765	444	455	102%
u	Pervious Paving	49,507	792	1,011	128%
v	Pervious Paving	9,373	150	1,470	980%
x	Pervious Paving	50,412	807	1,164	144%

Source:

Note:

N

0 125 250 500 750 1,000 Feet

figure 6b

Cloverdale Rancheria

Alternative B Drainage Basins and Land Use

PWA Ref# - 207737.01

ESA PWA

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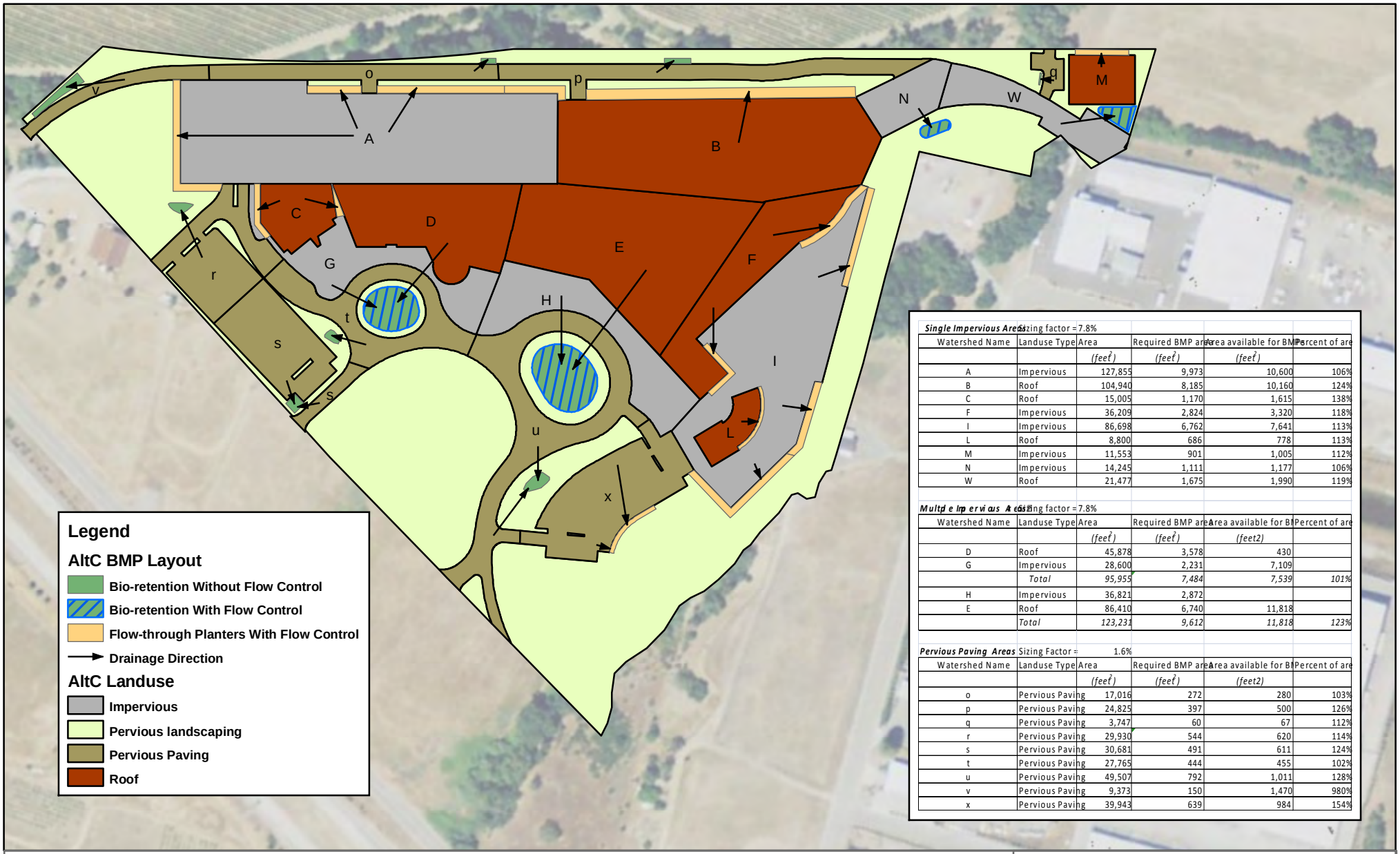

Single Impervious Areas Sizing factor = 7.8%

Watershed Name	Landuse Type	Area	Required BMP area	Area available for BMP	Percent of are
		(feet²)	*(feet²)*	*(feet²)*	
A	Impervious	127,855	9,973	10,600	106%
B	Roof	104,940	8,185	10,160	124%
C	Roof	15,005	1,170	1,615	138%
F	Impervious	36,209	2,824	3,320	118%
I	Impervious	86,698	6,762	7,641	113%
L	Roof	8,800	686	778	113%
M	Impervious	11,553	901	1,005	112%
N	Impervious	14,245	1,111	1,177	106%
W	Roof	21,477	1,675	1,990	119%

Multiple Impervious Areas Sizing factor = 7.8%

Watershed Name	Landuse Type	Area	Required BMP area	Area available for BMP	Percent of are
		(feet²)	*(feet²)*	*(feet2)*	
D	Roof	45,878	3,578	430	
G	Impervious	28,600	2,231	7,109	
	Total	*95,955*	*7,484*	*7,539*	*101%*
H	Impervious	36,821	2,872		
E	Roof	86,410	6,740	11,818	
	Total	*123,231*	*9,612*	*11,818*	*123%*

Pervious Paving Areas Sizing Factor = 1.6%

Watershed Name	Landuse Type	Area	Required BMP area	Area available for BMP	Percent of are
		(feet²)	*(feet²)*	*(feet2)*	
o	Pervious Paving	17,016	272	280	103%
p	Pervious Paving	24,825	397	500	126%
q	Pervious Paving	3,747	60	67	112%
r	Pervious Paving	29,930	544	620	114%
s	Pervious Paving	30,681	491	611	124%
t	Pervious Paving	27,765	444	455	102%
u	Pervious Paving	49,507	792	1,011	128%
v	Pervious Paving	9,373	150	1,470	980%
x	Pervious Paving	39,943	639	984	154%

Source:

Note:

N

0 125 250 500 750 1,000 Feet

figure 6c

Cloverdale Rancheria

Alternative C Drainage Basins and Land Use

PWA Ref# - 207737.01

ESA PWA

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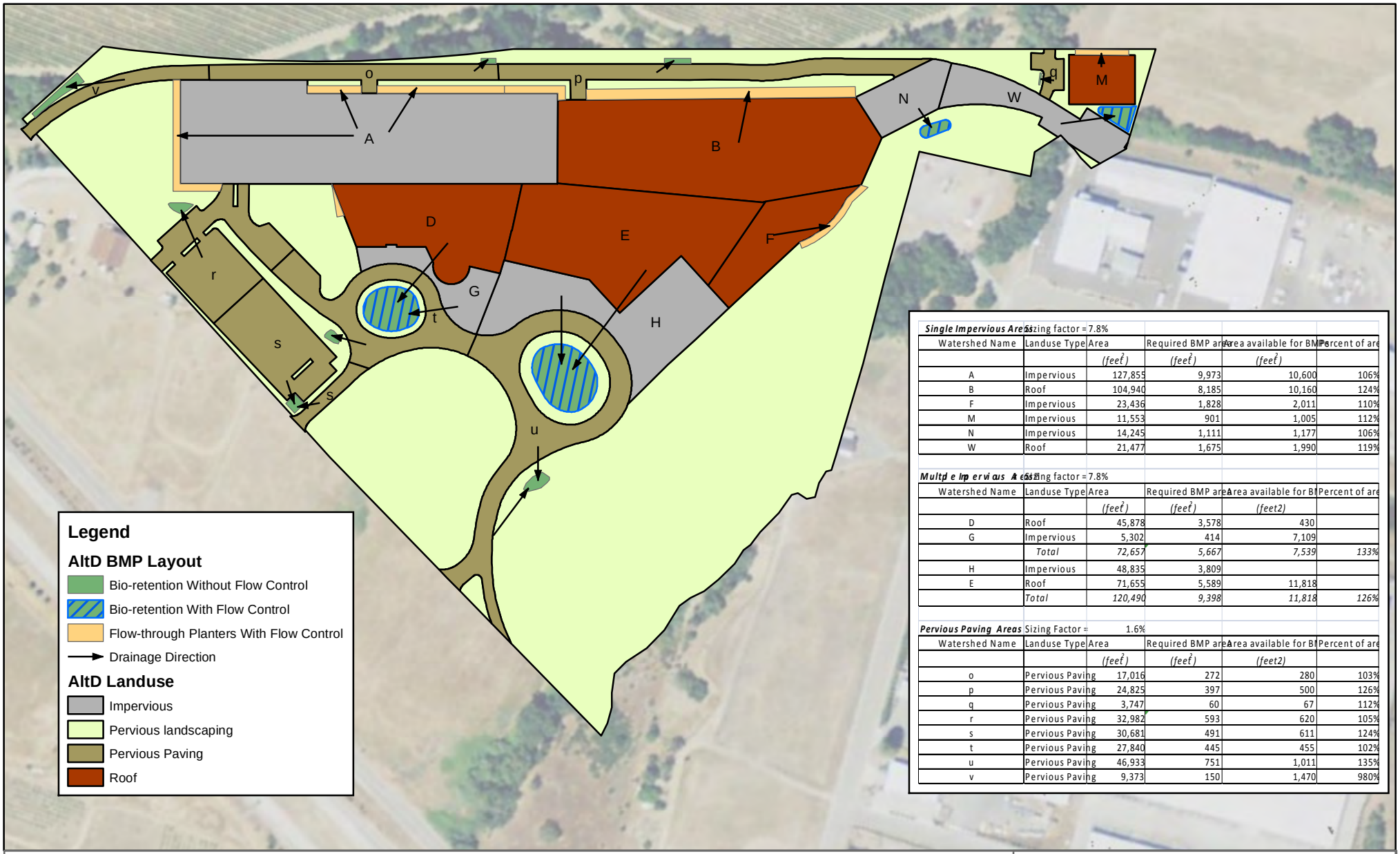

Single Impervious Areas Sizing factor = 7.8%

Watershed Name	Landuse Type	Area	Required BMP area	Area available for BMP	Percent of are
		(feet²)	*(feet²)*	*(feet²)*	
A	Impervious	127,855	9,973	10,600	106%
B	Roof	104,940	8,185	10,160	124%
F	Impervious	23,436	1,828	2,011	110%
M	Impervious	11,553	901	1,005	112%
N	Impervious	14,245	1,111	1,177	106%
W	Roof	21,477	1,675	1,990	119%

Multiple Impervious Areas Sizing factor = 7.8%

Watershed Name	Landuse Type	Area	Required BMP area	Area available for BMP	Percent of are
		(feet²)	*(feet²)*	*(feet2)*	
D	Roof	45,878	3,578	430	
G	Impervious	5,302	414	7,109	
	Total	*72,657*	*5,667*	*7,539*	*133%*
H	Impervious	48,835	3,809		
E	Roof	71,655	5,589	11,818	
	Total	*120,490*	*9,398*	*11,818*	*126%*

Pervious Paving Areas Sizing Factor = 1.6%

Watershed Name	Landuse Type	Area	Required BMP area	Area available for BMP	Percent of are
		(feet²)	*(feet²)*	*(feet2)*	
o	Pervious Paving	17,016	272	280	103%
p	Pervious Paving	24,825	397	500	126%
q	Pervious Paving	3,747	60	67	112%
r	Pervious Paving	32,982	593	620	105%
s	Pervious Paving	30,681	491	611	124%
t	Pervious Paving	27,840	445	455	102%
u	Pervious Paving	46,933	751	1,011	135%
v	Pervious Paving	9,373	150	1,470	980%

Source:

Note:

N

0 125 250 500 750 1,000 Feet

figure 6d

Cloverdale Rancheria

Alternative D Drainage Basins and Land Use

PWA Ref# - 207737.01

ESA PWA

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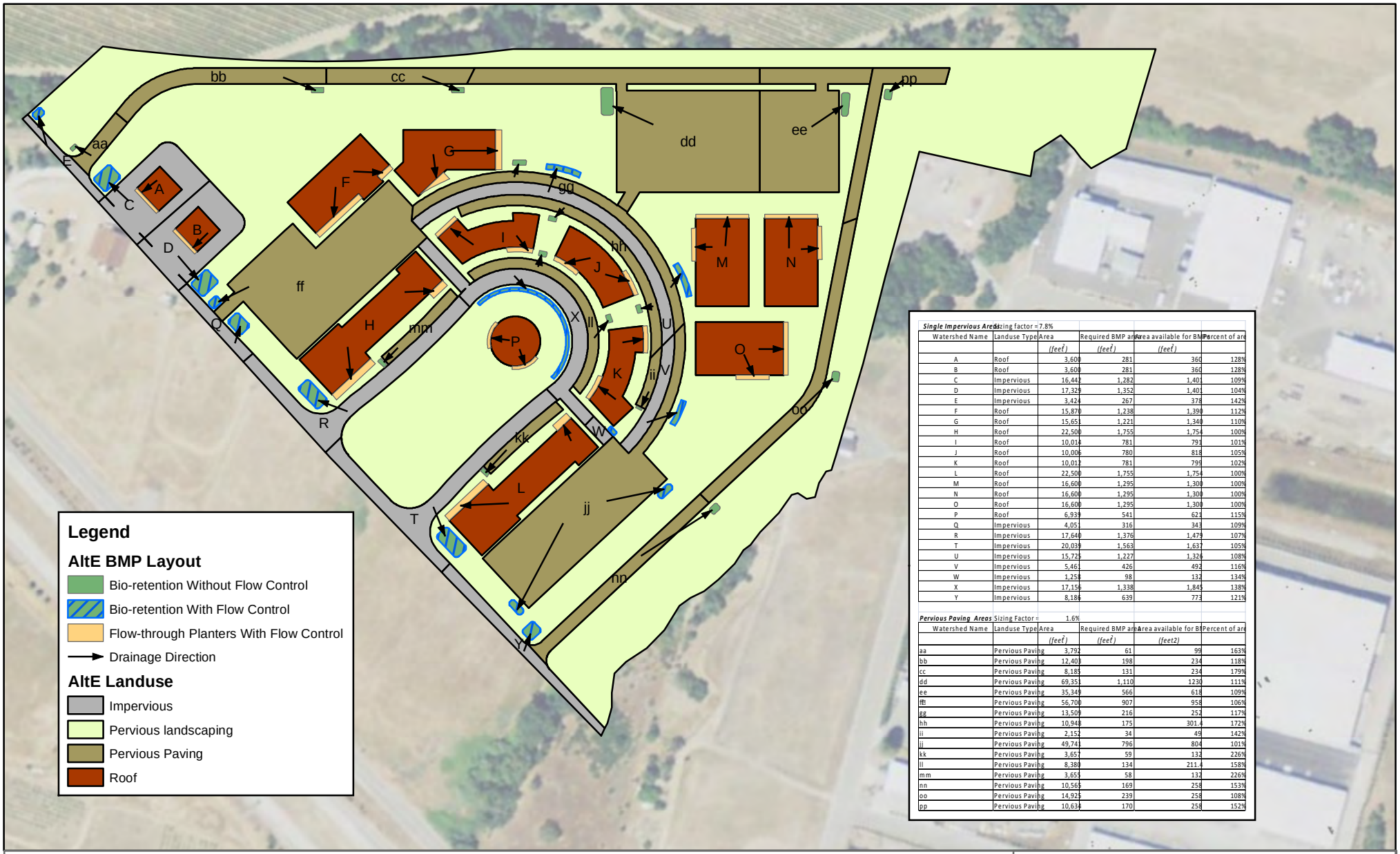

Single Impervious Areas Sizing factor = 7.8%

Watershed Name	Landuse Type	Area ($feet^2$)	Required BMP area ($feet^2$)	Area available for BMP ($feet^2$)	Percent of are
A	Roof	3,608	281	360	128%
B	Roof	3,608	281	360	128%
C	Impervious	16,442	1,282	1,401	109%
D	Impervious	17,329	1,352	1,401	104%
E	Impervious	3,424	267	378	142%
F	Roof	15,870	1,238	1,390	112%
G	Roof	15,651	1,221	1,340	110%
H	Roof	22,500	1,755	1,754	100%
I	Roof	10,014	781	791	101%
J	Roof	10,006	780	818	105%
K	Roof	10,012	781	799	102%
L	Roof	22,500	1,755	1,754	100%
M	Roof	16,600	1,295	1,300	100%
N	Roof	16,600	1,295	1,300	100%
O	Roof	16,600	1,295	1,300	100%
P	Roof	6,939	541	621	115%
Q	Impervious	4,051	316	343	109%
R	Impervious	17,640	1,376	1,479	107%
T	Impervious	20,039	1,563	1,637	105%
U	Impervious	15,725	1,227	1,326	108%
V	Impervious	5,461	426	492	116%
W	Impervious	1,258	98	132	134%
X	Impervious	17,156	1,338	1,845	138%
Y	Impervious	8,186	639	773	121%

Pervious Paving Areas Sizing Factor = 1.6%

Watershed Name	Landuse Type	Area ($feet^2$)	Required BMP area ($feet^2$)	Area available for BMP ($feet2$)	Percent of are
aa	Pervious Paving	3,792	61	99	163%
bb	Pervious Paving	12,403	198	234	118%
cc	Pervious Paving	8,185	131	234	179%
dd	Pervious Paving	69,351	1,110	1230	111%
ee	Pervious Paving	35,349	566	618	109%
ff	Pervious Paving	56,700	907	958	106%
gg	Pervious Paving	13,509	216	252	117%
hh	Pervious Paving	10,948	175	301.4	172%
ii	Pervious Paving	2,152	34	49	142%
jj	Pervious Paving	49,741	796	804	101%
kk	Pervious Paving	3,657	59	132	226%
ll	Pervious Paving	8,380	134	211.4	158%
mm	Pervious Paving	3,653	58	132	226%
nn	Pervious Paving	10,565	169	258	153%
oo	Pervious Paving	14,925	239	258	108%
pp	Pervious Paving	10,634	170	258	152%

Source:

Note:

N

0 125 250 500 750 1,000 Feet

figure 6e

Cloverdale Rancheria

Alternative D Drainage Basins and Land Use

PWA Ref# - 207737.01

ESA PWA

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Appendix A.
Development of sizing factors

1. Introduction

This appendix presents derivation of sizing factors for bioretention controls for the Cloverdale Rancheria Resort Casino Project. Sizing factors are developed using guidance from the following sources:

- *Guidelines for the Standard Urban Stormwater Mitigation Plan* (EOA and BKF, 2005)
- *Flood Control Design Criteria* (SCWA, 1983)
- *Urban Hydrology for Small Watersheds. Technical Release 55 (SCS, 1986)*

2. Treatment concept

Treatment facilities proposed for this project include flow-through planters and bioretention areas. In this report flow-through planters refer to treatment facilities that receive roof runoff and are located next to the outside building wall. Bioretention areas receive runoff from parking lots and circulation areas and are located at grade.

These facilities contain an under-drained soil filter medium with a storage reservoir above. The proposed facilities would be designed to provide both water quality treatment and peak flow control using the methods described in this appendix.

Filtration through the soil medium provides water quality treatment and the reservoir above provides storage volume for peak-flow control. The reservoir storage volume and filter medium area are shown as V_i and A_i in Figure 1.

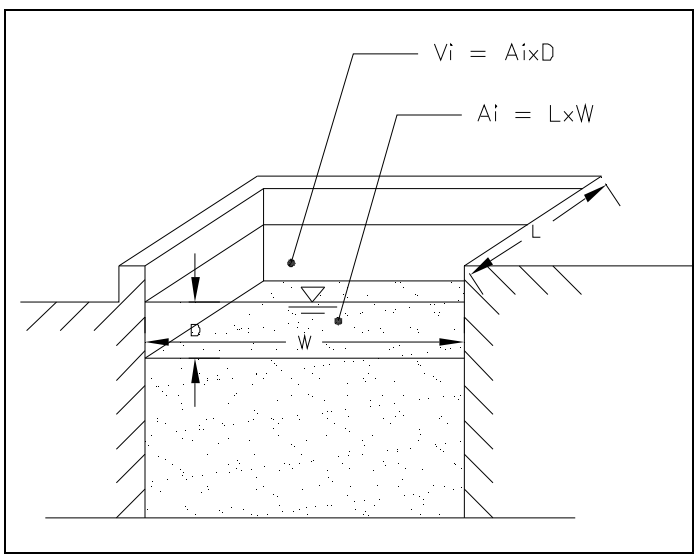


Figure 1. Bioretention area concept

A_i and V_i are sized to meet guidelines provided in the SUSMP for water quality treatment and peak flow control:

- To meet the water quality treatment guideline, A_i will be sized to treat the 85th percentile mean annual 24-hour rainfall intensity (0.21 in/hr).

- To meet the peak flow control guideline, V_i will be sized to limit the post-project two-year, 24-hour peak flow rate to pre-development conditions.

The methods described below are used to develop sizing factors on a unit-area basis for consistent application across alternatives. Actual areas and volumes may be adjusted during final design of the project, but these factors are used to demonstrate the ability of the project to comply with stormwater quality and flow control requirements.

3. Derivation of sizing factors

3.1 Area factor for impervious land uses

The area factor for impervious landuses is calculated from the rational method using a 0.21 in/hour intensity as shown in Equation 1.

$$q = 0.21(C)(A)(K) \qquad \text{(Equation 1)}$$

where:

C = runoff coefficient
A = watershed area (acres)
K = SCWA k-factor

Using Attachment 4-3 (Figure A-1) of the Santa Rosa SUMP, we applied a runoff coefficient of 0.90 for impervious areas. From the SCWA mean-annual precipitation map, the project site receives 40-inches of rainfall a year, resulting in a k-factor of 1.3 as determined from Attachment 4-3 of the Santa Rosa SUMP (Figures A-2 and A-3).

Therefore, the unit peak-flow rate from a 0.21 in/hour storm is:

$$q_{impervious} = 0.21(0.90)(A)(1.3)$$

or $q_{impervious}$ = 0.25 in/hr (A) (Equation 2)

The area of the required filtration area (A_i) can then be calculated using a ratio of the runoff rate entering the bioretention facility and the infiltration rate of the soil medium. Assuming a minimum soil infiltration rate of 5 inches/hour, the filtration area required is given by:

$$A_i = A\frac{0.25in/hr}{5in/hr} = 0.05A \qquad \text{(Equation 3)}$$

Equation 3 demonstrates that the minimum area of treatment facilities necessary to satisfy water quality criteria is equal to five percent of the post-project impervious area (sizing factor of 0.05). This is equivalent to 2,180 ft^2 of treatment facility per acre of impervious area.

3.2 Area factor for pervious landuses

Pervious pavement areas require treatment control. The area factor for pervious pavement is calculated from the rational method using Equation 1.

Using Attachment 4-3 of the Santa Rosa SUMP, we applied a runoff coefficient of 0.30 for pervious paving areas.

Therefore, the peak-flow rate from a 0.21 in/hour storm is:

$$q_{impervious} = 0.21(0.30)(A)(1.3)$$

or $q_{impervious}$ = 0.08 in/hr (A) (Equation 4)

The required filtration area (A_i) can then be calculated using a ratio of the runoff rate entering the treatment facility and the infiltration rate of the soil medium. Assuming a minimum soil infiltration rate of 5 inches/hour, the filtration area required is given by:

$$A_i = A\frac{0.08in/hr}{5in/hr} = 0.016A \quad \text{(Equation 5)}$$

Equation 5 demonstrates that the minimum area of treatment facilities necessary to satisfy water quality criteria is equal to 1.6 percent of the post-project pervious paving area (sizing factor of 0.016). This is equivalent to 700 ft^2 of bioretention per acre of pervious paving area.

3.3 Volume factor

SUSMP guidance for peak flow control from impervious areas focuses on matching the pre-project, two-year 24-hour peak flow rate. Peak flow control is not required for pervious paving since pervious pavement mimics the natural infiltration ability of the site. For impervious areas, peak flow rate is calculated using the rational method with the two-year rainfall intensity (SCWA, 1983). The two-year rainfall intensity is given by the following equation:

$$i = K \times 5.12 \times 2^{0.1469} \times t^{-0.528} \quad \text{(Equation 6)}$$

where:

K = SCWA k-factor

t = time of concentration (min)

For the purposes of developing sizing factors, the minimum time of concentration value recommended by SCWA (seven minutes) is used. This rainfall intensity is calculated using Equation 6:

$$i_{2yr} = 2.64 in/hr \qquad \text{(Equation 7)}$$

Therefore, applying Equation 1, the unit two-year peak flow for the pre-project landuse is given by:

$$q_{pervious} = 2.64(0.30)(A)$$

or $q_{pervious}$ = 0.80 cfs (A) (Equation 8)

The unit two-year peak flow for post-project impervious areas is given by:

$$q_{impervious} = 2.64(0.90)(A)$$

or $q_{impervious}$ = 2.40 cfs (A) (Equation 9)

Equation 8 is used to estimate pre-project (pervious conditions) peak flow and Equation 9 is used to estimate post-project (impervious conditions) peak flow. Per SUSMP guidelines, flow control facilities must be designed to limit post-project peak flow to the pre-project level. Flow control will be accomplished through infiltration through soils with a minimum infiltration rate of 5 in/hour and a maximum infiltration rate of 10 in/hour.

Using the sizing factor developed in Equation 3, the area devoted to treatment facilities for impervious areas is 2,180 ft^2 /acre. Assuming a 5 in/hour filtration rate through the soil medium, the flow rate of water passing through the BMP can be calculated from the following equation:

$$q_{out} = \frac{2180\, ft^2}{acre} \times \frac{5in}{hr} \times \frac{1\, ft}{12in} \times \frac{1hr}{3600s} \qquad \text{(Equation 10)}$$

or q_{out} = 0.25 cfs/acre

Applying the same equation, the flow out of a BMP with an infiltration rate of 10 in/hour is 0.50 cfs/acre. Comparing these results with the post-project peak flow calculated in Equation 9, filtering runoff from impervious surfaces through filtration BMPs with filtration rates between 5 in/hr and 10 in/hr would limit peak-flows from the two-year 24-hour storm to below pre-project rates. This is illustrated in Table 1.

Table 1. Unit area runoff rates for the two-year storm

Pervious areas (pre-project)	Impervious areas (post-project)	Treatment BMPs with a 0.05 sizing factor (post-project with treatment)
cfs/acre	*cfs/acre*	*cfs/acre*
0.80	2.40	0.25-0.50*

*Assuming soil filtration rates between 5 and 10 in/hr.

3.4 Volume factor

Table 1 shows that properly sized bioretention areas can be used to reduce the two-year peak flow from impervious surfaces to below the peak flow from pervious surfaces. However, flow into the bioretention areas exceeds the infiltration rate, necessitating a storage area above the filter media to detain runoff while it infiltrates. The required storage volume can be calculated using a unit-volume storage factor, V_i .

The method used to calculate V_i is based on *Urban Hydrology for Small Watersheds, Technical Release 55 (TR-55)* (SCS, 1986), which gives guidance for calculating runoff and storage volumes for a given storm. The method described in TR-55 is also referred to as the Curve Number method and is used in the SUSMP. This methodology can be used to calculate a runoff volume for a given storm, whereas the rational method is used to calculate a peak flow rate.

Using the curve number method, the volume of runoff is calculated from the following equations:

$$Q = \frac{(P - I_a)^2}{(P - I_a) + S} \qquad \text{(Equation 11)}$$

$$S = \left(\frac{1000}{CN}\right) - 10 \qquad \text{(Equation 12)}$$

$$I_a = 0.2S \qquad \text{(Equation 13)}$$

Where: CN = curve number for land use type
S = potential maximum retention after runoff begins (inches)
I_a = initial abstraction (inches)
Q = runoff (inches)
P = rainfall (inches)

From Table 2 of TR-55, the pervious Curve Number is estimated at 80 (Pasture, grassland, or range—continuous grazing – good condition, Type D soils) and the impervious Curve Number is estimated at 98 (Paved parking lots, roofs, driveways, etc. excluding right-of-way).

The total rainfall depth from a two-year, 24-hour storm can be calculated using Equation 6 with a 24-hour time of concentration.

$$P = i_{24} \times 24hrs$$

or P_{24} = 3.80 inches (Equation 14)

Unit runoff volumes calculated from the Curve Number method are given in Table 2.

Table 2. Unit runoff volumes from the two-year, 24-hour storm

Landuse	Curve number	Runoff depth	Q
--	--	*(inches)*	*(ft^3/acre)*
Pervious	80	1.88	6,820
Impervious	98	3.57	12,960

TR-55 contains an approximate method for sizing detention volumes. This method is illustrated in Figure 2. Given a peak inflow, peak outflow and runoff volume, the necessary storage volume can be derived from the figure. While this is an approximate method, it has been developed conservatively, to avoid underestimating detention volumes.

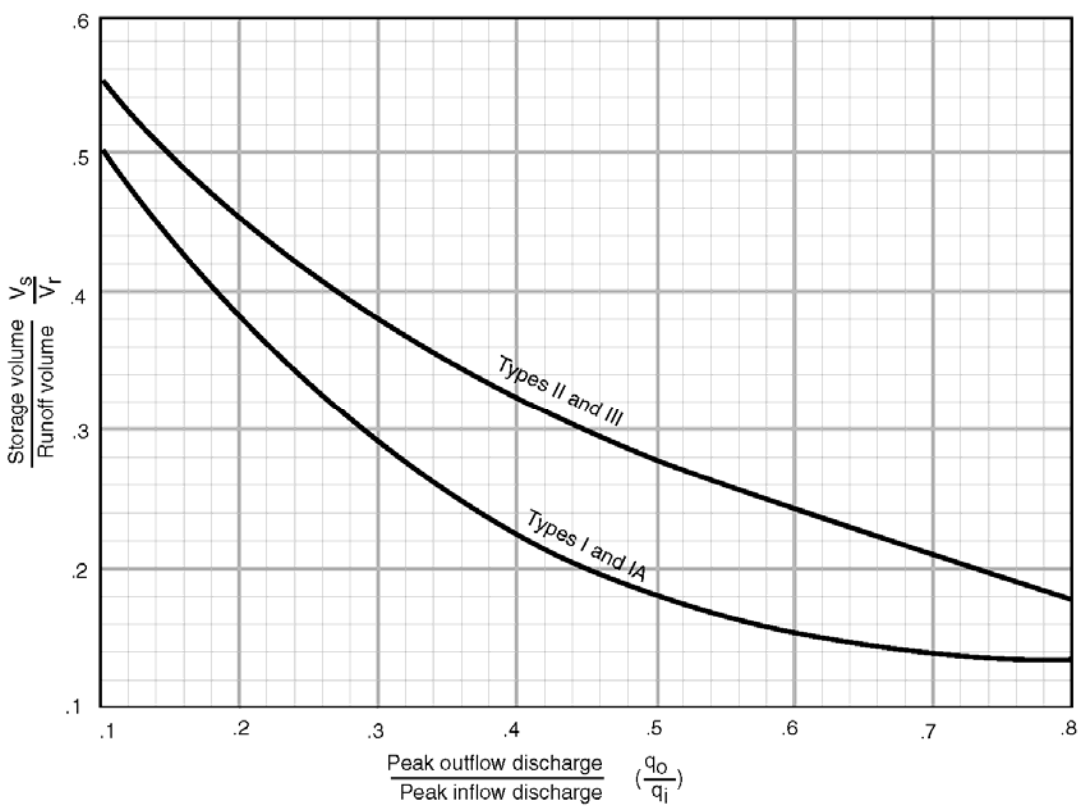


Figure 2. Approximate detention basin routing adapted from TR-55.

Note: Sonoma County is in SCS Zone 1A.

Given this method, the storage volume necessary to detain the two-year, 24-hour storm can be calculated with the following inputs:

From Table 1:

q_o = maximum BMP outflow rate = 0.50 cfs per acre;

q_i = post-project peak flow = BMP inflow rate = $q_{impervious}$ = 2.40 cfs per acre;

$q_o/q_i = 0.21$

from Figure 2:

$V_s/V_r = 0.37$

$V_s = 0.37V_r$

$V_r = V_{impervious}$= 12,960 ft^3/acre (Table 2)

V_s = 0.37*12,960 ft^3/acre = 4,795 ft^3/acre

Therefore the storage volume necessary to detain the two-year, 24-hour storm, V_s, is 4,795 ft^3/acre. Assuming a bioretention area with vertical walls and using an area sizing factor of 0.05, the storage depth can be calculated as:

D = 4,795 ft^3/acre * 0.05 acre/acre * unit conversion = 2.2 feet

Based on the area sizing factor of 0.05, the storage depth needed above the filter media would be 2.2 feet. The area factor of 0.05 is the minimum area that would be required to meet water quality criteria. A larger surface area can be used to filter runoff, which would reduce the depth of storage. In order for bioretention areas to serve as landscape features, it is commonly desired to limit the storage depth to approximately 12-18 inches, keeping filter media at the same elevation as other landscape features

Table 3 shows how increasing the area of bioretention areas can decrease the depth of storage. However, there is an upper limit to the amount of area that can be used for infiltration. Using too large of an area would cause outflow to be higher than pervious area peak flow (0.79 cfs/acre).

Table 3. Storage depth calculations for varying infiltration area

Sizing factor	**Filter area**	**Flow out low[1]**	**Flow out high[2]**	**q_o/q_i**	**V_s/V_r**	**V_r**	**V_s**	**Storage depth required**
-	*($feet^2$/acre)*	*(cfs/acre)*	*(cfs/acre)*	-	-	*($feet^3$/acre)*	*($feet^3$/acre)*	*feet*
0.050	2,178	0.25	0.50	0.21	0.37	12,960	4775	2.19
0.060	2,614	0.30	0.61	0.25	0.33	12,960	4,241	1.62
0.070	3,049	0.35	0.71	0.30	0.29	12,960	3,767	1.24
0.078	3,398	0.39	0.79	0.33	0.26	12,960	3,431	1.01
0.080	3,485	0.40	0.81	0.34	0.26	12,960	3,353	0.96

Notes: 1. Infiltration rate = 5 in/hr
2. Infiltration rate = 10 in/hr

Therefore from Table 3, the maximum sizing factor for BMPs is 0.078. Larger sizing factors result in discharges higher than the existing two-year flow. Therefore, a sizing factor of 7.8 percent has been selected for this study. According to Table 3, this would result in storage depth of 1.01 feet and would meet water quality and peak-flow control criteria set forth in the SUSMP. For simplicity, this value has been rounded to 1.0 feet. Sizing factors used in this study are shown in Table 4.

Table 4. BMP area sizing factors used in this study

	Area factor	**Volume**	**Depth**
	-	*(feet^3/acre)*	*(feet)*
BMPs draining pervious pavement	1.6%	--	--
Default value	7.8%	3,431	1.0

4. Comparison with Contra Costa County Clean Water Program Criteria

The Contra Costa County Clean Water Program uses a similar sizing approach for bioretention areas that are designed to meet stormwater quality and flow control requirements. The sizing factors recommended in Contra Costa County's *Stormwater C.3 Guidebook* are shown in Table 5 for comparison. The sizing factors derived for this study are similar to sizing factors used in the Contra Costa County Clean Water Program.

Table 5. Comparison of sizing factors for this study and CCWD guidance

	Area factor	**Volume**
	-	*(feet^3/acre)*
CCWD (Type D soils)	5%	4,225[1*]
This study	7.8%	4,775

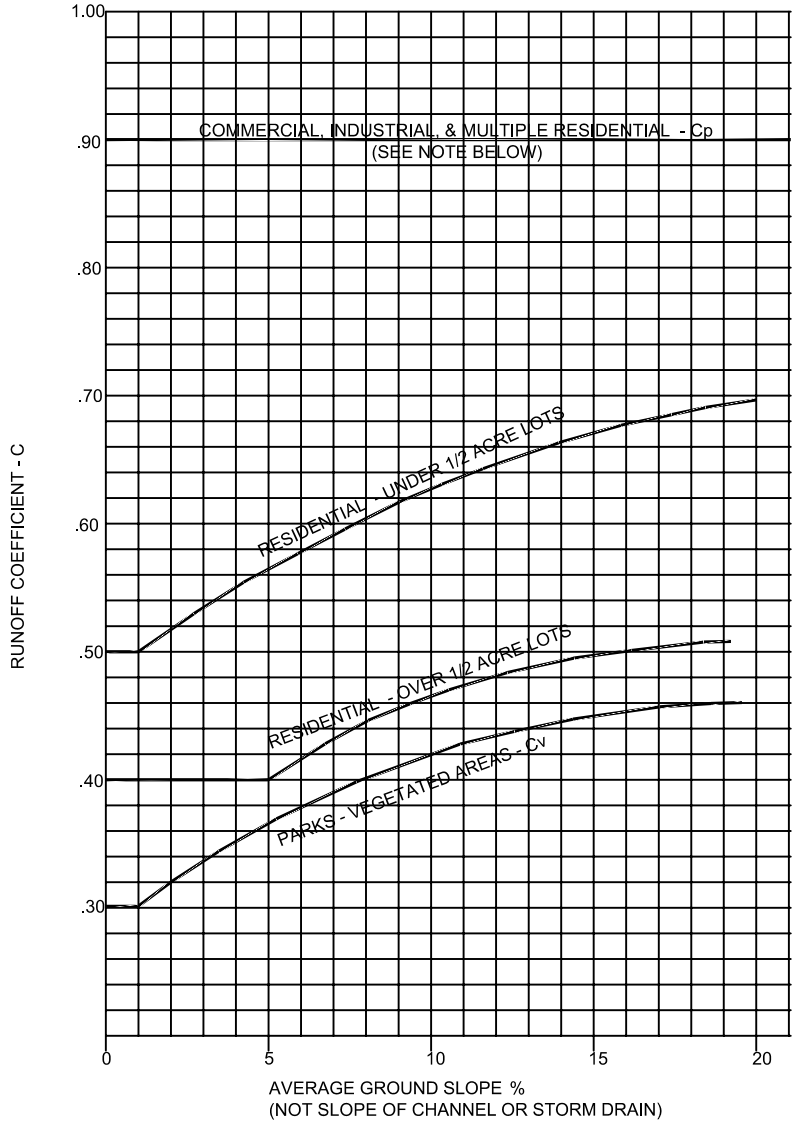
Note: *Sum of surface and interstitial subsurface volume, converted to feet^3/acre

5. References

Contra Costa County Clean Water Program, 2010. Stormwater C.3 Guidebook; Stormwater Quality Requirements for Development Applications, Fifth Edition.

Sonoma County Water Agency (SCWA) 1983. Flood Control Design Criteria for Waterways, Channels and Closed Conduits.

Sonoma County, City of Santa Rosa, Russian River Watershed Association, 2005. Guidelines for the Standard Urban Storm Water Mitigation Plan (SUSMP).



NOTE: FOR COMMERCIAL, INDUSTRIAL, & MULTIPLE RESIDENTIAL ONLY. WHEN VEGETATED AREA EXECEEDS 20% OF TOTAL AREA, Cv FROM VEGETATED CURVE MAY BE USED TO REDUCE Cp AS FOLLOW: Ct = Cv (Av/At) + Cp (Ap/At)

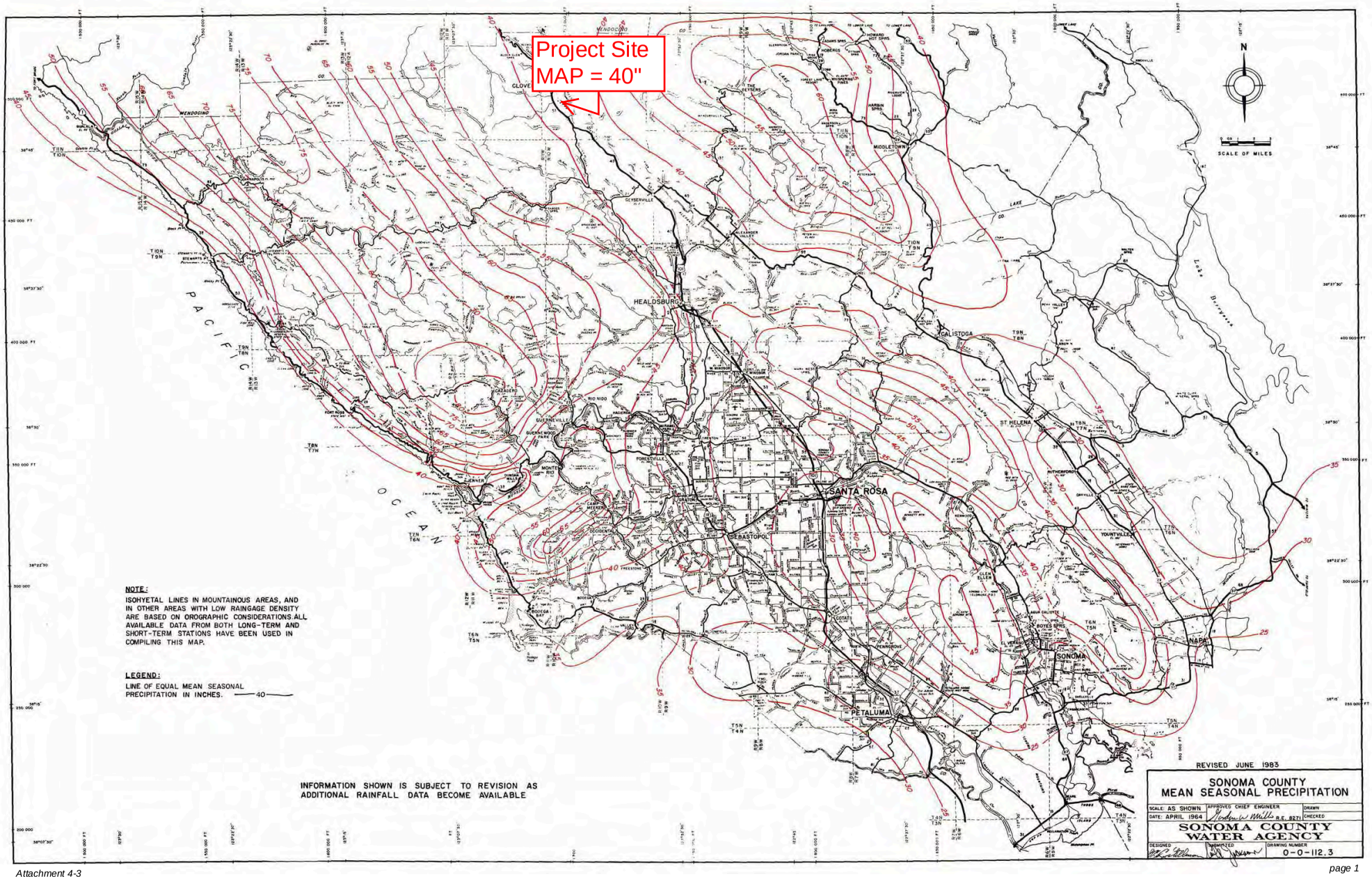
Fig A1

Runoff Coefficient Chart for SUSMP Water Quality Design Storms

COUNTY OF SONOMA

CITY OF SANTA ROSA

Santa Rosa Area SUSMP Guidance Document



Attachment 4-3

page 1

Fig A2

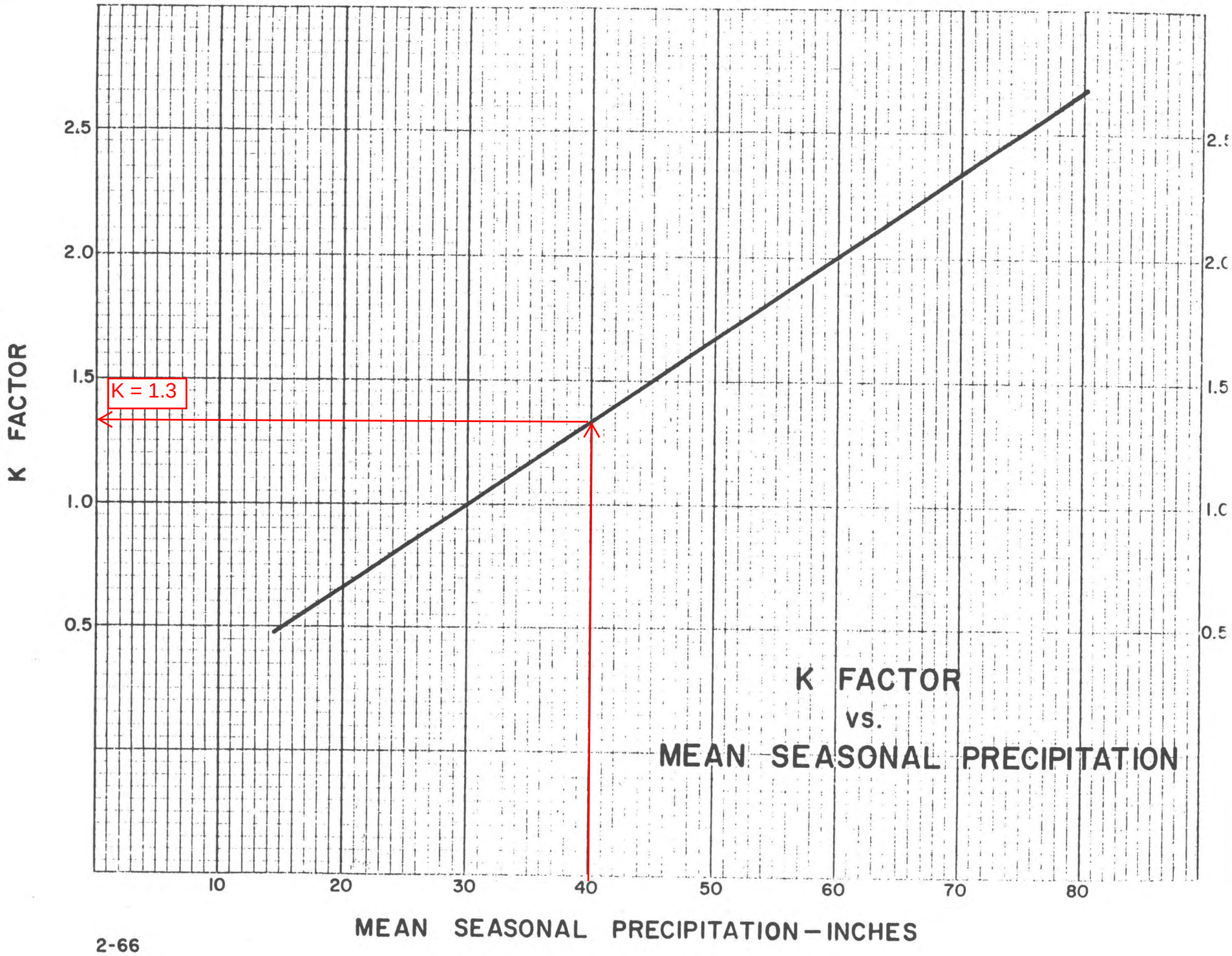


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PLATE No. B-4

Fig A3

Appendix B.
Specifications for soils in treatment
and flow control BMPs

Adapted from Contra Costa County Clean Water Program,
2010. Stormwater C.3 Guidebook; Stormwater Quality Requirements for
Development Applications, Fifth Edition.

1. INTRODUCTION

Soils for flow-through planters and BMP areas must meet two objectives:

- Be sufficiently permeable to infiltrate runoff at a minimum rate of 5 inches per hour and a maximum of 10 inches per hour during the life of the facility, and

- Have sufficient moisture retention to support healthy vegetation.

2. SOIL SPECIFICATION

BMP soil shall achieve a long-term, in-place infiltration rate of at least 5 inches per hour with a maximum rate of 10 inches per hour. BMP soil shall also support vigorous plant growth. BMP soil shall be a mixture of topsoil or fine sand, and compost, measured on a volume basis:

10%-20% Topsoil
50%-60% Fine Sand
30%-40% Compost

2.1 SAND FOR BMP SOIL

2.1.1 General

Sand shall be free of wood, waste, coating such as clay, stone dust, carbonate, etc., or any other deleterious material. All aggregate passing the No. 200 sieve size shall be non-plastic.

2.1.2 Sand for BMP Soil Texture

Sand for BMP Soils shall be analyzed using #200, #100, #40, #30, #16. #8, #4, and 3/8 inch sieves (ASTM D 422 or equilavent), and meet the following gradation:

Sieve Size	Percent Passing (by weight)	
	Min	Max
3/8 inch	100	100
No. 4	90	100
No. 8	70	100
No. 16	40	95
No. 30	15	70
No. 40	5	55
No. 100	0	15
No. 200	0	5

Note all sands complying with ASTM C33 for fine aggregate comply with the above gradation requirements.

2.2 TOPSOIL

2.2.1 General

Topsoil shall be free of wood, waste, or any other deleterious material.

2.2.2 Texture

The overall topsoil texture shall be loamy sand. The overall dry weight percentages shall be 60-90% sand, with less than 20% passing than the #200 sieve and less than 5% clay of the total weight with no gravel.

2.3 COMPOSTED MATERIAL

Compost shall be a well decomposed, stable, weed free organic matter source meeting the standards developed by the US Composting Council (USCC). The product shall be certified through the USCC Seal of Testing Assurance (STA) Program (a compost testing and information disclosure program).

A. Compost Quality Analysis

Before delivery of the soil, the supplier shall submit a copy of lab analysis performed by a laboratory that is enrolled in the US Composting Council's Compost Analysis Proficiency (CAP) program and using approved Test Methods for the Evaluation of Composting and Compost (TMECC). The lab report shall verify:

1) Feedstock Materials shall be specified and include one or more of the following: landscape/yard trimmings, grass clippings, food scraps, and agricultural crop residues.
2) Organic Matter Content: 35% -75% by dry wt.
3) Carbon and Nitrogen Ratio: C:N < 25:1.
4) Maturity/Stability: shall have a dark brown color and a soil-like odor. Compost exhibiting a sour or putrid smell, containing recognizable grass or leaves, or is hot (120F) upon delivery or rewetting is not acceptable. In addition any one of the following is required to indicate stability:
    i. Oxygen Test < 1.3 O2 /unit TS /hr
    ii. Specific oxy. Test < 1.5 O2 / unit BVS /
    iii. Respiration test < 8 C / unit VS / day
    iv. Dewar test < 20 Temp. rise (°C)
    v. Solvita® > 5 Index value
5) Toxicity: any one of the following measures is sufficient to indicate non-toxicity.
    i. NH4-: NO3-N < 3
    ii. Ammonium < 500 ppm, dry basis

iii. Seed Germination > 80 % of control
iv. Plant Trials > 80% of control
v. e. Solvita® > 5 Index value

6) Nutrient Content: provide analysis detailing nutrient content including N-P-K, Ca, Na, Mg, S, and B.
   i. Total Nitrogen content 0.9% or above preferred.
   ii. Boron: Total shall be <80 ppm; Soluble shall be <2.5 ppm
7) Salinity: Must be reported; < 6.0 mmhos/cm
8) pH shall be between 6.5 and 8. May vary with plant species.

B. Particle Size: 95% passing a 1/2” screen
C. Bulk density: shall be between 500 and 1100 dry lbs/cubic yard
D. Moisture Content shall be between 30% - 55% of dry solids.
E. Inerts: compost shall be relatively free of inert ingredients, including glass, plastic and paper, < 1 % by weight or volume.
F. Weed seed/pathogen destruction: provide proof of process to further reduce pathogens (PFRP). For example, turned windrows must reach min. 55C for 15 days with at least 5 turnings during that period.
G. Select Pathogens: Salmonella <3 MPN/4grams of TS, or Coliform Bacteria <10000 MPN/gram.
H. Trace Contaminants Metals (Lead, Mercury, Etc.) Product must meet US EPA, 40 CFR 503 regulations.
I. Compost Testing
   The compost supplier will test all compost products within 120 calendar days prior to application. Samples will be taken using the STA sample collection protocol. (The sample collection protocol can be obtained from the U.S. Composting Council, 4250 Veterans Memorial Highway, Suite 275, Holbrook, NY 11741 Phone: 631-737-4931, www.compostingcouncil.org). The sample shall be sent to an independent STA Program approved lab. The compost supplier will pay for the test.

2.4 PLACEMENT AND COMPACTION OF BMP SOILS

Place the BMP soil in 8" to 12" lifts. Lifts are not to be compacted but are placed to reduce the possibility of excessive settlement. Allow time for natural compaction and settlement prior to planting. BMP soil may be watered to encourage compaction.

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Appendix C.

Specifications for plant selection in treatment and flow control BMPs

From Appendix A of the Santa Rosa Area SUMP:

Sonoma County, City of Santa Rosa, Russian River Watershed Association, 2005. Guidelines for the Standard Urban Storm Water Mitigation Plan (SUSMP).

Appendix A. Landscaping and Vegetation for Storm Water Best Management Practices in New Development and Redevelopment in the Santa Rosa Area

This section should be used as guidance for design and installation of plantings as part of landscape-based treatment controls in Santa Rosa and Sonoma County. Site-specific climate and soil conditions must be determined prior to final plant selection and control installation.

A. Plant Species for Landscape-Based Treatment Controls

Landscaping plans and/or hydroseeding specification shall be provided for water quality systems using landscaped-based treatment controls such as swales or buffer strips. Landscaping plans shall be provided for water quality systems and shall include species lists, plant sizes (*e.g.,* seed, plug, 1-gallon container, etc.), planting layout, planting techniques, plant spacing, soil amendments, and hydroseed specifications. After establishment, summertime irrigation is rarely required when using plants adapted to Sonoma County's climate. Establishment may take 1-3 years, depending on timing of planting, plant size, planting location, etc. Revegetation with native species and adaptable species that can tolerate varying zones of inundation and soil moisture is encouraged.

Planting with native aquatic and wetland species will also provide a medium for biological uptake of pollutants. Bulrush and cattail are emergent species that have been noted for absorbing nitrogen and phosphorus. Bacteria present in the anaerobic conditions of saturated soils convert nitrates into a gaseous form that is then released into the atmosphere. Phosphorus can combine with various metal ions, including iron, manganese, copper, aluminum, and zinc in removing these pollutants from the water. Aquatic plants that are adapted for growth in permanently inundated conditions where the roots are continuously underwater provide significant water quality improvement capabilities. Herbaceous species and grasses are also useful for water quality improvement.

The use of shrubs and trees along the borders and banks of a basin is beneficial. A diverse association of plant species that provide stratified growth forms should be used to recreate a more natural system, as well as provide aesthetic and wildlife habitat value.

B. Invasive Species

To protect natural wetlands and agricultural areas, the use of the following invasive species is specifically prohibited.

Scientific Name	Common Name
Acacia spp.	acacia
Aegilops triuncialis	barbed goatgrass
Arundo donax	giant reed
Brassica spp.	mustard
Carduus pycnocephalus	Italian thistle
Carpobrotus edulis	ice plant
Carthamus lanatus	distaff thistle
Centaurea calcitrapa	purple starthistle
Centaurea solstitialis	yellow starthistle
Conium maculatum	poison hemlock
Cortaderia selloana	pampas grass
C. jubata	Jubata grass

Cotoneaster pannosus	cotoneaster
Cytisus scoparius	Scotch broom
Delairea odorata	cape ivy
Dipsacus fullonum	fullers teasel
Eucalyptus spp.	eucalyptus
Euphorbia oblongata	oblong spurge
Festuca elatior	tall fescue
Foeniculum vulgare	fennel
Genista monspessulana	French broom
Hedera helix	English ivy
Holcus lanatus	velvet grass
Lepidium latifolium	perennial pepperweed
Ligustrum spp.	privet
Lolium multiflorum	Italian ryegrass
Lolium perenne	perennial ryegrass
Lythrum salicaria	purple loosestrife
Mentha pulegium	pennyroyal
Phalaris aquatica	Harding grass
Rubus discolor	Himalayan blackberry
Taeniatherum caput-medusae	medusahead grass
Tribulus terrestris	puncture vine
Ulex europaeus	gorse
Vinca major	periwinkle
Xanthium spinosum	spiny cocklebur

Or any plant listed by the California Invasive Plant Council as invasive (http://www.cal-ipc.org/index.cfm), or any species that exhibits invasive characteristics.

C. PLANTING PLAN GUIDELINES FOR SPECIFIC TREATMENT CONTROLS

Recommended plant species are shown for each vegetated treatment control. Information about water use, dormancy, height, propagation, and drainage needs is included in Table A1.

1. Vegetated swales

Vegetated swales slowly convey runoff flow to downstream discharge points. Vegetated swales will be planted with species adapted to seasonal inundation and extended periods of dry conditions.

Emergent Species. The optimum planting conditions for these species would be within the center of the swale where the soil would be saturated for a greater duration (such as at the water elevation for a 24-hour storm with an annual return interval). Recommended species are:

Scientific Name	**Common Name**
Carex barbarae	Santa Barbara sedge
Carex densa	dense sedge
Carex obnupta	slough sedge
Juncus balticus	Baltic rush
Juncus bufonius	toad rush
Juncus effusus	Pacific rush
Juncus patens	blue rush
Juncus xiphioides	iris-leaved rush

Grass Species. The grasses can be grown throughout the area of vegetated swales above the emergent zone. *Leymus triticoides* in particular has performed well when used in filter strips and vegetated swales. Recommended species are:

Scientific Name	Common Name
Agrostis exarata	spike bentgrass
Bromus carinatus	California brome
Danthonia californica	California oatgrass
Deschampsia danthonoides	annual hairgrass
Distichlis spicata	salt grass
Festuca idahoensis	blue bunchgrass (upper swale only)
Festuca rubra	red fescue
Hordeum brachyantherum	meadow barley
Leymus triticoides	creeping wildrye
Melica californica	California melic (upper swale only)
Nassella pulchra	purple needlegrass (upper swale only)
Pleuropogon californicus	semaphore grass

2. Bioretention areas

Bioretention areas reduce runoff velocity and removes pollutants. Water passes over or through the buffer strip and is subsequently distributed evenly along a ponding area. Bioretention areas will be planted with species adapted to seasonal inundation and extended periods of dry conditions.

Emergent Species. The optimum planting conditions for these species would be near the ponding area where the soil would be saturated for a greater duration. Recommended species are:

Scientific Name	Common Name
Carex barbarae	Santa Barbara sedge
Juncus balticus	Baltic rush
Juncus bufonius	toad rush
Juncus xiphioides	iris-leaved rush

Grass Species. Grasses can be grown throughout bioretention areas above the emergent zone. *Leymus triticoides* in particular has performed well when used in filter strips and vegetated swales. Recommended species are:

Scientific Name	Common Name
Bromus carinatus	California brome
Elymus glaucus	blue wild rye
Festuca californica	California fescue
Hordeum brachyantherum	meadow barley
Leymus triticoides	creeping wild rye
Muhlenbergia rigens	deergrass
Nassella pulchra	purple needlegrass
Phalaris californica	California canarygrass

Herbaceous Species. Herbaceous species can be grown throughout bioretention areas. Recommended species are:

Scientific Name	Common Name
Achillea millefolium	common yarrow
Epilobium canum	California fuchsia
Eriogonum fasciculatum var. poliofolium	flattop buckwheat
Eschscholzia californica	California poppy
Lotus scoparius	deerweed
Lupinus bicolor	miniature lupine
Sisyrinchium bellum	blue-eyed grass
Symphoricarpos albus	snowberry

Shrub and Tree Species. The use of the shrubs and small trees may not be appropriate for bioretention areas constructed with a clay liner. Shrubs and trees could be used to create a visually aesthetic habitat within the bioretention area. The listed species are adapted to periodic inundation from storm events. Recommended species are:

Scientific Name	Common Name
Acer negundo	box elder (lower bank)
Arctostaphylos uva-ursi 'Emerald Carpet'	manzanita 'Emerald Carpet' (upper bank)
Baccharis pilularis	coyote brush (upper bank)
Baccharis pilularis 'Twin Peaks'	coyote brush prostrate (upper bank)
Fraxinus latifolia	Oregon ash (lower bank)
Mahonia repens	creeping Oregon grape (upper bank)
Mimulus aurantiacus	sticky monkeyflower (upper bank)
Myrica californica	wax myrtle (upper bank)
Rosa californica	California wildrose (lower bank)
Salix lasiolepis	Arroyo willow (lower bank)
Sambucus mexicana	elderberry (lower bank)
Symphoricarpos albus	snowberry (lower bank)

3. Extended detention basins

Extended detention basins detain storm water runoff long enough to allow particles and associated pollutants to settle, but do not have a permanent pool. The dry extended detention basin area will be revegetated with species adapted to seasonal inundation and saturation, and extended periods of dry conditions.

Emergent Species. The rushes and sedges can be grown throughout the area of dry extended detention basins. The optimum planting conditions for these species would be near the border of the micro pool where the soil would be saturated for a greater duration. Recommended species are:

Scientific Name	Common Name
Carex densa	dense sedge
Eleocharis macrostachya	creeping spikerush
Juncus balitcus	Baltic rush
Juncus bufonius	toad rush
Juncus xiphioides	iris-leaved rush
Scirpus californicus	California bulrush

Typha latifolia	cattail
Typha angustifolia	narrowleaf cattail

Grass Species. The grasses can be grown throughout the area of dry extended detention basins. Recommended species are:

Scientific Name	**Common Name**
Agrostis exarata	spike bentgrass
Alopecurus aequalis	shortawn foxtail
Alopecurus saccatus	Pacific foxtail
Danthonia californica	California oatgrass
Distichlis spicata	salt grass
Hordeum brachyantherum	meadow barley
Leymus triticoides	creeping wildrye
Muhlenbergia rigens	deergrass

4. Vegetated buffer strips

Vegetated buffer strips treat sheet flow from adjacent surfaces. Vegetated buffer strips will be revegetated with species adapted to seasonal inundation and saturation, and extended periods of dry conditions.

Grass Species. Grasses can be grown throughout vegetated buffer strips. *Leymus triticoides* in particular has performed well when used in filter strips and vegetated swales. Recommended species are:

Scientific Name	**Common Name**
Agrostis exarata	spike bentgrass
Bromus carinatus	California brome
Distichlis spicata	salt grass
Festuca rubra	red fescue
Leymus triticoides	creeping wildrye
Melica californica	California melic
Muhlenbergia rigens	deergrass
Nasella pulchra	purple needlegrass

Herbaceous Species. These species are adapted to periodic inundation from storm events. Recommended species are:

Scientific Name	**Common Name**
Carex barbarae	Santa Barbara sedge
Carex densa	dense sedge
Carex obnupta	slough sedge
Juncus balticus	Baltic rush
Juncus bufonius	toad rush
Juncus effusus	Pacific rush
Juncus patens	blue rush
Juncus xiphioides	iris-leaved rush
Lotus scoparius	deerweed

Shrub Species. These species are adapted to brief inundation from storm events and should be

placed on the upper edge of buffer strips. Recommended species are:

Scientific Name	Common Name
Arctostaphylos manzanita	common manzanita
Baccharis pilularis	coyote brush
Baccharis salicifolia	mulefat
Berberis aquifolium	Oregon grape
Calycanthus occidentalis	Western spicebush
Cercis occidentalis	redbud
Cornus stolonifera	redtwig dogwood
Heteromeles arbutifolia	toyon
Mahonia repens	creeping Oregon grape
Mimulus aurantiacus	monkeyflower
Myrica californica	wax myrtle
Physocarpus capitatus	Pacific ninebark
Rosa californica	wild rose
Rubus ursinus	California blackberry
Sambucus mexicanus	blue elderberry
Symphoricarpus albus	snowberry

Uppermost edge only:

Epilobium canum	California fuschia
Fremontodendron californica	flannelbush
Lavendula spp.	lavender
Rosemarinus officinalis	rosemary
Salvia clevelandii	Cleveland sage

5. <u>Constructed wetlands</u>

Constructed wetlands have a permanent pool of water through the wet season. Wetlands are generally shallower than wet ponds and have more vegetation coverage and less open water. Constructed wetlands will be planted with species adapted to seasonal inundation and saturation, and extended periods of dry conditions.

Emergent Species. The optimum planting conditions for these species would be within the deeper portions of the wetland where the soil would be saturated for a greater duration. Recommended species are:

Scientific Name	Common Name
Carex barbarae	Santa Barbara sedge
Carex densa	dense sedge
Carex obnupta	slough sedge
Eleocharis macrostachya	spike rush
Hordeum brachyantherum	meadow barley
Juncus xiphioides	iris-leaved rush
Juncus balticus	Baltic rush
Juncus bufonius	toad rush
Pleuropogon californicus	semaphore grass

Grass Species. The grasses can be grown throughout and along the edges of constructed wetlands. Recommended species are:

Scientific Name	Common Name
Danthonia californica	California oatgrass
Deschampsia danthonioides	annual hairgrass
Hordeum brachyantherum	meadow barley
Pleuropogon californicus	semaphore grass

6. Wet ponds

The area of permanent pond will be characterized by the presence of emergent species along the border of the permanent pond. The banks and berms associated with the permanent pond could be planted with shrubs and trees where a clay liner is not used. The stratified plantings will have a more pleasing aesthetic appearance.

Emergent Species. Emergent species can be grown in areas where the water depth is three feet or less. The optimum conditions for three square are located at the border of the permanent pond. Hardstem bulrush and cattail are adapted to water levels up to three feet. The rushes and sedges can be grown on the border of the permanent pond where the soil would be saturated to the surface and experience periodic inundation. Recommended species are:

Scientific Name	Common Name
Carex densa	dense sedge
Eleocharis macrostachya	spike rush
Juncus balticus	Baltic rush
Juncus xiphioides	iris-leaved rush
Scirpus americanus	three square
Scirpus californicus	bulrush
Typha latifolia	cattail

Grass Species. Grasses can be grown along the higher bank elevations of the permanent pond where soils are saturated to the soil surface but are not inundated. Recommended species are:

Scientific Name	Common Name
Agrostis exarata	spike bentgrass
Danthonia californica	California oatgrass
Distichlis spicata	salt grass
Hordeum brachyantherum	meadow barley
Leymus triticoides	creeping wildrye

Shrub Species. The use of shrubs is not appropriate for permanent ponds constructed with a clay liner. The shrubs can be grown on the banks of the permanent pond. Optimum conditions for the shrubs are areas of minimal surface soil saturation. The root systems of these species will generally grow to the depth of subsurface saturated soil. Recommended species are:

Scientific Name	Common Name
Arctostaphylos manzanita	common manzanita
Calycanthus occidentalis	Western spicebush
Cornus sericea	western dogwood
Heteromeles arbutifolia	toyon
Rhamnus californica	coffeeberry
Rosa californica	California rose

Sambucus mexicana	blue elderberry

Top of bank only:

Cercis occidentalis	redbud
Fremontodendron californicum	flannelbush

Tree Species. Trees should not be used for clay lined permanent ponds. These species could be grown on the berms and borders of a permanent pond. The trees could be intermixed with shrubs to create a visually aesthetic and more diverse habitat around the permanent pond. Recommended species are:

Scientific Name	**Common Name**
Acer macrophyllum	big leaf maple
Acer negundo	box elder
Alnus rhombifolia	white alder
Fraxinus latifolia	Oregon ash
Populus fremontii	Fremont's cottonwood
Quercus agrifolia	California live oak
Quercus lobata	valley oak
Salix laevigata	red willow
Salix lucida ssp. *lasiandra*	shining willow

D. General Planting Specifications

Native plants shall be used for the revegetation of constructed water quality basins. Landscape plans providing a planting layout shall be prepared on a site-specific basis by a qualified specialist. Specific planting zones for planting species shall be determined on a site-specific basis. The species composition and density shall be determined by a qualified specialist, utilizing the plant species recommended for each constructed basin condition, i.e., dry extended detention basis, wet detention basin/channel, micro pool or permanent pond.

Propagation Methods

Transplants (Plugs). Transplanted plant divisions, referred to here as “plugs”, should be planted during the fall dormant period, preferably between October 1 and November 15 after 1st soaking rain. Plugs should be collected from a suitable collection site in the vicinity of the constructed basins. Plugs are clumps of plant roots, rhizomes or tubers combined with associated soil that can be manually removed, or salvaged with an excavator or backhoe. The maximum recommended size is 1 foot x 1 foot. Whole plants or plant divisions can be utilized. The plugs should be from healthy specimens free of insects, weeds and disease. The plugs should be spaced from 1 foot to 6 feet apart, depending on the size of the plug. Smaller plugs can be planted at the minimum distance to promote faster spreading and cover. Larger plugs from cattail and bulrush species should be planted at 3-foot to 6-foot intervals.

To plant a plug, a hole slightly wider than the diameter of the plug should be prepared and the roots system of the plug placed in the hole. Do not over-excavate the hole depth or the plant will settle below grade. A shovel could be used to create the planting hole. Manual planting with a spade is recommended for wet soils. Power augers can be used for creating holes in dry soils. Alternatively, a trench could be created along the narrow axis of the pond, and planting material manually placed at specified elevations in relation to the proximity of permanently saturated soils.

To plant a plug with an established root system, the base of the stem and top of the root collar should be level with the ground surface. Tubers should be secured to prevent floating. Rhizomes should be placed in the soil with a slight upward angle.

The hole or trench containing the plug(s) should be backfilled with soil and the soil tamped down to assure good soil contact and secure the plug. The vegetative portion of the plant should be cut back to prevent water loss and wilting, and encourage the growth of roots and new shoots. Plugs of wetland plants should be grown in saturated soil. The soil should not be allowed to dry out after planting.

Plugs should be planted immediately, when possible. When necessary, plugs can be stored in a cool, moist, shaded location for a maximum of one day. Plants must be thoroughly watered.

Container Stock. Planting holes for container stock should be twice as wide and only as deep as the container size. Plant spacing should be determined on a site-specific basis. When planting, the root collar and base of the stem should be level with the adjacent soil surface. Soils should be backfilled and tamped down to assure contact with the roots. The planting should be watered-in promptly to promote the settling of soil. If appropriate, container plantings may receive a balanced time-released fertilizer tablet that is placed at the bottom of the planting hole prior to installation of the plant. Planting berms for water retention and mulch can be used to enhance plant establishment.

Pole Cuttings. Pole cuttings should be collected from the 1-year old wood of dormant trees and have a minimum of 5 viable nodes. The parent material should be healthy and free of diseases. The basal area of the pole cutting should be a minimum of 1 2-inch in diameter; however, the diameter at the base should not exceed 2 inches. The optimum diameter width of the base is 1 inch. The length of the cutting should be a minimum of 2 feet and should not exceed a maximum of 4 feet in length. Generally, 75 percent of the length of the cutting should be planted beneath the soil surface.

Pole cuttings should be collected no more than 2 days prior to planting. Cuttings should be placed in cool water to promote swelling of the nodes. Water should be kept fresh by aeration and/or by daily replacement.

The pole cuttings should be placed in a hole approximately 3 feet deep (as determined by the length of the cutting) and backfilled with native soil, or a rich organic medium mixed with native soil. The soil should be tamped down to remove air pockets and assure soil contact with the cutting.

Seeds. Seeding should be conducted after plugs, container stock and pole cuttings are installed. The soil surface should be scarified with a rake prior to seeding. Do not damage previously planted vegetation. The seeds should be planted in fall, ideally in October. Seeds should be broadcast over the specified planting area. The seed should be applied with hand-held spreaders to scarified soil. The soil surface should then be raked to cover the seeds with about one-eighth to one-quarter inch of soil to discourage predation, and tamped or rolled to firm soil surface.

Seeds should be planted at the ratios and rates specified by the supplier. The seed should be free of weeds and diseases. The certified germination percentage should be provided by the supplier.

E. Water Level Management and Irrigation for Plant Establishment

Establishment Period. The plants on the bottom and edge of the constructed basins should be allowed to become established for one growing season prior to the onset of significant flooding that will inundate the plantings for extended periods. The types of plants recommended for these locations are rushes, sedges, grasses and herbaceous species. Initially, saturated soils are required for the dry extended detention basin, low flow channel, and wet detention basin during the establishment period of the plantings. After the plants have become established, inundation with a surface depth of 1 cm to 2 cm alternating with short dry periods is recommended for the dry extended detention basin and wet detention basin during the first year. Periodic shallow flooding of these basins can slow the growth of non-native weedy terrestrial species in the wetland system; however, the water depth should not be grater than the height of the plants. This initial irrigation regime will prevent plant mortality from dry periods or excessive flooding in the first year, and reduce the growth of non-native weedy species.

Emergent species bordering the micro pool and permanent pond should be planted in saturated soil so the plants will become established. For emergent species, the water level in the first year should be maintained in the micro pool and permanent pond to allow for soil saturation or shallow inundation around the base of the plants. Significant flooding and inundation of stems and leaves of the plants should be avoided the first year. Tall plugs and plantings can tolerate greater depths of inundation if a significant portion of the stems and leaves of the plantings remain above the water surface.

Plants such as shrubs and trees grown on the banks of the constructed wetlands that are not saturated to the surface or inundated shall be irrigated. Drip irrigation shall be provided for all plantings on the berms associated with permanent ponds that are not saturated to the surface or inundated. Hydroseeded portions of the bank do not need irrigation in years of normal rainfall. If a period of drought occurs after hydroseeding, supplemental watering may be needed for germination in the first year.

Seasonal irrigation of shrubs and trees on the banks should remain in place for a minimum of three years, and should continue until it is demonstrated that the plantings can survive on annual rainfall and/or groundwater. Irrigation specifications shall be provided with site-specific landscape plans.

F. Maintenance

General maintenance actions should be undertaken for each planting site. Non-native invasive plant species should be controlled to reduce competition with the native plantings and to assure the success of the revegetation activities. The establishment of weeds and invasive species in the bottom of the basins can be partially controlled during the establishment period by implementing the watering schedule of initial saturation followed by alternating periods of shallow inundation and dry soil. Manual methods of weed removal should be conducted on the bottom, edge and side of the basins when these areas are not inundated. Areas with hydroseeding on the banks of the basins should be weeded carefully to avoid removal of the native species.

Weeding should be conducted regularly the first two years to prevent the growth, flowering, and seed set of non-native weeds and invasive species. After the first two years, weeding frequency will be determined on a site-specific basis as determined by the type of weeds and seasonal growth cycle of the weed species.

Long-term maintenance tasks on the banks of the basins will include continued control of non-native weeds and invasive plants, and control of erosion. Erosion could include gullies, rills and sheet erosion. Actions to control erosion should include redirecting or dissipating the water source.

Recontouring and subsequent mulching and/or reseeding with erosion control species may be required in bare areas. In the event of extensive die-off of the native plant species, the bare areas should be replanted. Where the event that caused plant mortality was not a natural catastrophic occurrence, the site condition that resulted in the die-off should be investigated and remedial action to correct the problem should be undertaken prior to replanting.

G. Nursery Sources for Native Plants

It is recommended that the native plants used for the revegetation of treatment controls be contract-grown by a qualified nursery. Seed collection should be conducted by a qualified botanist and/or nursery staff. Seed should be collected locally from selected sites to maintain the genetic integrity of the native plant species. The seeds shall be propagated by the nursery for planting during the fall dormant season. The appropriate container size for each species shall be used by the nursery.

California Conservation Corps Nursery
PO Box 7199
Napa, CA 94558
707-253-7783

Appleton Forestry Nursery
(call for appointment)
1369 Tilton Road, Sebastopol
707-823-3776

California Flora Nursery
Somers & D Streets, Fulton
707-528-8813
www.calfloranursery.com

Circuit Rider Productions
(call for appointment)
9619 Redwood Hwy, Windsor
707-838-6641

Cornflower Farms
9811 Sheldon Rd., Elk Grove, CA 95624
916-689-1015

Emerisa Gardens
555 Irwin Lane
Santa Rosa, CA 95401-5657
(707)525-9600 phone
(707)525-0300 fax
email:mail@emerisa.com

Larner Seeds
PO Box 407
Bolinas, California 94924.
415-868-9407
415-868-2592 FAX

info@larnerseeds.com
webmaster@larnerseeds.com

LeBallister's Seed
1250 Sebastopol Rd., Santa Rosa
707-526-6733

Mostly Natives Nursery
27235 Highway 1, Tomales
707-878-2009
www.mostlynatives.com

North Coast Native Nursery
(call for appointment)
2710 Chileno Valley Road, Petaluma
707-769-1213
www.northcoastnativenursery.com

Pacific Coast Seed
533 Hawthorne Place
Livermore, CA 94551
Ph (925) 373-4417
Fax (925) 373-6855
info@pcseed.com

Watershed Nursery
Berkeley, CA
510-548-4714
www.thewatershednursery.com

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Appendix D.
Specifications for plant selection in treatment and flow control BMPs

Sizing Summary Table - Alternative A

Single Impervious Areas Sizing factor = 7.8%

Watershed Name	Landuse Type	Area	Required BMP area	Area available for BMPs	Percent of area
		(feet^2)	*(feet^2)*	*(feet^2)*	
A	Impervious	127,855	9,973	10,600	106%
B	Roof	104,940	8,185	10,160	124%
C	Roof	15,005	1,170	1,615	138%
F	Impervious	36,209	2,824	3,320	118%
I	Impervious	94,487	7,370	7,428	101%
J	Roof	55,298	4,313	5,921	137%
K	Roof	20,960	1,635	1,805	110%
L	Roof	8,800	686	778	113%
M	Impervious	11,553	901	1,005	112%
V	Impervious	14,245	1,111	1,177	106%
W	Roof	21,477	1,675	1,990	119%

Multiple Impervious Areas Sizing factor = 7.8%

Watershed Name	Landuse Type	Area	Required BMP area	Area available for BMPs	Percent of area
		(feet^2)	*(feet^2)*	*(feet2)*	
D	Roof	45,877	3,578		
G	Impervious	28,600	2,231		
	Total	*95,954*	*7,484*	*7,539*	*101%*
H	Impervious	36,751	2,867		
E	Roof	86,410	6,740		
	Total	*123,161*	*9,607*	*11,818*	*123%*

Pervious Paving Areas Sizing Factor = 1.6%

Watershed Name	Landuse Type	Area	Required BMP area	Area available for BMPs	Percent of area
		(feet^2)	*(feet^2)*	*(feet2)*	
o	Pervious Paving	17,016	272	280	103%
p	Pervious Paving	24,825	397	500	126%
q	Pervious Paving	3,747	60	67	112%
r	Pervious Paving	30,231	549	620	113%
s	Pervious Paving	30,681	491	611	124%
t	Pervious Paving	27,765	444	455	102%
u	Pervious Paving	50,617	810	1,011	125%
v	Pervious Paving	48,121	770	1,470	191%

Sizing Summary Table Alternative B

Single Impervious Areas Sizing factor = 7.8%

Watershed Name	Landuse Type	Area	Required BMP area	Area available for BMPs	Percent of area
		(feet^2)	*(feet^2)*	*(feet^2)*	
A	Impervious	127,855	9,973	10,600	106%
B	Roof	104,940	8,185	10,160	124%
C	Roof	15,005	1,170	1,615	138%
F	Impervious	36,209	2,824	3,320	118%
I	Impervious	86,698	6,762	7,641	113%
L	Roof	8,800	686	778	113%
M	Impervious	11,553	901	1,005	112%
N	Impervious	14,245	1,111	1,177	106%
W	Roof	21,477	1,675	1,990	119%

Multiple Impervious Areas Sizing factor = 7.8%

Watershed Name	Landuse Type	Area	Required BMP area	Area available for BMPs	Percent of area
		(feet^2)	*(feet^2)*	*(feet2)*	
D	Roof	45,878	3,578	430	
G	Impervious	28,600	2,231	7,109	
	Total	*95,955*	*7,484*	*7,539*	*101%*
H	Impervious	36,821	2,872		
E	Roof	86,410	6,740	11,818	
	Total	*123,231*	*9,612*	*11,818*	*123%*

Pervious Paving Areas Sizing Factor = 1.6%

Watershed Name	Landuse Type	Area	Required BMP area	Area available for BMPs	Percent of area
		(feet^2)	*(feet^2)*	*(feet2)*	
o	Pervious Paving	17,016	272	280	103%
p	Pervious Paving	24,825	397	500	126%
q	Pervious Paving	3,747	60	67	112%
r	Pervious Paving	29,930	544	620	114%
s	Pervious Paving	30,681	491	611	124%
t	Pervious Paving	27,765	444	455	102%
u	Pervious Paving	49,507	792	1,011	128%
v	Pervious Paving	9,373	150	1,470	980%
x	Pervious Paving	50,412	807	1,164	144%

Sizing Summary Table Alternative C

Single Impervious Areas Sizing factor = 7.8%

Watershed Name	Landuse Type	Area	Required BMP area	Area available for BMPs	Percent of area
		(feet^2)	*(feet^2)*	*(feet^2)*	
A	Impervious	127,855	9,973	10,600	106%
B	Roof	104,940	8,185	10,160	124%
C	Roof	15,005	1,170	1,615	138%
F	Impervious	36,209	2,824	3,320	118%
I	Impervious	86,698	6,762	7,641	113%
L	Roof	8,800	686	778	113%
M	Impervious	11,553	901	1,005	112%
N	Impervious	14,245	1,111	1,177	106%
W	Roof	21,477	1,675	1,990	119%

Multiple Impervious Areas Sizing factor = 7.8%

Watershed Name	Landuse Type	Area	Required BMP area	Area available for BMPs	Percent of area
		(feet^2)	*(feet^2)*	*(feet2)*	
D	Roof	45,878	3,578	430	
G	Impervious	28,600	2,231	7,109	
	Total	*95,955*	*7,484*	*7,539*	*101%*
H	Impervious	36,821	2,872		
E	Roof	86,410	6,740	11,818	
	Total	*123,231*	*9,612*	*11,818*	*123%*

Pervious Paving Areas Sizing Factor = 1.6%

Watershed Name	Landuse Type	Area	Required BMP area	Area available for BMPs	Percent of area
		(feet^2)	*(feet^2)*	*(feet2)*	
o	Pervious Paving	17,016	272	280	103%
p	Pervious Paving	24,825	397	500	126%
q	Pervious Paving	3,747	60	67	112%
r	Pervious Paving	29,930	544	620	114%
s	Pervious Paving	30,681	491	611	124%
t	Pervious Paving	27,765	444	455	102%
u	Pervious Paving	49,507	792	1,011	128%
v	Pervious Paving	9,373	150	1,470	980%
x	Pervious Paving	39,943	639	984	154%

Sizing Summary Table Alternative D

Single Impervious Areas Sizing factor = 7.8%

Watershed Name	Landuse Type	Area	Required BMP area	Area available for BMPs	Percent of area
		(feet^2)	*(feet^2)*	*(feet^2)*	
A	Impervious	127,855	9,973	10,600	106%
B	Roof	104,940	8,185	10,160	124%
F	Impervious	23,436	1,828	2,011	110%
M	Impervious	11,553	901	1,005	112%
N	Impervious	14,245	1,111	1,177	106%
W	Roof	21,477	1,675	1,990	119%

Multiple Impervious Areas Sizing factor = 7.8%

Watershed Name	Landuse Type	Area	Required BMP area	Area available for BMPs	Percent of area
		(feet^2)	*(feet^2)*	*(feet2)*	
D	Roof	45,878	3,578	430	
G	Impervious	5,302	414	7,109	
	Total	*72,657*	*5,667*	*7,539*	*133%*
H	Impervious	48,835	3,809		
E	Roof	71,655	5,589	11,818	
	Total	*120,490*	*9,398*	*11,818*	*126%*

Pervious Paving Areas Sizing Factor = 1.6%

Watershed Name	Landuse Type	Area	Required BMP area	Area available for BMPs	Percent of area
		(feet^2)	*(feet^2)*	*(feet2)*	
o	Pervious Paving	17,016	272	280	103%
p	Pervious Paving	24,825	397	500	126%
q	Pervious Paving	3,747	60	67	112%
r	Pervious Paving	32,982	593	620	105%
s	Pervious Paving	30,681	491	611	124%
t	Pervious Paving	27,840	445	455	102%
u	Pervious Paving	46,933	751	1,011	135%
v	Pervious Paving	9,373	150	1,470	980%

Sizing Summary Table Alternative E

Single Impervious Areas Sizing factor = 7.8%

Watershed Name	Landuse Type	Area	Required BMP area	Area available for BMPs	Percent of area
		(feet^2)	*(feet^2)*	*(feet^2)*	
A	Roof	3,600	281	360	128%
B	Roof	3,600	281	360	128%
C	Impervious	16,442	1,282	1,401	109%
D	Impervious	17,329	1,352	1,401	104%
E	Impervious	3,424	267	378	142%
F	Roof	15,870	1,238	1,390	112%
G	Roof	15,651	1,221	1,340	110%
H	Roof	22,500	1,755	1,754	100%
I	Roof	10,014	781	791	101%
J	Roof	10,006	780	818	105%
K	Roof	10,012	781	799	102%
L	Roof	22,500	1,755	1,754	100%
M	Roof	16,600	1,295	1,300	100%
N	Roof	16,600	1,295	1,300	100%
O	Roof	16,600	1,295	1,300	100%
P	Roof	6,939	541	621	115%
Q	Impervious	4,051	316	343	109%
R	Impervious	17,640	1,376	1,479	107%
T	Impervious	20,039	1,563	1,637	105%
U	Impervious	15,725	1,227	1,326	108%
V	Impervious	5,461	426	492	116%
W	Impervious	1,258	98	132	134%
X	Impervious	17,156	1,338	1,845	138%
Y	Impervious	8,186	639	773	121%

Pervious Paving Areas Sizing Factor = 1.6%

Watershed Name	Landuse Type	Area	Required BMP area	Area available for BMPs	Percent of area
		(feet^2)	*(feet^2)*	*(feet2)*	
aa	Pervious Paving	3,792	61	99	163%
bb	Pervious Paving	12,403	198	234	118%
cc	Pervious Paving	8,185	131	234	179%
dd	Pervious Paving	69,351	1,110	1230	111%
ee	Pervious Paving	35,349	566	618	109%
ff	Pervious Paving	56,700	907	958	106%
gg	Pervious Paving	13,509	216	252	117%
hh	Pervious Paving	10,948	175	301.4	172%
ii	Pervious Paving	2,152	34	49	142%
jj	Pervious Paving	49,741	796	804	101%
kk	Pervious Paving	3,657	59	132	226%
ll	Pervious Paving	8,380	134	211.4	158%
mm	Pervious Paving	3,655	58	132	226%
nn	Pervious Paving	10,565	169	258	153%
oo	Pervious Paving	14,925	239	258	108%
pp	Pervious Paving	10,634	170	258	152%

Appendix R
Comments on Draft EIS

ESA

Comment Letters on the Draft EIS for the
Cloverdale Rancheria Fee-to-Trust and Resort Casino Project

Government			
G-1	National Park Service, PWR	Debbie Allen	9/28/2010
G-2	National Indian Gaming Commission	Brad Mehaffy	9/29/2010
G-3	National Marine Fisheries Service	Dick Butler	10/18/2010
G-4	U.S. EPA	Kathleen Goforth	10/20/2010
G-5	California Regional Water Quality Control Board, North Coast Region	John Short	10/18/2010
G-6	California Department of Transportation	Lisa Carboni	10/19/2010
G-7	Office of the Governor	Andrea Lynn Hoch	10/19/2010
G-8	California Department of Fish and Game	Charles Armor	10/20/2010
G-9	County of Sonoma and Sonoma County Water Agency	Jeffrey Brax	10/20/2010
G-10	City of Cloverdale	Nancy Thorington	10/19/2010
G-11	Sonoma-Marin Area Rail District (SMART)	Lillian Hames	10/19/2010
G-12	U.S. Geological Survey	James Devine	10/18/2010
Businesses/Organizations			
B-1	South Cloverdale Water Corporation	Michael Villa	9/24/2010
B-2	Cloverdale Skate Park Fund, Inc	Nancy Turpen Lucas	10/12/2010
B-3	Fredericks, Peebles and Morgan	Steven Bloxham	10/20/2010
Individuals			
I-1		Marge Howser	9/15/2010
I-2		Gene Galliani	9/20/2010
I-3		Diane Bartleson	10/4/2010
I-4		Susan and Stephen Nurse	10/5/2010
I-5		Gene and Carolyn Marcinkowski	10/5/2010
I-6		Toby Daly	10/5/2010
I-7		Harold Minkin	10/6/2010
I-8		Roz Katz	10/7/2010
I-9		Edward Miler	10/9/2010
I-10		Cheryl Miler	10/9/2010
I-11		Mitchell Benjamin	10/13/2010
I-12		Mary Brugo	10/14/2010
I-13		Roz Katz	10/16/2010
I-14		Pat Dunlap	10/16/2010
I-15		Tom and Diane Notti	10/16/2010
I-16		Thomas King	10/17/2010
I-17		Stephen Nurse	10/18/2010
I-18		Dobie Edmunds	10/20/2010
I-19		Robert Haugsten	10/22/2010

Jennifer Wade

From: Omallan, Patrick [Patrick.OMallan@bia.gov]
Sent: Wednesday, September 29, 2010 7:57 AM
To: Jennifer Wade; Jamie Galos
Subject: FW: DES-10/0038:Colverdale Rancheria of Pomo Indians Proposed Trust Acquisition & Resort Casino Project

FYI; I believe we will be receiving something else from Debbie Allen of the National Park Service. Her comment (message) did not carry over.

pat

-----Original Message-----
From: Rydzik, John
Sent: Wednesday, September 29, 2010 6:27 AM
To: Omallan, Patrick
Subject: FW: DES-10/0038:Colverdale Rancheria of Pomo Indians Proposed Trust Acquisition & Resort Casino Project

FYI and for the record

-----Original Message-----
From: Debbie_Allen@nps.gov [mailto:Debbie_Allen@nps.gov]
Sent: Tuesday, September 28, 2010 6:50 PM
To: Morris, Dale
Cc: john.rydzik@nps.gov; Schmierer, Alan; Morlock, Dale; WASO_EQD_ExtRev; oepcsfn@aol.com
Subject: Fw: DES-10/0038:Colverdale Rancheria of Pomo Indians Proposed Trust Acquisition & Resort Casino Project

Debbie Allen
National Park Service
Partnerships Programs, PWR
1111 Jackson Street #700
Oakland, CA 94607
510/817-1446
510/817-1505 Fax

"Don't dwell on what went wrong. Instead, focus on what to do next. Spend your energies on moving forward toward finding the answer." -- Denis Waitley
----- Forwarded by Debbie Allen/OAKLAND/NPS on 09/28/2010 06:48 PM -----

debbie allen
Sent by: Debbie Allen
09/28/2010 06:44 PM

To
Dale_Morlock@nps.gov
cc
Alan Schmierer/OAKLAND/NPS@NPS, waso_eqd_extrev@nps.gov, dalemorris@bia.gov, oepcsfn@aol.com
Subject
Re: DES-10/0038:Colverdale Rancheria of Pomo Indians Proposed Trust Acquisition & Resort Casino Project(Document link: Debbie Allen)

G-1.1

Subject document has no comment from PWR.

Debbie Allen
National Park Service
Partnerships Programs, PWR
1111 Jackson Street #700
Oakland, CA 94607
510/817-1446
510/817-1505 Fax

"Don't dwell on what went wrong. Instead, focus on what to do next. Spend your energies on moving forward toward finding the answer." -- Denis Waitley

Dale_Morlock@nps.gov
09/08/2010 12:40 PM

To
Debbie_Allen@nps.gov
cc

Subject
DES-10/0038:Colverdale Rancheria of Pomo Indians Proposed Trust Acquisition & Resort Casino Project

NPS External Affairs Program: ER2000 Program Email Instruction Sheet
United States Department of the Interior
National Park Service Environmental Quality Division
7333 W. Jefferson Avenue
Lakewood, CO 80235-2017

EIS/Related Document Review: Detail View
http://er2000/detail.cfm?ernum=14414

Document Information

Record #14414

ER Document Number
DES-10/0038

Document Title

Colverdale Rancheria of Pomo Indians Proposed Trust Acquisition & Resort Casino Project

Location

State

California

County

Sonoma County

Document Type

Draft Environmental Impact Statement

Doc. Classification

Federal Management Plan

Applicant

Bureau of Indian Affairs

Web Review Address

http://www.cloverdalerancheria.com/eis/deis.htm
http://www.cloverdalerancheria.com/eis.html
http://edocket.access.gpo.gov/2010/2010-19186.htm
http://64.38.12.138/FederalRegister/2008/07/07/e8-15204.asp
http://www.bia.gov/WhoWeAre/RegionalOffices/Western/index.htm#
http://www.cloverdalerancheria.com/eis/pdfs/noi.pdf
http://www.cloverdalerancheria.com/eis/pdfs/scoping-rpt.pdf

Document Reviewers

WASO Lead Reviewer

()

WASO Reviewers

Joe Carriero(2310), Pat Gillespie(2225), Jennifer Lee(2340), Kerry Moss(2360), Fred Sturniolo(2420), David Vana-Miller(2380), Carl Wang (2420), Tammy Whittington(2310), Michael Wilson(2225), Patricia F Brewer(2350), Steven Elkinton(2220), Bill Commins(2200), Dale Morlock (2310), Chad Moore(2350), Bill Hansen(2380), Sharon Kliwinski(2380), Charlie Stockman(2510)

Regional Lead Reviewer

Alan Schmierer (PWR-O)

Regional Reviewers

Alan Schmierer(PWR-O), Debbie Allen(PWR-O), Sarah Bransom(HFC), Elaine_Jackson-Retondo(PWR-O), Lee Kreutzer(PWR-O), Michael Taylor (PWR-O)

Cultural Lead Reviewer

Jeffrey Durbin

Cultural Reviewers

Jeffrey Durbin

OEPC Contact

Patricia S. Port

Action

Lead Bureau

Bureau of Indian Affairs

Response Type

Regional Response

Instructions

Comments to Lead DOI Bureau. NPS Lead consolidates NPS comments, prepares comment/no comment memo, and emails to Lead DOI Bureau with copy to EQD (WASO-2310). See DI Remarks Section below for specifics.

Topic Context

Cloverdale Rancheria of Pomo Indians (Tribe) proposes a 79 acre fee-to-trust acquisition and casino and hotel project to be located within the City of Cloverdale's Sphere of Influence, in an unincorporated area of Sonoma County, California.

The purpose of the proposed action is to help promote tribal economic development, self-sufficiency, and a strong tribal government.

Development includes a combination of uses including, but not limited to a main gaming hall, hotel, and supporting utilities. Driveways along Lile Lane and Asti Road would provide access to the parking areas and the casino.

DI Remarks

Reviewers: Please email comments to NPS Lead Alan Schmierer, PWR-O by October 8, 2010.
NPS Lead: Alan Schmierer, please consolidate NPS comments, prepare comment or no comment memo, and email to BIA, Sacramento, CA by October 20, 2010 with copy to: waso_eqd_extrev@nps.gov and oepcsfn@aol.com

Applicant Address: Dale Morris, Regional Director, Pacific Regional Office, Bureau of Indian Affairs, 2800 Cottage Way,Sacramento, CA 95825.

NOTE: The site is located immediately east of Highway 101, bordered by Asti Road to the west and Lile Lane to the northeast. Santana Drive runs parallel with the southern boundary of the proposed project site. Regional access to the proposed casino complex would be from South Cloverdale Boulevard via Highway 101.

BIA CONTACT: John Rydzik.

* Telephone: (916) 978-6051.

Workflow

Send Comments to Lead Office: PWR-O
Send to: Alan Schmierer (PWR-O) by 10/08/10

Lead DOI Bureau: Bureau of Indian Affairs
DUE TO: Lead Bureau by 10/20/10
DATE DUE OUT: 10/20/10

OEPC Memo to EQD: 07/29/10
Comments Due To Lead WASO Div:
Comments Due Out to
OEPC/Wash or Applicant: 10/20/10
Comments Due To Lead Region: 10/08/10
Comments Due in EQD:
Comments Due to REO:

Tracking Dates

Rcvd. Region Comments:
Comments Sent to OEPC:
New Instructions:
Recvd. Ext. Letter:
Reg. Cmts. to Bureau:
Cmts. Called In:
Comments Sent to EQD Chief:
Comment Letter/Memo Signed:
Recvd. Extension:
Sent Add. Info:
Reg. Cmts. Listed:
Rcvd. Bureau Cmts:

Tracking Notes

Reviewer Notes

Documentation

Document Last Modified: 09/08/2010
Complete: False

Letter G-1

Date Created: 07/29/2010
Date Last Email Sent:

Jennifer Wade

From: Rydzik, John [John.Rydzik@bia.gov]
Sent: Wednesday, September 29, 2010 10:22 AM
To: Jennifer Wade
Cc: Omallan, Patrick; Mehaffy, Bradley
Subject: FW: Draft EIS Comments, Cloverdale Rancheria of Pomo Indians' Fee-to-Trust and Resort Casino Project
Follow Up Flag: Follow up
Flag Status: Completed

Hi Jen,

Please ensure NIGC's comments are included and make the appropriate changes in the document.

Thanks

John

From: Mehaffy, Bradley [mailto:Bradley_Mehaffy@nigc.gov]
Sent: Wednesday, September 29, 2010 9:59 AM
To: Rydzik, John
Subject: Draft EIS Comments, Cloverdale Rancheria of Pomo Indians' Fee-to-Trust and Resort Casino Project

John,
Please ensure the NIGC comments below get included in the record. If you have any questions, please let me know.

Comments

1. Page 2-2- The last paragraph on this page states construction will begin in "spring of 2010." As spring of 2010 has come and gone, a new construction start date needs to identified. All the other alternatives have this same construction start date, so those need to be changed as well. G-2.1

2. Page 2-8- Section "*Water Demand*" reads "The water demand for Alternative A...". The word "annual" is missing from this sentence. Please correct to read "The annual water demand for Alternative A...". Please note this correction needed to be made for all the alternatives. G-2.2

3. Page 2-8 & 2-9- Each Alternatives "**Wastewater Facilities**" includes three numbers; estimated annual, daily average, daily peak. These numbers in each alternative appear to correlate to numbers in the "*Water Demand"* section. In some cases some of the numbers are the same, in other cases some go up or down (see below). Recommend that the numbers be reevaluated to ensure the correct numbers are displayed in the final EIS. G-2.3

- Alternative A- "*Water Demand*"- annual 33.5 million gallons, daily average 92,023, daily peak 171,490
  "Wastewater"- annual 33.6 million gallons, daily average 92,023, daily peak 171,496

- Alternative B- "*Water Demand*"- annual 24.9 million gallons, daily average 68,303, daily peak 126,700
  "Wastewater"- annual 24.9 million gallons, daily average 68,303, daily peak 126,673

- Alternative C- "*Water Demand*"- annual 22.3 million gallons, daily average 61,194, daily peak 114,460 G-2.3 (cont.)
  "Wastewater"- annual 22.3 million gallons, daily average 61,194, daily peak 114,437

- Alternative D- "*Water Demand*"- annual 13.5 million gallons, daily average 36,968, daily peak 63,920
  "Wastewater"- annual 9.4 million gallons, daily average 25,722, daily peak 63,923

- Alternative E- "*Water Demand*"- annual 11.7 million gallons, daily average 32,028, daily peak 42,426
  "Wastewater"- annual 11.7 million gallons, daily average 32,028, daily peak 42,126

4. Page 3.10-1- Section 3.10.1 states "A new well is planned in 2005." Was the well put in during 2005 or is it planned as part of this project? Please correct accordingly. G-2.4

5. Page 4.2-2- Impact 4.2.1-3 references two maps ([ABAG], 2005 and 2009). Since the analysis relies on information shown on those maps, the maps should be included in the EIS. G-2.5

6. Page 4.4-2- Three lines up from the bottom of this page, the text states "...impacts would not subject to North...". I believe this should read "...impacts would not <u>be</u> subject to North...". Please correct accordingly and note this needs to be corrected in all of the alternatives. G-2.6

7. Section 4.5- There is no discussion of any consultations (formal or informal) with the Fish and Wildlife Service or National Marine Fisheries. If consultations are being conducted by BIA, it should be noted. G-2.7

8. Section 4.11- In this section all mitigation measures are begin with the number "4". All mitigation measures are contained in Section 5, thus all mitigation measures should begin with the number "5". G-2.8

9. Section 4.11- In several places throughout this section there is a reference to "Table 3.11-2". It should be noted that there is no table 3.11-2 in the DEIS. Please correct the reference to reflect the correct table you want the reader to look at. G-2.9

10. Section 4.12- For all alternatives in this section when discussing "Hazardous Materials during Operation" there is the following reference "The Tribe would conform to the requirements of CBC standards for hazardous materials...". The CBC is a building code and normally does not govern the handling, storage and disposal of hazardous materials. Please confirm that the CBC does have a section or chapter that will govern how hazardous materials are handled, used and disposed of. If the CBC does not contain those requirements, recommend looking to either OSHA codes or an appropriate state safety and health code(s). G-2.10

11. Section 4.15- In the first paragraph, there is definition for "Growth inducing effects" and a citation to 40 CFR 1508.8(b). The definition and citation is for "Indirect effects" and not "Growth inducing effects." The definition states that "Indirect effects may include growth inducing effects and...". Recommend these two definitions be revised accordingly. Note that CEQ regulations do not specifically define "Growth inducing effects. G-2.11

Let me know if you need anything else or further explainations.

Brad Mehaffy, REM, CSEM, CIPS
NEPA Compliance Officer
EPHS Program Administrator
202-632-7003
bradley_mehaffy@nigc.gov

UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Southwest Region
777 Sonoma Ave., Room 325
Santa Rosa, California 95404-4731

October 18, 2010

In response, refer to:
SWR/F/SWR3:MC

Reg Dir
Dep Reg Dir
Reg Adm Ofcr
Route DEC RM 3
Response Required NO
Due Date
Memo Ltr
Tele

Dale Risling
Acting Regional Director
Pacific Region, Bureau of Indian Affairs
2800 Cottage Way
Sacramento, California 95825

Dear Mr. Risling,

Thank you for soliciting our comments on the Cloverdale Rancheria Fee-to-Trust and Resort Casino Project Draft Environmental Impact Statement (DEIS). The National Oceanic and Atmospheric Administration's (NOAA) National Marine Fisheries Service (NMFS) appreciates the opportunity to provide comments on the development of projects which may potentially affect NMFS' trust resources. Your letter requesting comment on the DEIS was received on August 9, 2010.

NMFS staff have reviewed the *Cloverdale Rancheria of Pomo Indians Fee-to-Trust Conveyance and Resort Casino DEIS* (Environmental Science Associates, August 2010) and the *Biological Assessment* (Environmental Science Associates, March 2009) prepared for the United States Department of Interior, Bureau of Indian Affairs (BIA). A letter requesting concurrence with a preliminary BIA determination of "*not likely to adversely affect*" Endangered Species Act (ESA) listed Pacific salmonids, designated critical habitat, and Magnuson-Stevens Fisheries Management Act (MSA) managed Essential Fish Habitat (EFH) was received by NMFS on March 25, 2009. This letter serves as a response to the request for concurrence with that preliminary BIA determination and the request for comments on the DEIS.

As described in the DEIS, the Cloverdale Tribe of Pomo Indians proposes to develop a casino, hotel, convention center, entertainment center, and other ancillary facilities on six parcels of land (totaling approximately 69.77 acres) which are proposed for fee-to-trust conveyance. The property proposed for these actions is adjacent to the city of Cloverdale in Sonoma County California. The BIA has approval authority over the land trust acquisition and is therefore the lead Federal agency for the proposed action.

Endangered Species Act G-3.1

Available information indicates that ESA listed species of the following Distinct Population Segments [DPS] or Evolutionarily Significant Units [ESU]) and critical habitats may occur at the project site:

Central California Coast (CCC) coho salmon ESU (*Oncorhynchus kisutch*)
Endangered (June 28, 2005; 70 FR 37160)
Designated critical habitat (May 5, 1999; 64 FR 24049)

Coastal California Chinook salmon ESU (*O. tshawytscha*)
Threatened (January 5, 2006; 70 FR 37160)
Critical habitat designated (September 2, 2005; 70 FR 54287)

Central California Coast steelhead DPS *(O. mykiss)*
Threatened (January 5, 2006; 71 FR 834)
Critical habitat designated (September 2, 2005; 70 FR 52488)

The DEIS and the Biological Assessment base the findings of *no significant impact* and *not likely to adversely affect* ESA listed Pacific salmonids, respectively, on two premises: that Porterfield Creek transiting through the proposed project site does not provide suitable spawning habitat, and that a downstream culvert under the Pacific Northwest Railroad grade likely limits access to the stream by adult salmonids.

NMFS staff reconnaissance of the railroad grade culvert downstream of the action area on October 15, 2010 revealed that passage is likely afforded through the culvert nearly year round for all age classes of salmonids, as the box culvert is set well below the stream grade, providing a minimum water depth of 14 inches within the culvert even during the driest time of year. Juvenile steelhead of multiple-year age classes were observed entering and exiting the culvert.

Reconnaissance of the culverts upstream of the proposed project site, under Asti Road, Highway 101, and under South Cloverdale Boulevard revealed they are also set below stream grade and likely afford year round passage for all age classes of salmonids into and out of the upper watershed of Porterfield Creek. After emergence from the gravels in which adult salmonids have built their spawning redds, salmonid fry distribute upstream and downstream seeking available suitable rearing habitat. Based on the DEIS and Biological Assessment descriptions of the habitat of Porterfield Creek within the proposed project site, of relatively deep pools, dense riparian, overhanging, and trailing vegetation, NMFS is relatively certain the habitat of Porterfield Creek within the proposed project site is occupied by ESA listed salmonids year round, regardless of the quality of spawning habitat within that short section of the Porterfield Creek watershed.

Potential project actions described in the DEIS which may adversely affect ESA listed Pacific salmonids, designated critical habitat, and EFH include removal of riparian vegetation, construction of streamside retaining walls, fill of streamside wetlands and floodplain,

groundwater pumping, and construction of points of discharge for storm drainage and waste water treatment facilities. G-3.1 (cont.)

Based on the best available scientific and commercial information available as discussed above, NMFS cannot concur with the preliminary determination by the BIA that the proposed project is not likely to adversely affect NMFS' trust resources. We therefore recommend the BIA request initiation of consultation with NMFS pursuant to section 7 of the Endangered Species Act of 1973 as amended (50 CFR 402.14(e) and 16 U.S.C.§ 1531 *et. seq*) and EFH consultation for this proposed project.

In the consultation process NMFS is committed to working cooperatively with project applicants to provide technical assistance to insure project design meets project objectives, minimizes impacts to trust resources during project implementation, and allows for future recovery of ESA listed species. Due to geomorphic and hydrologic features, Porterfield Creek within the project site has a high intrinsic-potential habitat value in species recovery, and habitat restoration planning.

NOAA's Habitat Conservation Division Restoration Center works with partner organizations and local citizens to provide expertise needed to restore the nation's coastal and marine environment. Restoration Center efforts include implementing high-quality restoration projects, advancing the science of habitat restoration, monitoring the success of restoration projects, and empowering local groups to implement their own community-based restoration projects. If the Cloverdale Tribe of Pomo Indians wish to inquire about partnerships with NOAA's Restoration Center, they may contact Joe Pecharich of the local Restoration Center office at 707-575-6095.

If you have any questions regarding these comments or the consultation process, please contact John McKeon at 707-575-6069, or Bill Hearn at 707-575-6062.

Sincerely,

Dick Butler
North Central Coast Office Supervisor
Protected Resources Division

Letter G-4

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

October 20, 2010

Dale Morris
Regional Director, Pacific Region
Bureau of Indian Affairs
2800 Cottage Way
Sacramento, CA 95825

Subject: Draft Environmental Impact Statement (DEIS), Cloverdale Rancheria of Pomo Indians Fee-to-Trust and Resort Casino Project, Sonoma County, California (CEQ # 20100300)

Dear Mr. Morris:

The U.S. Environmental Protection Agency (EPA) has reviewed the above-referenced document 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.

The proposed action would take 69 acres of land adjacent to the Russian River into federal trust for development of a destination resort casino and hotel. The project includes options for water and wastewater utilities which include developing an onsite drinking water system and wastewater treatment plant. As a cooperating agency for the project, EPA reviewed sections of the Administrative Draft EIS and submitted comments to the Bureau of Indian Affairs (BIA) on April 30, 2009. We commented on the onsite water and wastewater options, site drainage and hydrology, including wetlands, and impacts to threatened and endangered fish species. We appreciate the additional information in the DEIS that responds to some of our comments; however a number of our comments were not addressed and are repeated here. G-4.1

Based on our review, we have rated the DEIS as Environmental Concerns – Insufficient Information (EC-2) (see enclosed "Summary of Rating Definitions"). We have concerns regarding the possible development of components of the project in a 100-year floodplain with a history of flooding, and with existing drainage issues on the site. This is primarily true regarding the onsite options for water and wastewater utilities, however, site drainage concerns exist even if these options are not chosen. We recommend that a more detailed site drainage plan be developed before any federal decisions are made in order to better reveal potential impacts, to identify site constraints with regard to stormwater management options, and to inform project planning, especially since drainage limitations at the site may require changes to the project footprint and/or size.

In addition, the project lacks innovative "green building" and other environmental features that other casino projects are incorporating. We strongly recommend that the project be

reviewed for opportunities to incorporate more green building features, which, in addition to providing long-term cost savings, provide health and safety benefits that enhance occupant comfort, attract and retain staff, improve worker productivity, and develop community goodwill. G-4.1 (cont.)

EPA appreciates the opportunity to review this DEIS. When the Final EIS is released for public review, please send one copy to the address above (mail code: CED-2). If you have any questions, please contact me at (415) 972-3521, or contact Karen Vitulano, the lead reviewer for this project, at 415-947-4178 or vitulano.karen@epa.gov.

Sincerely,

Kathleen M. Goforth, Manager
Environmental Review Office (CED-2)

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

cc: Patricia Hermosillo, Chairperson, Cloverdale Rancheria of Pomo Indians
Mario Hermosillo, Environmental Planner, Cloverdale Rancheria of Pomo Indians
John McKeon, National Marine Fisheries Service

SUMMARY OF EPA RATING DEFINITIONS*

This rating system was developed as a means to summarize the U.S. Environmental Protection Agency's (EPA) 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 Environmental Impact Statement (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 should 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 Council on Environmental Quality (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 analyzed 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 analyzed in the draft EIS, which should be analyzed 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.

EPA DETAILED COMMENTS ON THE DRAFT ENVIRONMENTAL IMPACT STATEMENT, CLOVERDALE RANCHERIA OF POMO INDIANS FEE-TO-TRUST AND RESORT CASINO PROJECT, SONOMA COUNTY, CALIFORNIA, OCTOBER 20, 2010

Impacts to Floodplains

The project includes a "private option" for water and wastewater treatment that would develop an onsite wastewater treatment plant and treatment ponds, and a water treatment plant and water supply well, within a 100-year floodplain adjacent to the Russian River. This river has a history of flooding "relatively frequently" (p. 3.3-2). Additionally, the drainage situation at the site is problematic. The Russian River periodically floods the project site to the east and south, there is "substantial stormwater run-on" from Heron Creek and its 1,000 acre watershed along the northern end of the site (p. 3.3-9), and two 30-inch culverts draining U.S. 101 and 40 acres of foothills discharge water at the western boundary of the project site (p. 3.3-9). The project site is bisected by Porterfield Creek, and Coyote Creek runs along its southern boundary. The portion of Heron Creek that drains onto the site, identified as an agricultural ditch, is proposed to be redirected into a surface drainage channel that would be constructed to the east, along the northern boundary to the eastern boundary, and then to the south to Porterfield Creek (Appendix B, p. 2). The site also contains approximately 2.4 acres of wetlands and waters of the U.S. G-4.2

Executive Order (EO) 11988 – "*Floodplain management*" directs each federal agency to provide leadership and to take action "*to restore and preserve the natural and beneficial values served by floodplains in carrying out its responsibilities. If an agency has determined to, or proposes to, conduct, support, or allow an action to be located in a floodplain, the agency shall consider alternatives to avoid adverse effects and incompatible development in the floodplains" (EO 11988)*. EO 11988 is mentioned under the Regulatory Setting section of the DEIS, but only to state that the Federal Emergency Management Agency (FEMA) is responsible for management of floodplain areas. The section includes no mention of the responsibility of federal agencies to comply with the EO, nor how the proposed project would comply. The wastewater treatment private option would reduce the floodplain capacity and result in potential increases in flood height as a result of installation of levees surrounding the wastewater treatment plant, water treatment plant, and wastewater storage pond. Alternatives to this floodplain development should be considered. The DEIS includes a "municipal option" of connecting to the City of Cloverdale's wastewater treatment plant, located directly to the north; however, contrary to the mandate of EO 11988, it does not provide an analysis of alternatives to floodplain development under the private option in the event the municipal option is not available . Because of the abundance of surface waters on the site and the history of flooding, EPA strongly encourages BIA and the Tribe to avoid floodplain development for the project. The potential impacts of climate change, in terms of expected increases in heavy rainfall events in many regions, and increased frequency and severity of floods as well as droughts[1], underscore this concern. We note that FEMA also recognizes the increased flood damages that are already occurring outside of the designated 100-year floodplain[2].

[1] [1] International Panel on Climate Change, Climate Change 2007: Synthesis Report. Available: http://www.ipcc.ch/pdf/assessment-report/ar4/syr/ar4_syr.pdf

[2] Page 9, *Further Advice on Executive Order 11988 Floodplain Management,* Federal Emergency Management Agency (FEMA). Sept 2007.

Recommendations: More discussion on the project's compliance with EO 11988 is needed. The FEIS should evaluate alternatives to floodplain development for the private water and wastewater treatment options. If floodplain development for the private water and wastewater treatment is chosen, the NEPA document must demonstrate that the only practicable alternative includes development within the floodplain. Please note that, based on the close interaction with both surface and groundwater hydrology on the site within the floodplain of the Russian River, EPA believes an NPDES permit would likely be necessary for any on-site wastewater treatment and disposal options. G-4.3

Other project sites that are not within the floodplain should also be evaluated. In addition to the requirements of EO 11988, this would be consistent with NEPA's requirement to evaluate all reasonable alternatives. The DEIS does not evaluate any alternative sites. The Council on Environmental Quality (CEQ) Regulations emphasize the importance of the alternatives analysis, stating that it is the heart of the EIS (40 CFR 1502.14). G-4.4

Finally, while the westernmost parcel that would house the casino/hotel is not currently designated as a 100-year floodplain, due to the abundance of surface water features on the site, the acknowledgement by FEMA that increased flood damages are already occurring outside of the designated 100-year floodplain, and the imminent threat of more severe storms due to climate change, EPA recommends that the project follow the recommendation of EO 11988 that, for achieving food protection, agencies shall, wherever practicable, elevate structures above the base flood level rather than filling in land". G-4.5

Drainage and Stormwater Management

Because of existing drainage issues on the site, plans to manage stormwater and floodwaters should be further developed in the FEIS so that their effectiveness can be better evaluated. Low Impact Development (LID) techniques should be explored to a greater extent for the project. LID refers to measures which infiltrate, evapotranspire, or reuse stormwater onsite. Although some LID measures are proposed (such as pervious concrete), the design seems to rely to a considerable degree on an underground stormwater detention system, which would only temporarily detain the stormwater and not offer the treatment and water quality benefits of LID approaches. The Preliminary Drainage Study indicates that there would be some pretreatment before detention, but the details and viability of this pretreatment is not discussed. The DEIS also states that the parking lot will be reconfigured to include an additional 135 spaces (p. ES-12), and this will affect the area available for stormwater management and treatment options. Because the underground detention system would only hold a 10-year storm flow, the release of stormwater beyond that amount to the upland drainage release system could cause additional inundation, increased stream or drainage flows, erosion, or flooding (p. 4.3-2). A more detailed analysis is warranted to determine the likelihood and severity of this predicted project-related flooding and erosion. G-4.6

The DEIS concludes that these impacts would be mitigated to less than significant levels by the preparation of a comprehensive design-level drainage plan prior to construction, and this plan would include additional measures to retain or infiltrate stormwater flows (p. 5-2). It is not at all

clear that these goals can be accomplished on the site with its existing drainage and flooding concerns, including the continuing flooding impacts from previous Caltrans highway work[3]. Because of these existing drainage issues, we are concerned that deferring this assessment and project-level planning to a future date does not fulfill the purpose of NEPA to predict impacts and assess alternatives before federal decisions are made. Courts have also held that mitigation measures should be discussed in sufficient detail to ensure that environmental consequences have been fairly evaluated[4]. Indeed, further analysis may indicate that the site cannot support the needed stormwater retention and infiltration and that a reduced project footprint would be necessary. G-4.6 (cont.)

Additionally, the mitigation measure for the construction phase (developing and implementing a stormwater pollution prevention plan) does not specifically address the risks associated with the project's location in the flood zone during the construction phase. While more information is contained in the Preliminary Drainage Study in the appendix, important measures that would mitigate impacts are not included in the mitigation measures chapter of the EIS.

Recommendations: Because of the existing drainage issues on the site, the acknowledgement by FEMA that increased floodplain damages are already occurring outside of the designated 100-year floodplain, and the potential for increased flooding from more intense storms as a result of climate change, EPA recommends that additional investigation occur, prior to any federal decisions, towards the ability of the site to effectively manage stormwater and floodwaters. We recommend that the feasibility of onsite management of the 85%, 24-hour storm via LID measures be investigated. This would align the project more closely with the requirements for new development under the Santa Rosa Municipal Separate Storm Sewer Systems (MS4) permit and other efforts to reduce stormwater discharge impacts to the Russian River. G-4.7

We recommend that the comprehensive design-level drainage plan, proposed as mitigation prior to development, be conducted as part of the NEPA analysis to better reveal potential impacts and to inform site planning. The limitations of the site may require changes to the project footprint and/or size. Any approvals made without the benefit of this information should be conditioned on the results of the detailed drainage study, including specific responses and changes to the project that would occur to address the drainage site constraints. G-4.8

Finally, we recommend that all mitigation measures that are proposed in the appendices be included in the mitigation measures chapter of the FEIS, the Record of Decision, and as conditions for any federal approvals. G-4.9

[3] Appendix B, p. 2 identifies the existing drainage problems following highway construction and the Asti Road realignment that are the subject of litigation between local residents and the City, and between the City and Caltrans, and states that the project is awaiting the outcome of this litigation to determine the improvements to be made by the City necessary to address Heron Creek drainage problems. The City intends to explore solutions for mitigating the litigated drainage issues and it is presently unknown what impacts the City's ultimate drainage solution may have on the project.

[4] Robertson v. Methow Valley Citizens Council, 490 U.S. 332 (1989); South Fork Band Council of Western Shoshone of Nevada vs. U.S. Department of the Interior, 588 F.3d 718 (9th Cir. 2009)

Impacts to Wetlands

A third of the seasonal wetlands on the development site (half an acre) would be filled, and the remaining wetlands would experience indirect impacts. The DEIS does not assess indirect impacts to wetlands, which is required under 40 CFR 1502.16 (b). The project will surround the larger of the remaining wetlands on 3 sides. Appendix O, Figure 4-3 shows that there is currently a connection between these wetlands and Porterfield Creek via a culvert, however the effects of the project on this hydrology is not discussed. It is not clear if the wetlands will be connected to the creek post-construction, if there will be pipe flow under the casino using storm drains, or if attempts to design the casino so that the hydrologic connection to the creek is maintained have occurred. Mitigation is discussed in relation to direct impacts, but no mitigation is discussed for indirect impacts. We note that the mitigation for direct loss or fill of wetlands must comply with the 2008 EPA/Corps of Engineers Mitigation Rule, and that that EPA, in addition to the Corps of Engineers, must approve the final compensatory mitigation plan per our authorities for the Clean Water Act (CWA) Section 401 water quality certification (Table ES-1, p. 5-6). G-4.10

All CWA Section 404 permits require avoidance and minimization of impacts to waters of the U.S., including indirect impacts. An important measure to minimize indirect impacts to wetlands and surface waters is the designation of buffer zones between the water feature and development. The site plan for the preferred alternative indicates that paved roads will surround the main seasonal wetland feature (Figure 2-1). Stormwater management will, in part, determine whether the wetlands will be indirectly impacted by a reduction or increase of flows. The site plan also shows that landscaped areas will abut riparian areas of Coyote Creek. Landscape areas do not function as buffers unless they are natural riparian habitats. In addition, because of the presence of riparian vegetation on the site, it is important that only native vegetation be utilized in any landscaping, especially when landscaping abuts buffer zones, so that riparian habitat is not impacted by invasive species. Indirect impacts from invasive species were not assessed in the DEIS and there are no mitigation measures that require the use of native plants in landscaping.

> *Recommendations:* Consistent with 40 CFR 1502.16 (b), the FEIS should evaluate indirect impacts to the seasonal wetlands that will remain on site, and to surface waters, and discuss mitigation measures for these indirect impacts. The site plan should be modified as necessary to avoid and minimize indirect impacts to the wetlands that will remain on site. Care should be taken to ensure that the development does not deprive the remaining wetlands of flows and to retain any hydrological connections that exist between the wetlands and Porterfield and/or Coyote Creeks. The site plan in Figure 2-1 shows the seasonal wetlands SW-1 and SW-2 near Coyote Creek as part of the landscaped area. These wetlands should be avoided and protected with a 100' buffer from landscaped areas and other development. Landscaping should consist of native plants.
>
> In summary, EPA recommends that additional enforceable mitigation measures be added to the project to 1) require 100-foot buffer zones around waterways and wetlands; and 2) require the use of native trees, shrubs, and ground covers in all project landscaping.

Wastewater Treatment

As mentioned above, we have concerns regarding the onsite wastewater treatment option. The construction of levees surrounding the wastewater treatment plant, water treatment plant, and wastewater storage pond would reduce the site's floodplain capacity. There is no discussion of the residual risks that would exist behind levees and other flood risk reduction structures. For the sprayfield, the Wastewater Treatment and Disposal Report (Appendix J) includes assessment of need for amount to spray, but does not address the ability of the local soils to absorb this amount. It states that there is a need for a percolation rate of 0.6 inches per hour in the sprayfield soil to accept the projected discharge. The wastewater storage pond will be constructed 26 feet below grade, and it is not clear if groundwater would be present at this elevation and how shallow groundwater might interfere with the design and operation of the pond, including during flooding events when groundwater levels could rise. This, coupled with the loss of floodplain capacity, the existing concerns with flooding and drainage from surface waters, including Heron Creek, and drainage alterations on the development parcel, should alert decision-makers to the need for alternatives to pursuing this option. G-4.11

> *Recommendation*: The DEIS implies that the preferred option for wastewater treatment would be to enter into a service contract with the City of Cloverdale (p. 5-13) and that the private options for water and wastewater would be pursued if municipal services could not be provided. EPA strongly encourages the pursuit of the municipal option for wastewater treatment, and that water recycling opportunities be included in any arrangements since the wastewater treatment plant is located adjacent to the project site. If the private option is necessary, we believe further studies on alternatives to the proposed private option should be pursued.

Safe Drinking Water Act

We understand that the Tribe has begun discussions with City of Cloverdale for public water services, but that the project does not assume or rely upon this provision. If a private onsite water supply system is developed, it would provisionally be classified as a Non-Transient/Non-Community (NTNC) public water system[5] and would be subject to the requirements of the Safe Drinking Water Act (SDWA) for NTNC systems. The proximity of the well to the Russian River will require analysis and testing, such as microscopic particulate analysis on the well source, and turbidity and conductivity both on the well source and the Russian River, prior to utilizing the well. This is to verify it is not groundwater under the influence of surface water. If the well is found to be under the influence of surface water, then treatment will be required to meet surface water treatment requirements. EPA is the regulatory authority for the SDWA public water system for the project. G-4.12

> *Recommendation:* The FEIS should identify the source of drinking water if it is known. If a private onsite drinking water system will be pursued, please be aware that baseline monitoring must begin and be submitted to EPA before water may be legally used by the public. Please contact Roger Yates of EPA's Region 9 office at 415-972-3549 with any questions regarding compliance with the Safe Drinking Water Act.

[5] 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.

Impacts from Groundwater Pumping

The water demand calculated in the DEIS does not assume the use of recycled water. However, the analyses that predict impacts to Russian River flows and to neighboring groundwater wells, including the South Cloverdale Water District supply well, do assume the use of recycled water and use a lower water demand value (p. 4.3-5). Although the proximity of the Cloverdale WWTP presents clear opportunities for water recycling and EPA encourages pursuing these opportunities, unless it is known that water recycling will definitely occur, for the purposes of the analysis, it appears that it would be more conservative to utilize the higher water demand values to predict these impacts, to avoid underestimating them if water is not recycled. G-4.13

> *Recommendation:* EPA recommends that the impact analysis also include estimated impacts to Russian River flows and neighboring wells from the water demand that does not assume recycling, since this appears to be a possibility.

Impacts to Threatened and Endangered Fish Species

The DEIS does not indicate that consultation has been initiated with the National Marine Fisheries Service (NMFS) for potential impacts to the federally listed California Coastal Chinook, Central California Coast coho, and Central California Coastal steelhead. The DEIS concludes that impacts to these salmonids will be less than significant with the implementation of construction stormwater best management practices (BMPs). In our comments on the Administrative DEIS (dated April 30, 2009), EPA recommended consulting with NMFS regarding whether the project area provides suitable habitat and whether standard erosion control BMPs during the construction phase (mitigation measure 5.5-3) would be sufficient to reduce these impacts to less than significant. G-4.14

Based on conversations with NMFS, it appears that the project would have potentially significant direct impacts to salmon rearing habitat. We recommend that BIA consult with NMFS as soon as possible to identify the measures needed to adequately prevent impacts to these impacted species. Any additional impacts to such a stressed resource would result in cumulatively significant impacts. Conversations with NMFS could also reveal restoration opportunities that could be incorporated into the project.

> *Recommendation:* Initiate consultation with NMFS and update the Final EIS to better convey the potential indirect impacts to these species. The cumulative impact assessment for these resources should also be improved and reflect the existing status of the species. The cumulative impacts analysis should identify how the resources have already been affected by past or present activities in the project area, and should characterize the resource in terms of their response to change and capacity to withstand stresses, including any additional project-related stresses.

Green Building

In general, the project lacks innovative green building and other environmental features that other casino projects are incorporating in their planning. For example, the Point Molate Destination Resort and Casino, Richmond, California proposes to install a photovoltaic array atop two parking structures and along a covered walkway, water conserving low-flow bathroom fixtures, an on-site gray water recycling system, a vegetation covered "living roof" above the G-4.15

G-4.15 (cont.)

conference center, a composting program, and an aggressive recycling program. In contrast, the proposed project offers few such features in its project description, with the exception of some energy efficiency measures and "enhanced recycling", which is not defined, as air quality mitigation measures. Sustainable or "green" buildings include many more environment-friendly features, which also result in cost savings over the long-term. Green building features provide health and safety benefits that enhance occupant comfort, attract and retain staff, improve worker productivity, and develop community goodwill.

One way to develop green features is to design and construct the facilities for Leadership in Energy and Environmental Design (LEED) certification by the U.S. Green Building Council. 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.

We understand that indoor smoking provides some limitations to LEED certification. To address this, smoking sections could be provided separately which would allow the rest of the facilities to pursue LEED certification. Be aware that surveys completed by J.D. Power and Associates show that a large majority of customers prefer a smoke-free environment and environment-friendly facilities. The 2007 J.D. Powers and Associates North America Hotel Guest Satisfaction Survey showed that the majority of hotel guests want a non-smoking environment in all common areas of the hotel, not just in the guest rooms[6]. The 2009 survey reported that awareness of "green" programs has a strong impact on overall hotel guest satisfaction. On average, satisfaction is more than 160 points higher among guests who report being aware of their hotel's green programs, compared with guests who are unaware of them[7].

> *Recommendation:* EPA recommends that BIA and the Tribe specify that project facilities would be constructed for certification by LEED. This specification would guide the building process and create a high-performance, sustainable building. LEED certification would enable the Tribe to establish themselves as leaders in the green building sector and offer them the opportunity to market their venue as an environment-friendly facility.
>
> If LEED certification will not be pursued, various green features can still be incorporated into project planning. A GreenSpec Directory is available that provides product environmentally preferable building products and guideline specifications. See http://www.buildinggreen.com/menus. Listings include suggestions and sample language to incorporate into your project specifications.
>
> 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. For other green building resources please visit Region 9's websites at:
>
> - EPA R9 Tribal Solid Waste: http://www.epa.gov/region9/waste/tribal/index.html
> - EPA R9 Green Building: http://www.epa.gov/region9/greenbuilding/index.html

[6] See http://www.jdpower.com/travel/articles/2007-North-America-Hotel-Guest-Satisfaction.
[7] See: http://www.jdpower.com/travel/articles/2009-North-America-Hotel-Guest-Satisfaction-Study.

California Regional Water Quality Control Board
North Coast Region
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Linda S. Adams
Secretary for Environmental Protection

Arnold Schwarzenegger
Governor

October 18, 2010

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Mr. Dale Morris
Bureau of Indian Affairs
2800 Cottage Way
Sacramento, CA 95825

Dear Mr. Morris:

Subject: Comments on the Draft Environmental Impact Statement for the Cloverdale Rancheria of Pomo Indians' Fee-to-Trust and Resort Casino Project, SCH No. 2002084001

Thank you for the opportunity to comment on the Environmental Impact Statement (EIS) for the Cloverdale Rancheria of Pomo Indians Fee-to-Trust and Resort Casino Project. We appreciate the chance to respond and express concerns early in the environmental review process relating to our own statutory responsibility. The North Coast Regional Water Quality Control Board (Regional Water Board) may be a responsible agency for this project, as defined by the California Environmental Quality Act (CEQA) for any projects occurring on non-trust lands. The Regional Water Board has jurisdiction over the quality of state waters including ground and surface waters (including wetlands) and the protection of the beneficial uses of such waters.

The project consists of the placement of 6 parcels (70 acres) into federal trust for the Pomo Indian tribe, subsequent development of a casino, hotel, convention center, entertainment center, tribal government buildings and other ancillary facilities including approximately 3,400 parking spaces in garage and surface parking structures.

Although the EIS includes mitigation measures for impacts on specific water resources (section 5.3.), the Regional Water Board believes more detailed and enforceable mitigation measures should be provided. The EIS discusses potential impacts upon water resources relating to storm water from altered drainage patterns, generated wastewater, and construction storm water runoff. The EIS maintains that the mitigation measures provided "would reduce impacts to water resources to a less-than-significant level." The Regional Water Board does not believe that these mitigation measures are sufficient to mitigate for post-construction storm water impacts, wastewater discharge impacts along with other potential water quality impacts. We feel that the project could result in potentially significant impacts to water quality G-5.1

In addition, the Regional Water Board is concerned that the EIS does not address the enforceability of the suggested mitigation measures and the necessity of continuing oversight of proposed Best Management Practices (BMPs). G-5.1 (cont.)

Impaired Waters

This project is within the Russian River watershed. Please note that the Russian River, including its tributaries are listed on the Environmental Protection Agency's 303(d) list as impaired due to water temperature and sedimentation/siltation. Sources of sediment impairment include land development, construction, erosion, surface runoff, non-point source runoff, and urban runoff. The proposed project will be increasing impervious surface area, vehicle traffic, and urban uses. Post-construction storm water runoff has the potential for discharging pollutants to state waters. We recommend the project implement state "Low Impact Development" techniques (EPA Green Infrastructure) for all developed areas of this project. These techniques are intended to control both the quality and quantity of storm water runoff from developed areas. Without these control measures, we believe that this development has the potential for contributing to the impairment of the Russian River watershed. The primary cause of temperature impairment is the lack of healthy riparian areas that provide shading during summer periods. We strongly recommend that riparian buffers of at least 100-feet as measured from top of bank be provided. In addition, buffer areas should maintain natural vegetative cover, particularly riparian vegetation providing shade to waterways. G-5.2

Storm Water

The proposed project would include 17 acres of new impervious surfaces and semi-pervious surfaces. The EIS states that the result of the overflow discharge during a 10 year storm event could include, "additional inundation, increased stream and drainage flows, erosion, or flooding." The Regional Water Board notes the mitigation measures discussed for a 100 year storm event but the mitigation measures to protect water quality from smaller storms are not adequate. Storm water treatment should be more fully mitigated with a comprehensive evaluation including appropriate mitigation measures in Section 5.3-1. G-5.3

The Regional Water Board advises that the installation of a subterranean storm water detention system, discussed in Section 2.0 with 60,100 cubic-foot capacity necessitates further evaluation in regards to ground water levels onsite and should be included in the EIS. The detention system may provide mitigation for potential flooding impacts, but will not treat storm water or protect surface waters from hydromodification impacts.

The document does not thoroughly discuss mitigation measures to reflect changes to the quality of post-construction storm water runoff. It is well known that runoff from development contains a variety of pollutants as compared to runoff from undeveloped areas. Runoff treatment mitigation should be designed to treat all post-construction

G-5.3 (cont.)

runoff from impervious areas and should utilize treatment methods that are proven to maximize pollutant removal The Regional Water Board strongly encourages the use of Low Impact Development (LID) techniques, such as routing runoff from roofs, driveways and parking lots into dispersed vegetated areas rather than into storm drains. Moreover, the Regional Water Board recommends exhausting effective LID BMPs prior to selecting media filters and oil/grease separators. Infiltrating runoff into bioretention areas, vegetated buffers or basins allows groundwater recharge, reduces erosion and pollution caused by storm drain discharges, and requires less maintenance than storm drain filters. We have included a list of LID resources with this letter.

LID is a development site design strategy with a goal of maintaining or reproducing the pre-development hydrologic system through the use of design techniques to create a functionally equivalent hydrologic setting. LID emphasizes conservation and the use of on-site natural features integrated with engineered, small-scale hydrologic controls to more closely reflect pre-development hydrologic functions. Hydrologic functions of storage, infiltration, and ground water recharge, as well as the volume and frequency of discharges, are maintained through the use of integrated and distributed storm water retention and detention areas, reduction of impervious surfaces, and the lengthening of flow paths and runoff time. LID seeks to mimic the pre-development site hydrology through infiltration, interception, reuse, and evapotranspiration. LID requires that the storm water runoff volume from small storms be retained onsite.

Other LID strategies include the preservation and protection of environmentally sensitive site features such as riparian buffers, wetlands, steep slopes, valuable trees, flood plains, woodlands, native vegetation and permeable soils. Natural vegetation and soil filters storm water runoff and reduces the volume and pollutant loads of storm water runoff. Other benefits from LID implementation include reducing global warming impacts from new development (preserving carbon sequestering in native soils and retaining native vegetation), increasing water supply (by encouraging ground water recharge) and reducing energy consumption.

LID requires the use of landscape-based BMPs that filter storm water runoff using vegetation and amended soil prior to infiltration. Examples of these types of BMPs are rain gardens and vegetated swales. LID BMPs need to be sized to treat the storm water runoff from all impervious surfaces (e.g. roads, roofs, walkways, patios) using the following sizing criteria:

1. The volume of runoff produced from the 85th percentile of 24-hour rainfall event, as determined from the local historical rainfall record; or

2. The volume of runoff produced by the 85th percentile 24-hour rainfall event, determined using the maximized capture storm water volume for the area, from the formula recommended in Urban Runoff Quality Management, WEF Manual of Practice No. 23/ASCE Manual of Practice No. 87, p. 170-178 (1998); or

3. The volume of annual runoff based on unit basin storage water quality volume, to achieve 80 percent or more volume treatment by the method recommended

in California Storm Water Best Management Practices Handbook-Industrial/Commercial (1993). G-5.3 (cont.)

The EIS includes the use of some LID BMPs, but lacks sufficient clarity and detail to evaluate the effectiveness of the proposed BMPs. For example, pervious pavement with an underdrain does not provide adequate water quality treatment or runoff volume reduction. Pervious pavement without underdrains is a more effective BMP, and the EIS does not specify the design of pervious pavement areas. The EIS should also include BMPs to provide storage and reuse to conserve water and appropriately use storm water resources.

Bioretention areas such as raingardens and bioswales with amended soils provide excellent storm water treatment and promote infiltration. Storm water treatment and infiltration protect water quality and mimic the natural hydrology of a site, minimizing the impact to water quality from development activities.

Construction Storm Water Impacts

Overall, the Regional Water Board strongly supports the preparation of a Storm Water Pollution Prevention Plan (SWPPP) and the use of effective, properly located BMPs. The identified mitigation measures for construction storm water in section 2.0 and Appendix B, however, are not sufficient to mitigate all potential impacts. Storm water runoff can carry pollutants and sediment to streams and create channelization and stream bank erosion if it not properly mitigated. Runoff from all impervious surfaces should be retained and infiltrated onsite. G-5.4

The EIS should identify BMPs to prevent storm water runoff from the construction site from reaching the stream. The Regional Water Board recommends that ground disturbing activities be limited to the dry season in order to avoid polluted runoff from storm events. Erosion control BMPs such as blankets or loose straw to cover disturbed areas and sediment control BMPs such as silt fences or other methods of preventing loose sediment from leaving the construction site should be employed. The staging and cleaning of any vehicles or work equipment should occur at a protected location using BMPs to prevent hazardous materials, namely petroleum products, and sediment from being released into runoff.

Wastewater

Due to the concerns and challenges related to wastewater disposal, the Regional Water Board strongly recommends that the wastewater generated from the proposed project be conveyed to the City of Cloverdale's existing wastewater treatment plant for treatment and disposal. This facility is equipped to provide reliable tertiary –level treatment. In the event that wastewater is treated onsite, a thorough analysis should be conducted to address the proposed project's site constraints. Ground water and G-5.5

surface water degradation from onsite treatment and disposal should be evaluated for consistency with the federal anti-degradation policy. The document does not adequately evaluate wastewater application rates as compared to the nutrient requirements of the proposed vegetation. Furthermore, the Regional Water Board is not convinced that the three proposed monitoring wells for the sprayfields receiving treated effluent are adequately described to ensure sufficient ground water monitoring. Although three wells are the *minimum* requirement for determining ground water flow direction, it is prudent to incorporate one well upstream from the proposed land application and at least two monitoring wells down stream to guarantee accurate data. More down gradient wells may be necessary if ground water flow direction changes seasonally. G-5.5 (cont.)

The onsite wastewater alternative seems to suggest that no wastewater pollutants will be discharged to Waters of the United States. Recent federal court decisions have found that discharges of pollutants to lands adjacent to waterways constitute point source discharges. It appears that the proposed onsite system for this facility will concentrate disposal to a relatively small area in close proximity to surface waters. The document should discuss whether this disposal option would require permitting under Section 402 or the Clean Water Act G-5.6

Surface Waters

Page 86 of the EIS discusses Heron Creek identifying it as, "a watershed [with an] area of over 1,000 acres." The Regional Water Board is concerned that Heron creek is also identified on page 40 as, "an agricultural ditch that runs through the vineyard," threatened to potentially be replaced with a new surface drainage channel. G-5.7
The EIS should clearly identify the surface waters potentially affected by proposed actions and indicate appropriate mitigation. Heron Creek, a water of the United States, provides wildlife habitat and supports other beneficial uses and should be protected from disturbance or replaced nearby with in-kind mitigation of at least a 1:1 ratio of replacement.

Riparian Buffer Zones

Individual stream and wetland systems are part of complete aquatic ecosystems through interaction of surface and subsurface hydrologic connections, healthy systems perform functions that protect and enhance watershed-wide water quality. In addition, surface waters provide habitat that supports a variety of plant and animal life for rare and endemic species. Riparian areas between streams and wetlands and their adjoining environments play critical roles in protecting and enhancing water quality. An important tool for reducing and avoiding impacts to surface waters is the implementation of a buffer area of native and riparian vegetation between any construction activities or structures and surface waters. G-5.8

G-5.8 (cont.)

After reviewing the EIS, the Regional Water Board is concerned that the proposed project does not specify any setbacks to surface waters from developed or landscaped areas. The Regional Water Board and the United States Environmental Protection Agency (EPA) recommend a *minimum* setback of 100 feet from the top of bank of a stream, watercourse or the edge of a wetland to protect water quality and ensure that beneficial uses are supported. The project should delineate buffer zones of at least 100 feet for all perennial and seasonal surface waters. Setbacks should be vegetated and undisturbed or enhanced with native plants.

Thank you for considering our comments on this project. We would be happy to further discuss recommended mitigations to address our comments. If you have any questions, please contact me at (707) 576-2065 or jshort@waterboards.ca.gov .

Sincerely,

John Short

John Short
Senior Water Resources Engineer

101018_BG_CloverdaleRancheria_PomoIndians

cc: Scott Morgan, State Clearinghouse, P.O. Box 3044, Sacramento, CA 95812
RE: SCH No. 2002084001

Low Impact Development Resources

Santa Rosa's Storm Water Program and LID Technical Manual (in development with the North Coast Regional Water Board):
www.srcity.org/stormwaterpermit - www.srcity.org/stormwaterLID

Low Impact Development Center: http://www.lowimpactdevelopment.org/

Puget Sound LID manual: http://www.psp.wa.gov/downloads/LID/LID_manual2005.pdf

Green Infrastructure Municipal Handbooks:
http://cfpub2.epa.gov/npdes/greeninfrastructure/munichandbook.cfm

Oregon Rain Garden Guide, landscaping for clean water and healthy streams:
http://seagrant.oregonstate.edu/sgpubs/onlinepubs/h10001.pdf

Pennsylvania Stormwater BMP Manual:
http://www.blairconservationdistrict.org/SWBMP.htm#pa%20manual

Philadelphia Stormwater Guidance Manual:
http://www.phillyriverinfo.org/Programs/SubProgramMain.aspx?Id=StormwaterManual

Marin County's LID manual: http://www.mcstoppp.org/acrobat/GuidanceforApplicantsv_2-5-08.pdf

San Diego County's LID manual – LID for roads: http://www.sdcounty.ca.gov/dplu/docs/LID-Handbook.pdf

Low Impact Development – Sustainable Storm Water Management:
http://www.waterboards.ca.gov/water_issues/programs/low_impact_development/

EPA Green Infrastructure Basic Information:
http://cfpub.epa.gov/npdes/greeninfrastructure/information.cfm

Managing Wet Weather with Green Infrastructure:
http://cfpub.epa.gov/npdes/home.cfm?program_id=298

Contra Costa Manual and Guidance to Municipalities:
http://www.cccleanwater.org/new-developmentc3/stormwater-c3-guidebook/

Contra Costa approach powerpoint to implement LID:
http://www.cccleanwater.org/Publications/StormCon-5-06/5-ContraCostaApproach-I-Dalziel-Cloak.ppt

Portland Stormwater Management Manual: http://www.portlandonline.com/bes/index.cfm?c=47952

City of Portland's Sustainable Storm Water Management Program – LID for streets:
http://www.portlandonline.com/bes/index.cfm?c=34598

Streetscape improvements and water quality design:
http://www.lowimpactdevelopment.org/nhb/lid.htm

LID Urban Design tools – design software for different BMPs: http://www.lid-stormwater.net/homedesign.htm

LID design fact sheet: http://www.coastal.ca.gov/nps/lid-factsheet.pdf

Storm Water Runoff Calculator: http://www.stormulator.com

Storm Water Management and LID at EPA headquarters – BMP choice and design: http://www.epa.gov/owow/nps/lid/stormwater_hq/

Governor's Office of Planning and Research Technical Advisory using LID to protect water quality through CEQA review: http://www.opr.ca.gov/ceqa/pdfs/Technical_Advisory_LID.pdf

State Water Board Resolution on LID and Sustainable Water Resources Management: http://www.waterboards.ca.gov/board_decisions/adopted_orders/resolutions/2008/rs2008_0030.pdf

Resolution of the California Ocean Protection Council Regarding Low Impact Development: http://www.resources.ca.gov/copc/05-15-08_meeting/05_LID/0805COPC05_%20LID%20Res%20amended.pdf

Storm Water Resources:

North Coast Regional Water Board Municipal Storm Water Program: http://www.waterboards.ca.gov/northcoast/water_issues/hot_topics/santa_rosa_ms4_npdes_stormwater_permit/

State Water Board Storm Water Program: http://www.waterboards.ca.gov/water_issues/programs/stormwater/

California Stormwater Quality Association: http://www.casqa.org/

EPA Storm Water Program: http://cfpub.epa.gov/npdes/home.cfm?program_id=6

Erase the Waste Campaign – California Storm Water Toolbox (outreach materials for permittees and non-profits): http://www.waterboards.ca.gov/water_issues/programs/outreach/erase_waste/

The San Francisco Regional Water Board Storm Water Resources Website: http://www.waterboards.ca.gov/sanfranciscobay/water_issues/programs/stormwater/avail_docs.shtml

State Water Board Storm Water Grant Program: http://www.waterboards.ca.gov/water_issues/programs/grants_loans/prop84/index.shtml

Federal Funding Sources for Watershed Protection: http://cfpub.epa.gov/fedfund/

Stormwater Manager's Resource Center: http://www.stormwatercenter.net/

For more information, please contact John Short at jshort@waterboards.ca.gov
Updated: August 26, 2010

Letter G-6

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SCH 2002084001

Mr. Patrick O'Mallan
Bureau of Indian Affairs, Pacific Regional Office
2800 Cottage Way
Sacramento, CA 95825

Dear Mr. O'Mallan:

Cloverdale Rancheria of Pomo Indians Fee-to-Trust and Resort Casino Project – Draft Environmental Impact Statement (EIS)

Thank you for including the California Department of Transportation (Department) in the environmental review process for the proposed project. We have reviewed the Draft EIS and have the following comments to offer, focusing on impacts and mitigation to U.S. Highway 101 (US 101).

Traffic Analysis

1. Proposed mitigation measures include the installation of traffic signals (Mitigation Measure 5.8-2) or a roundabout (Mitigation Measure 5.8-4) at the intersection of the US 101 Northbound (NB) ramps / South interchange. The Draft EIS states that the project sponsor would contribute their fair share towards the mitigation measures. Has the Cloverdale Rancheria of Pomo Indians Tribe coordinated with Sonoma County and/or the Sonoma County Transportation Authority, the Congestion Management Agency for the County, to ensure that these projects are programmed and implemented? G-6.1

2. For Mitigation Measure 5.8-2, please provide a copy of the signal warrants analysis for the US 101 NB Ramps / South interchange as noted on page 4.8-3 for our review. G-6.2

3. For Mitigation Measure 5.8-4, the proposed roundabout within State right-of-way (ROW) will require the Department's conceptual approval; please include text noting that a Conceptual Approval Report will need to be completed as the first step of the Department's Project Initiation Document process. G-6.3

4. Mitigation Measure 5.4-5 includes incorporating public transit into the project design, creating car sharing programs, increasing the cost of driving and parking vehicles, providing G-6.4

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shuttle services to public transit, providing public transit incentives, and implementing a parking cash-out program for employees. Mitigation Measure 5.8-5 includes installing an off-street path or sidewalk along Asti Road from the SMART track/multi-use trail crossing of Asti Road and the project site entrance. The proximity of the proposed project to the SMART rail line means that many of the expected trips to the development could be accommodated by public transit and other modes; reducing the number of vehicle trips to the development can help to improve operations at the nearest freeway interchanges. Were these reductions taken into account in the trip generation calculations? Will the project sponsor pay its fair share for these mitigations? Furthermore, please consider including bicycle racks and lockers and providing sidewalks everywhere applicable within the project area as part of the Transportation and Motor Vehicle Measures (Mitigation Measure 5.4-5). G-6.4 (cont.)

5. Please explain why the AM peak hour intersection performance was not included in the traffic analysis. The Department recommends showing AM, midday, and PM peak hours during commute hours for a more reliable analysis; please record peak hours on Tuesday through Thursday during school hours, when traffic is more consistent. G-6.5

6. Table 4.8-1 shows an internal capture rate of 67 percent; is it reasonable to assume that non-gaming trips will be reduced by this proportion? Please refer to the latest edition of the *ITE Trip Generation Handbook* for a more accurate rate (pg. 142 of the 2004 version); otherwise, please provide a stronger argument for the high internal capture rate. G-6.6

7. The trip generation rate for the Casino during the weekday PM peak hour in all of the alternatives is much lower than the average rate per the *ITE Trip Generation Handbook* (13.43); please explain or revise. Furthermore, please explain why the same land uses have different trip generation rates in different alternatives. G-6.7

8. The number of weekday PM peak hour "In" trips for the Hotel land use should be greater than the number of "Out" trips; please revise. G-6.8

9. Please provide a table or tables within the traffic analysis of storage lengths and queue lengths of all involved intersections during all conditions. G-6.9

10. The Department strongly recommends that the traffic analysis apply a time horizon of at least 20 years after project completion (baseline) to determine cumulative impacts for the US 101 / South interchanges and US 101 / Citrus Fair Drive interchanges. Please see the Department's *Guide for the Preparation of Traffic Impact Studies* at the following website for more information: http://www.dot.ca.gov/hq/traffops/developserv/operationalsystems/reports/tisguide.pdf G-6.10

11. The proposed mitigation measures should be completed prior to completion of the project. Any improvements affecting the State Highway System (SHS) should be coordinated with G-6.11

the Department as early as possible. Further comments will be provided during the design and approval phase.

12. The Traffix model (Appendix G) does not show the green times and queue lengths of all affected intersections; therefore, coordination of the corridor cannot be evaluated. Please submit Synchro files for all conditions: Existing, Baseline, Alternatives, Future, etc. G-6.12

Other Issues
Please coordinate with the Department if a funding application will be submitted for the Indian Reservation Road (IRR) program for project area corridors.

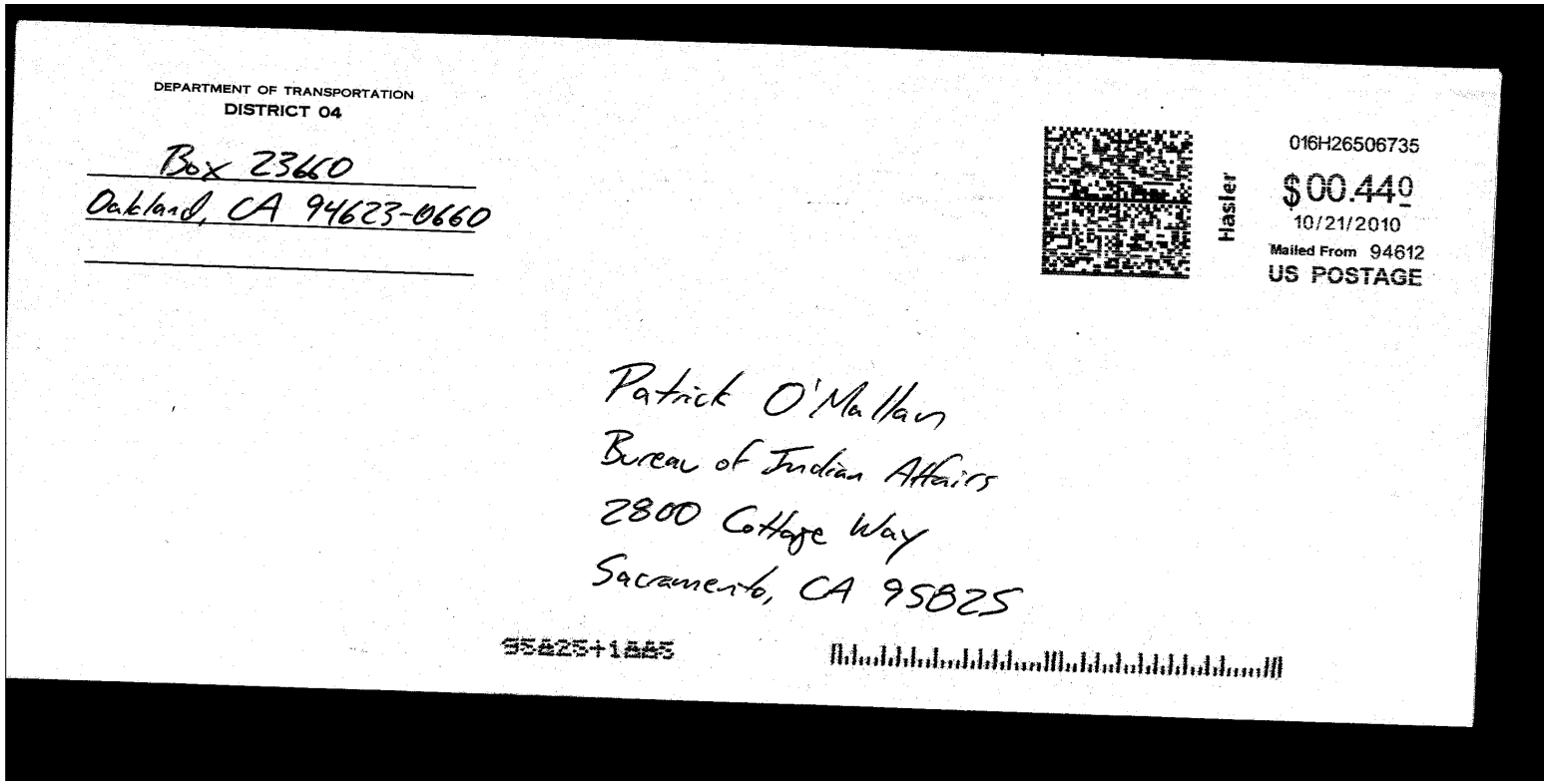
Should you require further information or have any questions regarding this letter, please contact Connery Cepeda of my staff at (510) 286-5535.

Sincerely,

Becky Franklin for

LISA CARBONI
District Branch Chief
Local Development – Intergovernmental Review

c: Scott Morgan (State Clearinghouse)
Sara Drake (California Department of Justice)



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DISTRICT 04

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Oakland, CA 94623-0660

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Bureau of Indian Affairs
2800 Cottage Way
Sacramento, CA 95825

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Letter G-7

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FAX NUMBER: (916) 978-6099

Number of Pages (including this cover page): 10

TO: Mr. Dale Risling, Acting Regional Director

AT: U.S. Department of the Interior
Bureau of Indian Affairs - Pacific Region

FROM: Andrea Lynn Hoch, Legal Affairs Secretary
Governor's Office of Legal Affairs

AT: Office of Governor Arnold Schwarzenegger, State of California

SPECIAL INSTRUCTIONS:

Please see the enclosed comment letter (and enclosure) regarding the Draft Environmental Impact Statement for the Proposed Cloverdale Rancheria Fee-to-Trust and Resort Casino Project. The original letter will follow via U.S. Postal Service.

If you have not received all pages of this facsimile, please contact:

Name: Cristi Caspers **Telephone #:** (916) 445-0873

Governor Arnold Schwarzenegger • Sacramento, California 95814 • (916) 445-2841

OFFICE OF THE GOVERNOR

October 19, 2010

Via Facsimile (916) 978-6099 & U.S. Mail

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

Re: Draft Environmental Impact Statement for the
Proposed Cloverdale Rancheria Fee-to-Trust and Resort Casino Project

Dear Mr. Risling:

The Governor's Office of Legal Affairs has reviewed the draft environmental impact statement (DEIS) prepared for the proposed Cloverdale Rancheria of Pomo Indians (Tribe) trust acquisition and casino and resort project (Project). The DEIS was prepared for the Bureau of Indian Affairs (BIA) and the National Indian Gaming Commission (NIGC) to address the environmental effects of taking six parcels into federal trust for the Tribe for gaming purposes and for review by NIGC in connection with the approval of a gaming management contract for the Tribe. Thank you for the opportunity to comment on the DEIS.

The Project includes the development of an approximately 480,360 square foot Class III gaming and hotel facility on a 69.77-acre site located in Sonoma County. The development would include a parking structure with 3,300 parking spaces, surface parking with 100 spaces, a five-story 244-room hotel, a 984-seat convention center, a 1,300-seat entertainment center, food and support facilities, and a Tribal government building. In addition, section 4.8 of the DEIS, which addresses transportation, discusses a 99,500 square foot "specialty retail" component. However, this component is not evaluated in the other sections of the DEIS, and it is unclear whether the Project will include this component. The DEIS considers five alternatives to the Project: (1) a reduced intensity hotel and casino facility comprised of 67,424 square feet of gaming floor, a 141-room hotel, a 1,300-seat entertainment center, food and support facilities, a Tribal government building, and 2,900 garage and surface parking spaces; (2) a reduced casino

alternative, comprised of the same components as the reduced-intensity alternative, with a 57,708 square foot gaming floor and 500 fewer parking spaces; (3) a casino-only option comprised of 57,708 square feet of gaming floor, food and support facilities, a Tribal government building, and 1,900 garage and surface parking spaces; (4) commercial retail-office space comprised of 364,000 square feet of commercial and industrial warehouse, commercial office, retail, and restaurants and 1,600 surface parking spaces; and (5) no action.

ANALYSIS

The National Environmental Policy Act (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. Whether a proposed action may significantly affect the quality of the environment is determined by considering the context and intensity of the action and its effects. (40 C.F.R. § 1508.27.) "Context" refers to the scope of the proposed action, while "intensity" refers to the severity of the proposed action's impact on the environment. (*Nat. Parks & Conservation Assn. v. Babbitt* (9th Cir. 2001) 241 F.3d 722, 731, citing 40 C.F.R. § 1508.27.) G-7.1

Upon review of the DEIS, our office is concerned that some deficiencies in the document may preclude the lead and cooperating agencies from taking the required "hard look" at the Project's environmental consequences.

General Project Issues

We have identified several issues for which the DEIS does not appear to provide sufficient information to permit meaningful consideration of Project aspects that will have the potential to adversely affect the environment and surrounding communities. In particular, several of the studies and plans are titled "preliminary," such as the site plan, drainage study, grading study, and utilities study. In addition, Appendix I states that the water quality evaluations had not been completed, and the grading study notes that the geotechnical reports were not available at the time the study was completed. Accordingly, we believe that, upon completion, these studies and evaluations should be made available and incorporated into the environmental review for this project.

In addition, as noted above, it is unclear whether the "specialty retail" component is part of the proposed project. If it is, then this component should be evaluated and made available for public comment. G-7.2

The DEIS does not indicate the timing of when some of the mitigation measures must be implemented. Thus, it is uncertain whether they will avoid significant environmental impacts. For example, the DEIS does not state when the required roadway improvements will be G-7.3

completed. Some of the required improvements may need to be completed prior to commencement of operations in order to ensure public safety. We do not believe that the DEIS adequately analyzes this potentially significant need. G-7.3 (cont.)

Water Resources

The DEIS states that several impacts would be reduced to less than significant by implementation of a Storm Water Pollution Prevention Plan (SWPPP). For example, the DEIS cites the SWPPP as reducing potential for discharge of contaminated waters during construction (see section 4.3.1-3), runoff (see section 4.15.2), and water quality (see mitigation measure 5.5-3). However, the DEIS does not include the SWPPP, so it is not possible to determine whether it is adequate to reduce impacts to less than significant. G-7.4

Section 4.3.1 of the DEIS discusses two options for water supply, a private option, whereby water would be obtained from onsite wells, and a public option, whereby water would be obtained from the City of Cloverdale. The DEIS does not discuss whether the City of Cloverdale has concluded that it can supply the water needed for the project. For the well option, the DEIS states that the groundwater model indicates that the proposed pumping well would not draw flow away from the surface flows of the Russian River. It also concludes that drawdown attributable to the proposed well would not negatively impact the operation, condition, or yield of other onsite or neighboring wells. However, the well data and analyses were not included, so it is not possible to evaluate whether the assumptions and analyses fully support these conclusions. G-7.5

The DEIS states that facilities proposed for the northeastern parcels are located within a FEMA-defined 100-year flood zone. The DEIS makes various conclusions based on a flood height model, but it does not include the calculations or modeling results that support these conclusions. This information should be provided. G-7.6

The DEIS states that wastewater services will be provided either by construction of an on-site collection system, treatment plant, and spray facilities, or by contracting with the City of Cloverdale for wastewater service. The DEIS does not include information as to whether the City has determined it can provide this service. In addition, the DEIS does not fully evaluate potential impacts from wastewater treatment to the groundwater table and to the Russian River if the on-site system is chosen. Further, the DEIS includes only a conceptual design of the system, so it is not possible to fully evaluate potential impacts. G-7.7

Biological Resources

Appendix D to the DEIS, the Biological Assessment, states that up to three federally-listed salmonids may be affected by the Project as well as Essential Fish Habitat for the Pacific G-7.8

Coast Chinook Salmon. The DEIS notes that the National Marine Fisheries Service (NMFS) has completed a biological opinion that addresses the status of fisheries along the Russian River. However, the DEIS does not evaluate whether the Project is consistent with the biological opinion, nor does it include a discussion of consultation with NMFS or whether NMFS concurs in the conclusion that the Project may affect, but is not likely to adversely affect, these listed species. The potential direct and indirect effects on federally-listed salmon and steelhead and other sensitive aquatic species should be more fully evaluated. G-7.8 (cont.)

Cultural Resources

The DEIS does not include the cultural resources report. Without this report, the State cannot fully evaluate the impacts to cultural resources. Accordingly, the report should be provided to the State for review. G-7.9

Socioeconomic Conditions/Environmental Justice

The DEIS provides for mitigation to address problem gambling. We recommend the adoption of additional mitigation measures, including (1) establishing, in addition to the proposed self-exclusion program, an involuntary exclusion program that allows the gaming operation to deny access to patrons who have exhibited signs of problem gambling; (2) displaying signage bearing a toll-free help-line number for problem gamblers; and (3) ensuring that advertising and marketing contains a responsible gambling message. G-7.10

Transportation/Circulation

The DEIS identifies necessary road improvements within the State highway system. Any work performed within California Department of Transportation (Caltrans) right-of-way will require review and approval by Caltrans and an encroachment permit. The appropriate environmental documentation required under the California Environmental Quality Act (CEQA), Public Resources Code section 21000 et seq., must be prepared, and Caltrans would be the lead agency for the CEQA process. All direct and indirect impacts within the right-of-way would need to be quantified. We recommend that the Tribe begin coordination with Caltrans if it has not done so already. G-7.11

Many of the mitigation measures in the DEIS are comprised of fair-share contributions toward various roadway improvements, including traffic signals at the intersection of U.S. 101 Northbound Ramps/South Interchange, traffic signals at the intersection of Asti Road/South Interchange, construction of a roundabout that encompasses the intersections of U.S. 101 Northbound Ramps/South Interchange and Asti Road/South Interchange, and the construction of various other traffic signals. It is unclear whether some measures are feasible or adequate to address direct impacts. No schedule for completion of the improvement projects is included; G-7.12

thus, we are unable to fully assess the adequacy of the mitigation. In its letter commenting on the Scoping Report for the Project, Caltrans stated that the project's fair share contribution, financing, scheduling, implementation and monitoring responsibilities should be discussed for all proposed mitigation measures and the project's traffic mitigation fees should be specifically identified in the environmental document. (See enclosed letter from Lisa Carboni to Mr. Patrick O'Mallan, October 15, 2008.) These issues and other issues raised by Caltrans should be fully addressed. We suggest that the Tribe consult with Caltrans and the County of Sonoma regarding these proposed measures. G-7.12 (cont.)

Land Use

Section 4.9.1 of the DEIS states that the proposed uses of the project site are generally compatible, although not specifically consistent with the City and County's designation and zoning. However, the DEIS does not evaluate the inconsistencies with the City and County land use designations and zoning or describe the extent to which the proposed action would be reconciled with these plans and laws as required by NEPA. (See 40 C.F.R. § 1506.2(d).) There is not enough information in the DEIS to allow meaningful public comment on this issue. G-7.13

The parcels on the eastern portion of the project site currently are subject to Williamson Act contracts. The DEIS does not adequately evaluate the project's potential inconsistency with the Williamson Act contracts. This issue as well as the potential loss of agricultural land and impacts on agriculture in the area surrounding the project site should be addressed. Although it is not entirely clear from the DEIS, it appears that the Williamson Act parcels may be used for the wastewater facilities and/or sprayfields, which use would appear to violate the Williamson Act. The DEIS does not indicate whether the Williamson Act contracts will remain in effect after the land is taken into trust. We are concerned about the enforceability of the contracts after the land is taken into trust. Options available to the Tribe for removal of the contracts are non-renewal and cancellation. Alternatively, the Tribe may grant a waiver of sovereign immunity for the limited purpose of enforcing the terms and conditions of the contracts. The State considers cancellation of a Williamson Act contract to be a significant impact on the environment. The nature of a Williamson Act contract creates a jurisdictional issue that BIA must consider when evaluating trust acquisitions. (25 C.F.R. §§ 151.10, 151.11.) The State reserves the right to provide additional comments on the Williamson Act contracts at such time as BIA circulates a Notice of Trust Acquisition for the parcels. G-7.14

Public Services

The operation of the casino may lead to increased vehicle crashes, including alcohol-related crashes, and an increased need for 911 response. The DEIS does not adequately evaluate these impacts. Accordingly, they should be evaluated. G-7.15

The Project will be located adjacent to State Highway 101. The DEIS correctly notes that the California Highway Patrol (CHP) provides primary law enforcement services on State Highway 101, but does not evaluate potential impacts on the CHP. The impacts on the CHP due to the potential for increased vehicle crashes and other law enforcement services should be fully evaluated and mitigation addressed. In addition, the need for any anticipated services to be provided by the CHP for special event staffing should be evaluated. G-7.16

Conclusion

As set forth above, a project of the scale proposed will have significant impacts on the environment. The DEIS concludes that some of these impacts will be unavoidable. We believe that the environmental assessment of this project should consider additional mitigation measures to further reduce impacts to the environment and alternatives that would reduce all impacts to less than significant. G-7.17

Please note that these comments do not constitute the entirety of the State's comments on the DEIS or those of its political subdivisions. Other State agencies with specific technical expertise may provide additional comments in separate letters. In addition, the County of Sonoma, City of Cloverdale, and other local governments may provide comments.

Thank you for the opportunity to comment on the DEIS.

Sincerely,

Andrea Lynn Hoch

ANDREA LYNN HOCH
Legal Affairs Secretary

Enclosure

STATE OF CALIFORNIA—BUSINESS, TRANSPORTATION AND HOUSING AGENCY ARNOLD SCHWARZENEGGER, Governor

DEPARTMENT OF TRANSPORTATION
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Flex your power!
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October 15, 2008

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Mr. Patrick O'Mallan
Bureau of Indian Affairs
Pacific Regional Office
2800 Cottage Way
Sacramento, CA 95825

Dear Mr. O'Mallan:

Cloverdale Rancheria of Pomo Indians Fee-To-Trust and Resort Casino Project – Scoping Report

Thank you for including the California Department of Transportation (Department) in the environmental review process for the Cloverdale Rancheria of Pomo Indians Fee-To-Trust and Resort Casino Project. We appreciate the opportunity to serve as a cooperating agency for this project.

The Department is primarily concerned with impacts of the proposed project on State transportation facilities. We reviewed the Scoping Report, in particular Section 3.2.19 Transportation, Traffic, and Parking. In addition to the comments provided therein, we refer to the items listed below and to the Department's *Guide for the Preparation of Traffic Impact Studies* (see link below) as a guideline for evaluating impacts to State facilities. We encourage you to coordinate the preparation of the traffic study with our office and would appreciate the opportunity to review the scope of work.

Transportation Analysis

The traffic study should provide an analysis of the impacts of the proposed project on all potentially affected State highway facilities in the vicinity of the project site. At a minimum, it should include the following:

1. Information on the plan's traffic impacts in terms of trip generation, distribution, and assignment. The assumptions and methodologies used in compiling this information should be addressed. The study should clearly show the percentage of project trips assigned to State facilities.

2. Current Average Daily Traffic (ADT) and AM and PM peak hour volumes on all significantly affected streets, highway segments and intersections.

3. Schematic illustration and level of service (*LOS*) analysis for the following scenarios: 1) Existing, 2) Existing Plus Project, 3) Cumulative and 4) Cumulative Plus Project for the roadways and intersections in the project area. Calculation of cumulative traffic volumes should consider all traffic-generating developments, both existing and future, that would affect the State highway facilities being evaluated. Cumulative analysis should apply a time horizon of 20 years after project completion. The analysis should clearly identify the project's contribution to area traffic and degradation to existing and cumulative levels of service. Lastly, the Department's LOS threshold, which is the transition between LOS C and D, and is explained in detail in the Guide for Traffic Studies, should be applied to all State facilities.

4. The procedures contained in the 2000 update of the Highway Capacity Manual should be used as a guide for the analysis. We also recommend using the Department's *Guide for the Preparation of Traffic Impact Studies;* it is available on the following web site: http://www.dot.ca.gov/hq/traffops/developserv/operationalsystems/reports/tisguide.pdf .

5. Consider developing and applying pedestrian, bicycling and transit performance measures or level of service mitigation measures. Modeling pedestrian, bicycle and transit trips will allow impacts to be quantified. Mitigation measures resulting from these analyses could improve access to transit, thereby reducing traffic impacts on state highways. In addition, analyze secondary impacts on pedestrians and bicyclists that may result from any mitigation measures for traffic impacts. Describe pedestrian and bicycle mitigation measures that would be required as a means of maintaining and improving access to transit and reducing traffic impacts on state highways (for example, pedestrian treatments to counteract impacts from widening intersections to accommodate more traffic).

6. Mitigation measures should be identified where the project is expected to have a significant impact. The project's fair share contribution, financing, scheduling, implementation and monitoring responsibilities should be discussed for all proposed mitigation measures and the project's traffic mitigation fees should be specifically identified in the environmental document. Any required roadway improvements should be completed prior to project opening.

7. Mitigation measures should consider highway and non-highway improvements and services. Special attention should be given to the development of alternate solutions to circulation problems that do not rely on increased highway construction, for example through coordination with Sonoma Marin Area Rail Transit and other public and/or private transit operators.

Cultural Resources

If construction activities are proposed within State right-of-way (ROW), the environmental document must include documentation of a current archaeological record search from the Northwest Information Center of the California Historical Resources Information System. Current record searches must be no more than five years old. The Department requires the records search, and if warranted, a cultural resource study by a qualified, professional archaeologist, to ensure compliance with the California Environmental Quality Act, Section 5024.5 of the California Public Resources Code and Volume 2 of the Department's Standard

Environmental Reference (http://ser.dot.ca.gov). These requirements, including applicable mitigation, must be fulfilled before an encroachment permit can be issued for project-related work in State ROW. These requirements also apply to National Environmental Policy Act documents when there is a federal action on a project. Work subject to these requirements includes, but is not limited to: lane widening, channelization, auxiliary lanes, and/or modification of existing features such as slopes, drainage features, curbs, sidewalks and driveways within or adjacent to State ROW.

Encroachment Permit

Please be advised that any work or traffic control that encroaches on State ROW requires an encroachment permit issued by the Department. Further information is available on the following website: http://www.dot.ca.gov/hq/traffops/developserv//permits/. To apply, a completed encroachment permit application, environmental documentation, and five (5) sets of plans clearly indicating State ROW must be submitted to the following address:

Julie Hsu, Branch Chief, Office of Permits
California DOT, District 4
P.O. Box 23660
Oakland, CA 94623-0660

Should you require further information or have any questions regarding this letter, please call Ina Gerhard of my staff at (510) 286-5737.

Sincerely,

Lisa Carboni

LISA CARBONI
District Branch Chief
Local Development/Intergovernmental Review

State of California – The Natural Resources Agency
DEPARTMENT OF FISH AND GAME
Bay Delta Region
7329 Silverado Trail
Napa, CA 94558
(707) 944-5500
www.dfg.ca.gov

ARNOLD SCHWARZENEGGER, Governor
John McCamman, Director

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October 20, 2010

Mr. Pat O'Mallan
Bureau of Indian Affairs
2800 College Way
Sacramento, CA 95825

Dear Mr. O'Mallan:

Subject: Cloverdale Rancheria of Pomo Indians Fee-to-Trust and Resort Casino Project, SCH #2002084001, City of Cloverdale, Sonoma County

The Department of Fish and Game (DFG) has reviewed the draft Environmental Impact Statement (EIS) for the Cloverdale Rancheria of Pomo Indians Fee-to-Trust and Resort Casino (Project). The draft EIS was received in our office on August 10, 2010.

DFG is identified as a Responsible Agency pursuant to the California Environmental Quality Act (CEQA) Section 15386 and is responsible for the conservation, protection, and management of the State's biological resources. DFG is submitting comments on the draft EIS as a means to inform the Lead Agency of our concerns regarding sensitive resources which could potentially be affected by the Project.

The Project proposes the placement of land totaling approximately 70 acres into federal trust and the subsequent development of a casino, hotel, convention center, tribal government building, and other facilities. The project site is located within the unincorporated area of Sonoma County, with a small portion located within the City of Cloverdale city limits. Approximately 3,400 parking spaces for patrons and employees will be available through garage and surface parking. The project site is bisected by Porterfield Creek running northwest to southwest through the property and bordered to the south by Coyote Creek, running west to east. To the east, the site is bordered by the Russian River.

Impacts to Fisheries Resources Within the Project Site

The Russian River watershed contains three listed species of salmonids, including coho salmon (Federal and State Endangered), chinook salmon (Federal Threatened) and steelhead trout (Federal Threatened). Of these species, two are known to occur within the Project site, chinook salmon and steelhead trout. Chinook salmon occur adjacent to the Project site in the Russian River and steelhead trout occur in the Russian River, Porterfield Creek and likely in Coyote Creek, a tributary to Porterfield Creek. The Russian River provides important migration and spawning habitat for salmonids while the tributaries of Porterfield and Coyote creeks provide important rearing habitat for juvenile salmonids. The Project has a potential to adversely impact the habitat in the creeks by causing loss or decline of riparian habitat. The Project may result in confinement of the channel and a change in the contour of the bed, bank and channel caused by encroachment and G-8.1

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construction of new buildings, roads, utilities, bridges and culverts. A loss of or decline of aquatic species' habitat including migration corridors, spawning or rearing areas, as a result of culverts and bridges associated with the Project may occur. Increased stormwater runoff caused by the Project may alter stream hydrology and necessitate new culverts and drainage outlets that could negatively affect salmonids. G-8.1 (cont.)

As mitigation for these impacts to streams and fisheries resources, DFG recommends the following measures be included in the final EIS:

1. New construction of buildings, roads, parking lots and utilities along the eastern portion of the property along the Russian River maintain a minimum 200-foot setback from the top of bank.

2. New construction of buildings, roads, parking lots and utilities along the southern portion of the property along Coyote Creek maintain a minimum 50-foot setback from top of bank.

3. New construction of buildings, roads, parking lots and utilities along Porterfield Creek maintain a minimum 50-foot setback from top of bank on either side of the stream.

4. Riparian vegetation along the Russian River and Porterfield and Coyote creeks should be avoided, protected and enhanced on the Project site. A healthy riparian area reduces property loss from excessive erosion, treats stormwater runoff before it reaches the stream, provides terrestrial wildlife habitat and improves instream fish habitat by providing nutrients, shade, cooler water temperature, and woody materials.

5. The Project should include Low Impact Development (LID) during the design of the Stormwater Management Plan for the site. LID's goal is to mimic the site's predevelopment hydrology by using design techniques that infiltrate, filter, store, evaporate, and detain runoff close to its source. LID treatment of stormwater will minimize the potential for polluted runoff from impervious surfaces (parking lots, buildings, etc) from entering the adjacent waterways. LID techniques would also minimize negative changes to natural stream hydrology caused by increased stormwater runoff as a result of increased impervious services on the site. Maintaining the streams natural hydrology and decreasing the potential for pollutants to enter the stream is essential for minimizing impacts to listed salmonid species.

6. DFG and National Marine Fisheries Service (NMFS) should be consulted on the design of bank revetment projects, creek crossing structures and drainage structures in order to insure that fish passage and habitat guidelines found in the *California Salmonid Stream Habitat Restoration Manual* (DFG, 1998, 3rd Addition) are met. This manual was designed to maintain and restore salmonid habitat in California and its proper use along with consultation with these respective resource agencies can minimize unnecessary Project impacts to threatened and endangered species.

Federal Listing of California Coast Chinook Salmon Evolutionarily Significant Unit G-8.2

The California Coast Chinook Salmon Evolutionarily Significant Unit (ESU) is listed as an Endangered Species under the Federal Endangered Species Act. The draft EIS Biological Assessment incorrectly lists the species as "Most likely extirpated from the Russian River." Annual monitoring performed by the DFG, NMFS and the Sonoma County Water Agency have found that the Russian River does contain a spawning population of California Coast Chinook Salmon who utilize the upper reaches of the Russian River within the Alexander Valley, in which the Project is located. DFG recommends that the final Environmental Impact Statement reassess the effect of the Project on the chinook salmon and include mitigation measures for protecting the species.

1600 Lake and Streambed Alteration Agreement G-8.3

For any person, state or local government agency, or public utility proposing to divert or obstruct the natural flow, or change the bed, channel, or bank (which may include associated riparian resources) of a river or stream, or use material from a streambed, DFG may require a Lake and Streambed Alteration Agreement (LSAA), pursuant to Section 1600 et seq. of the Fish and Game Code. Issuance of an LSAA is subject to CEQA. DFG, as a responsible agency under CEQA, will consider the CEQA document for the project. The CEQA document should fully identify the potential impacts to the stream or riparian resources and provide adequate avoidance, mitigation, monitoring and reporting commitments for completion of the agreement. To obtain information about the LSAA notification process, please access our website at http://www.dfg.ca.gov/habcon/1600/ or to request a notification package, contact the Lake and Streambed Alteration Program at (707) 944-5520.

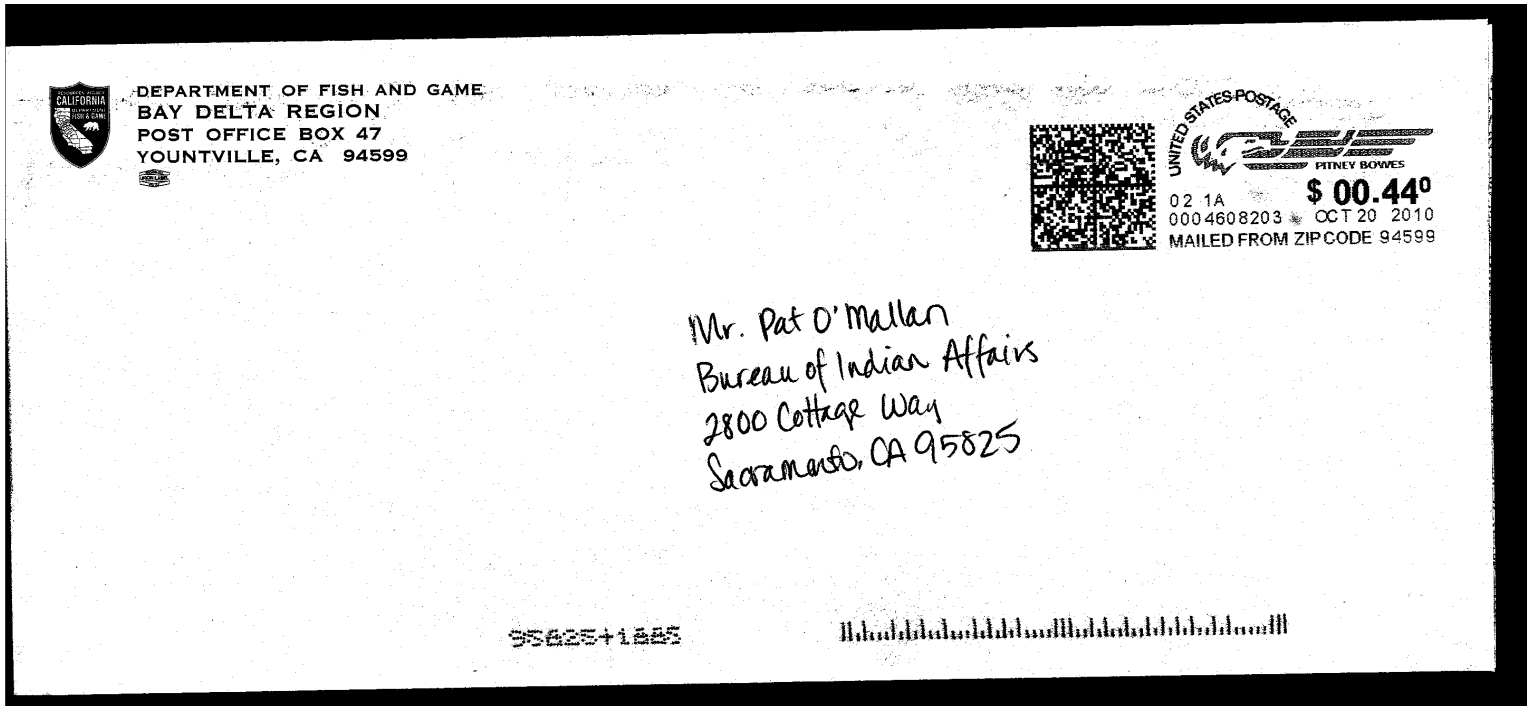
DFG appreciates the opportunity to comment on the Cloverdale Rancheria of Pomo Indians Fee-to-Trust and Resort Casino Project. We are available to meet with you to further clarify our comments and provide technical assistance on any changes necessary to protect resources. If you have any questions, please contact Mr. Adam McKannay, Environmental Scientist, at (707) 944-5534; or Mr. Richard Fitzgerald, Coastal Habitat Conservation Supervisor, at (707) 944-5568.

Sincerely,

Scott Wilson FOR

Charles Armor
Regional Manager
Bay Delta Region

cc: State Clearinghouse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October 20, 2010

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

Re: Comments of the County of Sonoma and Sonoma County Water Agency
Draft Environmental Impact Statement
Cloverdale Rancheria of Pomo Indians Fee-to-Trust and Resort Casino Project

Dear Mr. Risling,

Attached please find the comments of the County of Sonoma and Sonoma County Water Agency on the Draft EIS for the Cloverdale Rancheria of Pomo Indians Fee-to-Trust and Resort Casino Project.

Please contact me at (707) 565-2624 if you have any questions or concerns about the attached comments..

Very truly yours,

Jeffrey M. Brax

Jeffrey M. Brax
Deputy County Counsel

Comments of the County of Sonoma
and Sonoma County Water Agency
Cloverdale Rancheria of Pomo Indians
Fee-to-Trust and Resort Casino Project
Draft Environmental Impact Statement (Draft EIS)

The following comprises the comments of the County of Sonoma and Sonoma County Water Agency (SCWA) (collectively "County") on the Draft EIS prepared by the Bureau of Indian Affairs (BIA) for the Fee-to-Trust and Resort Casino Project (project) proposed by the Cloverdale Rancheria of Pomo Indians (Tribe).

The County appreciates the Tribe's apparent intent to work cooperatively with the Cloverdale community and local governments to fairly disclose and analyze the project's off-site impacts, and identify measures to either avoid or mitigate them. However, as set forth below, the EIS process has not yet come close to meeting that intent.

On July 7, 2008, the BIA published a Notice of Intent (NOI) for an undefined casino-hotel project. The NOI was skeletal at best. It defined the action as only "development of a casino complex" including a hotel, event center, parking, and "supporting utilities." Neither the NOI nor subsequent scoping hearing provided any further detail about the project. Neither identified any alternatives to the project. Instead, the scoping process improperly forced the public and participating agencies to guess at the project and its potential impacts, and then try to identify potential alternatives to it. This approach contravened the spirit of NEPA by shifting the environmental review burden onto the public and participating agencies, and by precluding their ability to provide meaningful scoping comments.

The County did its best to comment meaningfully on the scope of the EIS, while noting that it was significantly limited by the lack of a full project description. The County requested that the BIA define the project and then hold a second scoping hearing, before publication of the Draft EIS, to allow the public to provide meaningful input about project impacts and potential alternatives. The BIA did not do so. The BIA instead published an Administrative Draft EIS (ADEIS) in early 2009. The ADEIS finally provided some details regarding the proposed project, and included some analysis of project impacts. The ADEIS did not address the majority of scoping comments provided by the County and others, however.

On May 1, 2009, the County submitted comments on the ADEIS. These comments identified numerous areas where additional information was needed to accurately assess the project's adverse impacts to public services and the off-site environment. The County also identified a substantial need for additional, specific, detailed mitigation measures to reduce the project's significant adverse impacts to air quality, aesthetics, and other resources.

The County recognizes that the Draft EIS includes some new information and some changes to the administrative draft in response to the comments of the County and others. Unfortunately, the Draft EIS does not include revisions to address several of the project's most significant impacts. The County's comments are thus intended to identify those areas where additional information and environmental analysis are needed.

The following comments also identify deficiencies in the amount, description, and enforceability of proposed mitigation measures. An EIS must "[i]nclude appropriate mitigation measures not already included in the proposed action or alternatives" and include a monitoring and enforcement program for identified mitigation measures. 40 C.F.R. §§ 1502.14(f), 1505.2(c). This information is crucial to ensure that any final project does not result in significant adverse impacts on the off-site environment, the community, or the County of Sonoma.

I. Project Description

The County's scoping comments identified a number of project components that needed to be identified to allow for full public and agency review under NEPA. The ADEIS failed to include several of these components, and the County again commented that full public and agency review is impossible without them. The Draft EIR appears to omit them yet again. As a result, the County yet again requests that the EIS be revised to address the following project components, or the EIS preparers explain why they have been excluded. These components include:

- Proposed architectural designs for all proposed structures, including building elevations. G-9.1
- All proposed signage for the project, both on- and off-site.
- A lighting plan for the site.
- Preliminary engineered grading and drainage plans.

The Draft EIS unfortunately reserves identification of several of these project components until after the NEPA process is complete, making it impossible for the decisionmakers and public to give the project the "hard look" required by law. The Draft EIS should not defer the project description, nor the analysis and mitigation of project impacts, until after the NEPA process is over. G-9.1 (cont.)

The Draft EIS should also be revised to explain whether the project has a "Specialty Retail" component. If so, the EIS must be recirculated to fully disclose, analyze, and mitigate this project component. The Draft EIS does not mention specialty retail in Chapter 2.0, Alternatives. But Section 4.8 of the Draft EIS, Transportation, discloses that Alternative A includes 99,500 square feet of "Specialty Retail," Alternative B includes 87,900 square feet of this use, Alternative C includes 78,100, and Alternative D includes 73,300. (Pp. 4.8-2, -10, -18, -27.) This specialty retail appears different from, and proposed in addition to, the hotel-related retail uses identified in Chapter 2.0, since Alternative D includes "Specialty Retail" but not a hotel or hotel-related retail uses. G-9.2

II. Alternatives

The Draft EIS should be revised to include alternatives that would mitigate significant adverse impacts to a less than significant level. NEPA requires that an EIS must "inform decisionmakers and the public of the reasonable alternatives which would minimize adverse impacts or enhance the quality of the human environment." 40 C.F.R. § 1502.1. G-9.3

The Draft EIS acknowledges that Alternative A and other project alternatives would exceed significance criteria for NOx, CO, and PM10, and result in significant greenhouse gas (GHG) emissions as well. But the Draft EIS does not inform decisionmakers and the public of an alternative that would reduce these impacts to less-than-significant through a combination of mitigation measures and reduced scope of some project components. Many reasonable and feasible alternatives exist to avoid significant adverse impacts to air quality. It is legal error to exclude all of them. G-9.4

Similarly, as detailed below, the project's proposed five-story buildings and horizontal massing would result in significant visual impacts over the existing conditions. The EIS should be revised to include an alternative that minimizes these adverse impacts by constructing smaller, separated structures more consistent with existing development in the City of Cloverdale and project area. G-9.5

In short, the Draft EIS should allow the project's significant and unavoidable impacts to drive the identification and ultimate selection of alternatives.

III. Air Quality

The Draft EIS lacks a legally adequate discussion of the project's air quality impacts. Attached hereto as **Exhibit A** is a thorough review of the Draft EIS Air Quality section has been prepared by Illingworth & Rodkin, Inc., an environmental consulting firm with substantial experience preparing and reviewing air quality analyses in NEPA and California Environmental Quality Act (CEQA) documents. The contents of **Exhibit A** are incorporated herein as if fully set forth in this comment letter. As detailed therein, and summarized below, Illingworth & Rodkin identified the following key issues:

- Incorrect and outdated attainment status for criteria pollutants;
- Lack of a description of significance thresholds and their application to the project;
- Omission of modeling inputs for pollutant emissions, which prevents the public from verifying the conclusions of the Draft EIS;
- Undefined methodology for determining CO concentrations;
- Conflicting statements with regard to toxic air contaminants from diesel vehicles;
- Lack of a discussion of SB 375 relating to GHG reduction targets;
- Vague and insufficient measures to mitigation project impacts; and
- No quantitative analysis of the reductions achieved by identified mitigation measures.

These errors run through the discussions of all potential emissions, including criteria pollutants, toxic air contaminants, GHGs, and odors.

A. Criteria Pollutants

As set forth in **Exhibit A**, the Draft EIS relies on incorrect and outdated ambient air quality standards. Table 3.4-1 does not reflect recent Environmental Protection Agency (EPA) changes to federal nitrogen dioxide and sulfur dioxide standards. At Table 3.4-2 and elsewhere, the Draft EIS misstates the current NCAB and NSCAPCD attainment status for $PM_{2.5}$, ozone, and other pollutants. Table 3.4-4 includes incorrect information regarding the 24-hour NAAQS for $PM_{2.5}$, does not include the State 8-hour ozone standard, and omits data after 2007 even though data through 2009 is available. Similarly, Table 4.4-2 includes outdated thresholds for both the BAAQMD and MCAQMD and lacks source citation(s) for its identified thresholds. G-9.6

The Draft EIS then fails to properly analyze and document its conclusions regarding emissions of criteria pollutants. The Draft EIS fails to explain its conclusion that construction emissions would be less than significant, except to note that emissions "are based on criteria pollutant emission factors embedded in the URBEMIS 2007 model." (P. 4.4-2.) How did the EIS preparers model construction emissions? What inputs were used? Where are the input and output files for the model run? G-9.7

Impact 4.4.1-1 should be revised to disclose that a two-year construction project is generally not considered short term. In addition, the BAAQMD has recently adopted thresholds related to construction emissions, and the NSCAPCD often follows the BAAQMD and adopts the same thresholds. The Draft EIS should be revised to consider these thresholds. G-9.8

The Draft EIS similarly fails to explain its analysis of operational emissions, except to note that the URBEMIS 2007 model was used. What inputs were selected? Were emissions from area sources considered, or only "Onroad Vehicle" emissions? What trip length and trip assumptions were used? How were they developed? Where are the input and output files for the model run? G-9.9

The Draft EIS includes a new discussion of CO emissions at pages 4.4-4 and -5, but fails to adequately describe its methodology for modeling emissions. Did the EIS preparers use the protocol approved by EPA, the Federal Highway Administration, and the State of California for determining CO impacts? If not, why was a different model used? How were emissions and traffic inputs developed for that model? Why does the Draft EIS omit all analysis of CO conformity in the San Francisco Bay Area Air Basin? G-9.10

The Draft EIS then fails to properly mitigate its admittedly significant adverse NOx, CO, PM10, and ROG impacts. The Draft EIS only includes a dust abatement G-9.11

program, some vague measures related to motor vehicle use, and measures regarding tuning and limiting idling from equipment and engines. As detailed in **Exhibit A**, the Draft EIS lacks necessary information and hard data regarding vehicle idling times, the use of low- or zero-emission vehicles, and several other identified mitigation measures. Moreover, the Draft EIS provides no explanation of how these measures would be enforced, and no quantitative analysis or data of their effectiveness in reducing project emissions. G-9.11 (cont.)

By contrast, attached please find as **Exhibit B** the mitigation measures adopted as part of the recent Record of Decision (ROD) for the Graton Rancheria Casino and Hotel Project (available at http://gratoneis.com/documents/record_of_decision/ROD.pdf). That mitigation list is far from perfect, but it includes approximately six pages of air quality measures that appear applicable to this project as well. Among other measures, the list requires that the applicant purchase Emission Reduction Credits (ERCs) to offset NOx emissions, and implement specific activities sufficient to offset ROG and particulate matter emissions. (Pp. 34-35.) It also includes a table quantifying the reductions from the proposed mitigation measures, and identifying the final project emissions after mitigation. (P. 35.) This Draft EIS should be revised to include this analysis, and recirculated to allow the public to review it. G-9.12

B. Toxic Air Contaminants (TACs)

The Draft EIS appears similarly inadequate with regard to TAC emissions and human health risks. The Draft EIS does not appear to identify any thresholds of significance governing these emissions. The Draft EIS then provides no analysis or evidence supporting its claims that construction and operation impacts would be less than significant. The Draft EIS does not appear to contain a health risk assessment of any kind. It also does not identify the number or location of impacted receptors, or their distance to project components. G-9.13

The Draft EIS's discussion of operation emissions is limited to three new sentences on page 4.4-5 that are internally contradictory and do not contain any actual analysis. The Draft EIS states that emissions would be less than significant with application of Mitigation Measures 5.4-6 and 5.4-7, then states "Significance After Mitigation: Significant and Unavoidable." Moreover, the Draft EIS includes no explanation or data demonstrating that Measures 5.4-6 and -7 would reduce TACs to less G-9.14

than significant levels. The Draft EIS should be revised and recirculated to include an actual analysis and mitigation of toxic air contaminants and health risks. G-9.14 (cont.)

C. Greenhouse Gas Emissions

The Draft EIS's discussion of GHG emissions is similarly inadequate. The Draft EIS includes no numeric threshold of significance for GHG impacts. It does not disclose that the BAAQMD recently adopted a significance threshold of 1,100 metric tons/year of CO2e and the NSCAPCD often follows suit. It does not apply that threshold or any other. That approach was considered and rejected in Center for Biological Diversity v. National Highway Traffic Safety Admin., 538 F.3d 1172, 1224-25 (9th Cir. 2008), in which the Ninth Circuit held that NEPA requires not only a calculation of project emissions, but also a "benchmark" and "some articulated criteria" for its determination of significance. G-9.15

The Draft EIS further fails to evaluate the quality of proposed mitigation measures, including their permanence, verifiability, enforceability, and additionality. This runs counter to the Council on Environmental Quality's Draft NEPA Guidance on Consideration of the Effects of Climate Change and Greenhouse Gas Emissions (February 18, 2010), a true and correct copy of which is attached hereto as **Exhibit C**. The CEQ counsels that when a federal agency proposes mitigation of GHG emissions, it should "carefully evaluate[]" the "quality of that mitigation — including its permanence, verifiability, enforceability, and additionality." (Exh. C at p. 6.) G-9.16

Ultimately, the EIS should impose measures sufficient to mitigate the project's massive GHG emissions to a less than significant level for every year the project operations. Mitigation should include measures to directly reduce GHG emissions to the maximum extent feasible, and then a measure requiring the applicant to purchase CO2e offsets to eliminate any remaining GHG impacts, or at least reduce them below the 1,100 tpy threshold of significance. G-9.17

D. Odors

The Draft EIS similarly includes no facts or real analysis of potential odor impacts. Page 4.4-5 discloses that the proposed wastewater treatment plant could affect a substantial number of people, but includes no further details regarding the proposed plant G-9.18

or impacted receptors. It then states that Measure 5.4-8 would reduce this potentially significant impact to less than significant, but that measure only provides for odor controls after a significant impact has occurred and odor complaints have been received. As set forth on page 6 of **Exhibit A**, substantial additional evidence and analysis is necessary before any party can determine that the proposed plant would not result in significant odors, or verify such a determination. G-9.18 (cont.)

IV. Traffic, Transportation, and Parking

A. General Comments

The County appreciates the revisions made to the Draft EIS in response to comments regarding alternative transportation and the funding of environmental studies necessary to implement intersection improvements. As set forth below, however, the Draft EIS does not include any revisions addressing the County's substantive concerns regarding operational traffic impacts, traffic safety, and other issues.

B. Operational Traffic Impacts

The County has advised in person on April 22, 2009 and in writing on May 1, 2009 that the Draft EIS should evaluate the construction of a roundabout as an alternative to a traffic signal at the primary project driveway onto Asti Road. A traffic signal would be far removed from the County's other signal installations, and would result in significant additional costs to monitor and maintain. The project should not force the County to bear these costs. The Draft EIS should include and analyze a potential roundabout, to preserve the possibility of construction. In addition, if a signal is ultimately chosen, the Draft EIS should require the Tribe to enter a maintenance and operations agreement with the County prior to signal installation. The agreement should commit the Tribe to fund the ongoing maintenance and operational expense of the signal. G-9.19

The Draft EIS applies a reduction rate of 67 percent to trips generated by the proposed event center and convention center. This rate appears inappropriate, especially for Alternative A. The two centers would be quite large under Alternative A, and appear intended to generate new trips from concert- and convention-goers who would not overlap with casino patrons. In addition, convention and event traffic would likely differ from casino traffic. Convention traffic would likely arrive in the AM peak and leave at G-9.20

the PM peak, while event traffic would arrive in mass at the start of the event, and likely leave in mass at the conclusion. The EIS should be revised to provide additional detail and analysis of this traffic. G-9.20 (cont.)

The Draft EIS appears to assume (at Table 4.8-2 and elsewhere) that 27 percent of project traffic would exit the facility, travel north to the Citrus Fair Drive Interchange, and then turn around and take the US 101 South. The EIS should explain this assumption, especially since the traffic analysis apparently assumed that just 10 percent of all US 101 Southbound traffic would first divert to other locations in Cloverdale. (P. 4.8-3.) G-9.21

The Draft EIS states at page 3.8-8 that traffic counts were taken two to five years ago. The EIS should explain whether new traffic counts should be taken, or at least apply a growth rate to the past counts. G-9.22

Table 4.16-6 shows that with implementation of Alternative D, the intersection of Asti Road and the project access would operate at LOS F, with 60.4 seconds of delay, at the weekend peak in the cumulative (2030) condition. Table 4.16-7 similarly shows that the intersection would operate at LOS E, with 67.8 seconds of delay, at the PM peak with implementation of Alternative E. Yet the Draft EIS does not require any intersection controls, such as a roundabout or traffic signal, for these alternatives. The creation of an unmitigated LOS E or F intersection would result in significant adverse impacts, including increased aggressive and unsafe driver behavior in reaction to the wait period to enter Asti Road from the driveway. These significant impacts should be disclosed and mitigated in a revised Draft EIS. G-9.23

C. Alternative Transportation

The Draft EIS includes an expanded discussion of impacts related to pedestrian, bicycle, and public transit including the Sonoma Marin Area Rail Transit (SMART). However, several concerns remain.

The Draft EIS's discussion of bicycle routes (see p. 3.8-4) includes no mention of the Sonoma County 2010 Bicycle and Pedestrian Plan. The County Board of Supervisors unanimously adopted the Plan on August 24, 2010. A copy of the Plan is available at http://www.sonoma-county.org/prmd/docs/misc/bikeplandraft.pdf. The EIS should be revised to disclose the existence of the Plan, and evaluate the project's consistency with it. G-9.24

The EIS should specifically acknowledge that the Bicycle and Pedestrian Plan identifies Asti Road as a priority Class 2 bikeway in the Cloverdale area. (See Exh. B, p. 47.) The SMART Rail Trail is identified as a high-priority class I project (see Exh. B at 33), and is also identified on the Metropolitan Transportation Commission Regional Bicycle Plan for the San Francisco Bay Area (see http://www.mtc.ca.gov/planning/bicyclespedestrians/MTC_Regional_Bicycle_Plan_Update_FINAL.pdf.) Any discretionary project proposed in the County would be required to construct or dedicate right-of-way for these priority improvements as part of its basic frontage improvements. In addition, project entrances and exits should be required to conform to the Manual of Uniform Traffic Control Devices. G-9.25

The Draft EIS includes several new "recommendations" regarding bicycle access (see page 4.8-6), but does not actually impose them as mitigation or require their implementation. Similarly, the Draft EIS includes none of its transit recommendations and only one of its pedestrian recommendations as a mitigation measure. (Compare pp. 4.8-6 and -7 with pp. 5-9 to -12.) The EIS should clarify the status of these "recommendations." G-9.26

The EIS should also revise its bicycle recommendations to conform to the very detailed County Bicycle and Pedestrian Plan. The EIS should specifically address bicycle parking and connectivity for future employees anticipated to live in Cloverdale or other residential areas within three miles of the project site. G-9.27

D. Damage to Public Roads

The EIS should assess the project's potential to damage to pavement on public roads from construction traffic, and mitigate impacts by requiring the project to obtain a County encroachment permit before connecting the project access to Asti Road. The encroachment permit would require assessment of the damage during construction, repairs to maintain roads in a serviceable condition throughout the duration of construction activities, and post-construction repairs or an overlay to restore impacted roads to at least their pre-existing condition. G-9.28

In addition, the Draft EIS acknowledges at page 4.2-1 that 1,000 cubic yards of fill would be generated by excavations on the western portion of the site, which would then be used on the eastern portion on the site. The EIS should disclose whether travel on public roads would be required to relocate this fill. If the latter, the EIS should analyze G-9.29

and mitigate the potential for damage to public roads from large truck traffic. The EIS should also the timing of such hauling operations and analyze potential traffic impacts. G-9.29 (cont.)

E. Mitigation Measures

The EIS should require construction of all required road improvements prior to project occupancy/operation start-up. Absent implementation, project occupancy and operation would result in significant and adverse congestion, traffic safety, and other impacts. Implementation of mitigation prior to occupancy is a feasible way to avoid these impacts. G-9.30

The Draft EIS incorrectly requires the Tribe to pay only a fair share contribution toward the installation of improvements at the US 101 Northbound Ramps / South Interchange, Asti Road / South Interchange, Cloverdale Boulevard / South Interchange, US 101 Southbound Ramps / South Interchange, and US 101 Northbound Ramps / Citrus Fair Drive. These improvements should be constructed by the Tribe or at least fully funded. The relevant levels of service are currently acceptable, and would deteriorate to LOS E or F solely because of the project. Like every other private development in the County, the project should to construct the road improvements necessary to mitigate its own impacts. Neither the County, the City of Cloverdale, nor any other entity should not be expected to incur the burden of mitigating the project's impacts. G-9.31

The County has previously commented that the portion of Asti Road fronted by the proposed project is an island of County jurisdiction within the City of Cloverdale. The Draft EIS still does not acknowledge the potential for this road to be annexed into the City in the future, much less evaluate the City's likely approach to mitigate project impacts. G-9.32

V. Public Services

A. Law Enforcement

The Draft EIS appears to include very few revisions in response to the County's important concerns and ADEIS comments regarding law enforcement services. The Draft EIS continues to correctly acknowledge that the project would adversely impact law enforcement services by increasing the volume of calls for law enforcement services, the number of visitors to the area, response times, and crime rates. But the Draft EIS G-9.33

still fails to provide a detailed analysis or explanation of its conclusion that funding one additional patrol officer and potentially contributing towards the building of a new police facility would suffice to mitigate significant impacts. As the County has repeatedly advised, funding one additional patrol officer can not mitigate impacts from a 24-hour project. Actual mitigation requires funding of at least one additional 24-hour patrol position, which would require at least six officers to cover the necessary shifts. G-9.33 (cont.)

The Draft EIS also continues to ignore the project's potential impacts on the rest of the criminal justice system, including SWAT, helicopter, and bomb squad services, as well as jail, district attorney, public defender, and court services. G-9.34

The Draft EIS continues to accurately note that under Public Law 280, the Sonoma County Sheriff's Office has enforcement authority of the project area. The Draft EIS should disclose that the Sonoma County Sheriff's Office has no plan to relinquish its jurisdictional authority. G-9.35

The Draft EIS should be revised to correct the following, additional errors:

- Page 3.10-3 should be revised to clarify that the City accesses the Sheriff's Office helicopter during emergencies under mutual aid; the Sonoma County Board of Supervisors has approved a fee for use of the helicopter for non-emergencies and law enforcement activities lasting greater than 15 minutes. G-9.36
- Page 3.10-3 should be revised to correct the identified daily inmate population of the two County detention facilities. The daily inmate population is approximately 1,000 inmates. G-9.37
- All references to the Sonoma County Sheriff's Department should be changed to the Sonoma County Sheriff's Office. G-9.38

B. Fire and Emergency Services

1. Fire and Ambulance Services

The Draft EIS does not take a "hard look" at the project's true impacts on the public emergency services system (fire and ambulance services) and the current mitigation measures are vague. The Draft EIS should be revised as follows:

- The project's impacts on emergency service providers and jurisdictions that serve the area should be considered beyond the scope of a Memorandum of Agreement between emergency services providers and the project. G-9.39

- The Draft EIS should provide additional details regarding contracts or Memorandum of Agreements with Cloverdale Ambulance for emergency medical services (EMS) and the Cloverdale Fire Protection District for fire protection and EMS services, including minimum standards. G-9.40

- A sustainability clause should be included in any contract or Memorandum of Agreement for emergency services that include a remedy in case a contract for emergency services cannot or will not be provided. Such a remedy would ensure that emergency services are provided in the absence of a written agreement or contract without creating an adverse impact on existing emergency resources. G-9.41

- Training in appropriate emergency medical care for on-site personnel, including the provision of defibrillators on site with staff trained to operate them. G-9.42

2. Emergency Access and Circulation

The Draft EIS does not provide a through description of the roadway system serving the project, and the means of providing emergency vehicle access simultaneous to occupant evacuation. The document should be revised as follows:

- A circulation plan should be developed that provides for emergency vehicle access that conforms to the California Fire Code and Sonoma County Fire Safe Standards. G-9.43

- Roadway width, grade, and surface should be considered in the design of the roadway system to accommodate emergency vehicle access as well as occupant egress. G-9.44

- Secondary means of access should be considered for structures larger than 62,000 square feet in area. G-9.45

- For buildings taller than two-stories or 30 feet in height, accommodations for aerial apparatus should be provided. G-9.46

3. Emergency Water Supply

The Draft EIS does not adequately address the need for emergency water supply for fire suppression. It should be revised to require that the water supply for fire suppression (fire-flow) shall meet the requirements of the California Fire Code. The Draft EIS also should be revised to include an analysis demonstrating that the required fire-flow would be available in addition to the normal peak demand placed on the water supply system. G-9.47

4. Buildings and Structures

The Draft EIS states at page 2-2 that "[t]he Tribal Government will adopt the development standards prescribed by the California Building Code (CBC), including all fire, plumbing, electrical, mechanical, and seismic standards." The Draft EIS should be revised to incorporate the following specific measures:

- The Draft EIS should require the Tribal Government to adopt the development and operational standards of the current edition of the California Fire Code for any alternative includes buildings or structures. G-9.48
- The Draft EIS should require the Tribal Government to adopt the development standards included in the Sonoma County Fire Safe Standards for any alternative that includes buildings or structures. G-9.49
- For each alternative, the Draft EIS should provide detailed information regarding the construction type, height, area, and use (occupancy classification) of each building. G-9.50
- The Draft EIS should require installation of fire sprinklers in buildings and structures in accordance with the California Fire Code - Chapter Nine, as adopted and amended by Sonoma County Code. G-9.51

5. Fuel Modification

The Draft EIS includes no specific reference to vegetation management and fuel modification methodology. It should be revised to require a landscaping plan sufficient

to ensure that the proposed project would be resistant to wildland fires and in compliance with State and local regulations. If a project is within an urban-wildland interface area or high fire severity area, a Fire Protection Plan (aka Vegetation Management Plan) should be provided that describes the fuel modification methodology. G-9.52

6. Hazardous Materials

The Draft EIS makes scant mention of the project's storage and handling of hazardous materials. Consistent with other private projects, the Draft EIS should require development of a Hazardous Materials Management Plan that describes how hazardous materials would be managed for each specific development. Hazardous materials include those used for: construction; underground and/or aboveground storage of flammable and/or combustible liquids or gasses; local water treatment; vehicle maintenance; housekeeping; landscaping and grounds maintenance. G-9.53

The Hazardous Materials Management Plan and related Hazardous Materials Inventory Statement should be filed with the local California Certified Unified Program Administrator (Cal CUPA). The Sonoma County Fire and Emergency Services Department – Hazardous Materials Division is the Cal CUPA for the area in which the project is proposed. G-9.54

C. Socioeconomic Impacts and Health Services

The Draft EIS unfortunately appears to include very few changes in response to the County's seven pages of comments regarding socioeconomic and public health impacts.

1. Problem and Pathological Gambling

The Draft EIS incorrectly minimizes the project's adverse economic impacts and increased problem and pathological gambling by claiming that the project would "cannibalize" revenue from River Rock and other area casinos. It further requires the Tribe to make an undisclosed annual contribution to address problem gaming after the fact, but fails to properly address the need to prevent gambling problems from developing in the first place.

The Draft EIS still includes no measures to limit access to vulnerable adults, particularly seniors on fixed income who may be particularly vulnerable. At a minimum, the Draft EIS should require employees to be trained to recognize elder abuse situations and respective reporting requirements, display the appropriate hotline number, and work with local agencies in elder abuse prevention.

The Draft EIS also should specifically require the project to:

- Implement prevention campaigns, help lines, and public awareness targeting casino employees, gamblers, public, and vulnerable populations. G-9.55
- Prevent underage drinking and youth gambling-related health problems, through education programs such as *Every 15 Minutes* in collaboration with public safety and education partners.
- Provide web based education resources, including interactive online gambling self risk assessments, among other prevention and early intervention programs.
- Provide prevention and treatment for special populations such as women, older adults, and ethnic and cultural groups.
- Account for increased costs that would result from the start-up of new programs, if necessary.

These measures would project employees, patrons, and residents of both Cloverdale and the County.

The Draft EIS is still silent on known successful employee training programs that address the issue of problem gambling. Examples of casino sponsored programs are listed in the American Gaming Association's 2004 publication, which lists casino properties in 14 states that participate in successful education programs about responsible gaming. G-9.56

Proposed Mitigation Measure 5.7-1 is a good example of the EIS's continuing flaws in this issue area. The measure continues to propose to compensate "county social services" for a minimum of equivalent to 1.4 licensed counselor positions. But as we explained in our ADEIS comments, the County does not provide problem gambling counseling and this mitigation has never been discussed with the County. The Draft EIS should have determined whether such counseling exists in the County, the adequacy and capacity of such services to accommodate a very large gaming project in Cloverdale, and G-9.57

the additional start-up costs of new treatment services. The Draft EIS did not conduct this evaluation. It instead adds one sentence stating that "If the County does not have a mechanism to provide these services, then the Tribe shall contribute an equivalent amount to problem gambling treatment and prevention programs which serve Sonoma County." G-9.57 (cont.)

The Draft EIS also references, on page 4.7-25, "a growing number of studies suggest that there are high rates of natural recovery among problem gamblers." No specific studies are cited or identified, however. G-9.58

2. Increased Domestic Violence and Sexual Assault

The Draft EIS still includes insufficient analysis and mitigation of the socioeconomic impacts of increased crime, and particularly crimes of domestic violence and sexual assault. The Draft EIS correctly cites a predictable increase in these crimes, but fails to address the cost of deploying the Sexual Assault Response Team (SART) and the increased demand and cost for forensic exams for victims of sexual assault. The Draft EIS should be revised to require mitigation measures including: G-9.59

- Funding for project-related SART calls and responses, and reimbursement of County costs for emergency care and forensic services for victims of domestic violence and sexual assault from within an appropriate radius of the project footprint.
- Ongoing monitoring to measure baseline increases in SART response within the project radius.
- Incorporation of problem gambling and domestic violence prevention education through a community education media campaign, including Healthy Sonoma website resources.
- Monitoring of project-related domestic violence and sexual assault (DV/SA) impacts through staff training in early recognition of potential DV/SA situations, posting hot-line numbers for staff and victims of DV/SA in restrooms and lounges, and working with local agencies, such as UASA, YWCA and public safety partners in DV/SA prevention.
- Provision of employee training and on-site security to prevent criminal and civil incidents including sexual assault, human trafficking, and prostitution,

and collaboration with law enforcement in reporting known registered sex offenders/predators. G-9.59 (cont.)

The County encourages the Tribe to partner with cities and the County in anti-human trafficking efforts.

3. Driving Under the Influence, AODS Treatment and Alternatives to Incarceration

The Draft EIS correctly projects a significant increase in crime, but is silent on funding for enforcement efforts and mitigation to address costs born by the County for DUI check points and diversion into treatment, particularly for repeat offenders with addiction disorders. Treatment as opposed to incarceration is primarily related, but not limited to, alcohol abuse, narcotic abuse and problem gambling. The Draft EIS still does not mitigate the project's significant increases in the crimes of sexual assault, domestic violence, underage drinking, and driving under the influence (DUI). G-9.60

The Draft EIS includes no mitigation measures specific to Alcohol and Other Drugs and underage drinking, including implementation of a Responsible Alcoholic Beverage Policy as opposed to Responsible Beverage Service (RBS). G-9.61

The Draft EIS should be revised to require the proposed project to:

- Limit the availability of alcoholic beverages by restricting service to specific casino areas, separate from gaming, in which access is strictly controlled, and by prohibiting alcohol sales from all other project businesses.
- Prevent over-consumption of alcoholic beverages by prohibiting drink pricing, promotions, and marketing that encourage consumption of alcoholic beverages; offering food service in any casino area of the casino where alcohol is served; and limiting alcoholic beverage sales to specified hours.
- Prevent underage access to alcoholic beverages by prohibiting access by minors to any casino areas where alcoholic beverages are served, requiring that all minors entering the casino area be visibly identified as underage, and requiring proof of age prior to service.

- Implement responsible beverage service policies and practices, including measures not currently included in the ADEIS, such as collaboration and funding of local law enforcement to conduct regular decoy, shoulder-tap and DUI checkpoint enforcement programs. G-9.61 (cont.)
- Pay the full cost of operating DUI checkpoints on a weekly or monthly basis.

Mitigation measures need to be clearly spelled out. Agreed upon periodic analysis of health and safety indicator changes and emerging California Council on Problem Gambling (CCPG) research findings need to be addressed by the Tribe before reaching any conclusions regarding the Resort Casino Project impacts.

4. Indoor Air Quality

The Draft EIS's proposal to provide optional segregation of smokers from non-smokers in a non-smoking area within the main gaming hall (Mitigation Measure 5.4-10) fails to address significant health risks associated with the project. The Surgeon General's June 2006 report on the issue found that there is no safe level of exposure to secondhand smoke, and the California Air Resources Board and CalEPA have labeled secondhand smoke as a Class A carcinogen. The proposed mitigation fails to protect public health. The Draft EIS should be revised to assess the impact of second hand smoke on patrons and employees, including those who may be pregnant or living with breathing disorders. G-9.62

The Draft EIS should require that the project be developed, advertised, and promoted as a "smoke-free" environment, and prohibit the sale and use of tobacco products throughout the project footprint. Smoke-free tribal casinos exist in both California (Lucky Bear in Hoopa) and New Mexico, and smoke-free non-tribal casinos exist throughout the country. Smoke-free casinos report few difficulties with enforcement and document significant economic, health and safety benefits related to reduced rates of employee illness and absenteeism, lower cleaning and maintenance costs, and reduced insurance costs due to decreased fire risk.

Implementation of this policy would entirely prevent exposure to secondhand smoke. Costs would be negligible and, in fact, significant savings would be achieved through the reduced rates of employee illness, reduced cleaning and maintenance costs, and reduced fire risk.

5. Other Issues

The Draft EIS does not appear to include any revisions responsive to the County's ADEIS comments regarding public health and safety impacts.

The Draft EIS is silent and still does not address collaboration with Sonoma County's Health Officer on reports of food-borne illness, Health Alerts and Product Warning Bulletins that impact food and beverage consumption, and other product warnings/recalls. Per the County's previous comments, the Draft EIS should require the Tribe to comply with standards for design, maintenance and operation similar to those followed by other food facilities in the County. G-9.63

The Draft EIS still does not address issues related to disaster and pandemic preparedness, nor identify measures to be taken in such an event. *See San Luis Obispo Mothers for Peace v. Nuclear Regulatory Com'n Nuclear Reg.*, 449 F.3d 1016 (2006). G-9.64

The Draft EIS should be revised to include the following general mitigation measures:

- Determination of baseline gambling impact indicators and their current levels prior to opening. Participation in Healthy Sonoma website to track community health impacts associated with the project.
- Ongoing tracking and monitoring for changes in indicators to inform the community, Tribe, City, and County.
- Funding to intervene when indicators/statistics move in the wrong direction, indicating that significant adverse impacts have occurred.
- A true-up of projected impacts with actual findings (data/statistics) over agreed-upon timeframes.

Periodic analysis of indicator changes and emerging CCPG research findings should be applied before reaching any conclusions regarding project impacts.

VI. Water Resources

A. Water Supply and Groundwater

Under the discussion of Surface Water Hydrology in Section 3.3.1, the Draft EIS lacks adequate detail and does not accurately describe the Water Agency and the Army Corps responsibilities in operation of the Russian River System. The EIS should be revised to discuss recent reductions in diversions from the Pacific Gas and Electric Company's Potter Valley Project into the Russian River watershed and the requirements of the National Marine Fisheries Service's (NMFS) Russian River Biological Opinion (BO). Although the Draft EIS mentions the Biological Opinion, the analysis and determination of significant impacts do not account for updated demand estimates and available supplies. G-9.65

The discussion of the "municipal" water supply option proposed in the Draft EIS does not explain a clear connection between the adequacy of the City's water rights and water availability for providing water to the proposed project. G-9.66

The "private" water supply option proposed in the Draft EIS does not discuss the Tribe having a water right to use an onsite well to divert surface water for the proposed project. Additionally, the Final EIS should address the potential impacts from surface water diversions using this well. G-9.67

Under Section 4.3, the discussion of the project's potential water supply impacts does account for Water Agency limitations on peak deliveries. Additionally, the Draft EIS impacts are based on a water supply analysis that does not reflect limitations of PG&E's Potter Valley Project or a multi-year drought. G-9.68

The Draft EIS discusses groundwater model results that appear to present a single condition of a gaining stream. However, in many parts of the riparian corridor it is likely that the Russian River seasonally changes from gaining stream to losing stream. Please provide supporting well data for gaining stream assumptions. If no such data exists, please re-evaluate the model with appropriate assumptions for summer month conditions. G-9.69

Under Impact 4.3.1-5: Groundwater Levels and Effects on the Russian River from Groundwater Pumping, the Draft EIS states that "The percent of reduced flow would not be anticipated to change under the flow conditions associated with the recent Biological Opinion." This statement is incorrect because it claims averages of 286 cfs during the months of May through October. During the past two summers, the amount of water the Water Agency could divert and deliver to meet summertime demands has been limited. G-9.70

The Draft EIS should be revised to reflect that the BO requires a reduction in the minimum instream flow requirements for the upper Russian River from 150/185 cfs to 125 cfs for Normal Conditions. The impact analysis must be revised consistent with these changes. G-9.70 (cont.)

Under Impact 4.3.1-5: Groundwater Levels and Effects on the Russian River from Groundwater Pumping, the Draft EIS states incorrectly that City of Cloverdale is a groundwater source. Water from the City of Cloverdale is a surface water source with a water right (Statement S014237). Because the setting and impact analysis do not adequately address issues with existing water rights for the City of Cloverdale, the Draft EIS does not provide an adequate explanation of foundation for water supply availability for the project. For example, the existing water right is for 1096.6 ac-ft, but the Water Agency understands that City of Cloverdale use has recently averaged 1500 ac-ft. It is not clear that the existing water right or water supply is sufficient to serve the project. G-9.71

The Draft EIS should evaluate the potential to implement rainwater harvesting as one method to reduce the project's water demand for the project. The project already proposes to capture the runoff from a 10-year flood event, and the runoff could reduce the volume extracted from the pumping system or received from the City of Cloverdale. G-9.72

B. Wastewater and Water Quality

The County appreciates the revisions to the Draft EIS made in response to the County's comments on the ADEIS. A few significant concerns remain, however.

First, the Draft EIS lacks important information and detail regarding wastewater treatment. The document states that the project would meet AWT standards via a "constant flow membrane bioreactor," but does not appear to include any details regarding this bioreactor or the effluent quality it would produce (other than AWT). G-9.73

Second, the Draft EIS does not evaluate the potential water quality impacts of the proposed percolation of treated effluent. The Draft EIS identifies one option to recycle approximately 9 MG of treated effluent through a separate plumbing system for re-use in toilets, and a second option that does not include recycling and would instead increase the depth of the proposed storage pond. After reclamation and recycling, these options would discharge approximately 30 MG and 20 MG respectively through percolation into the ground. The Draft EIS depicts 202 inches (~16.5 feet) and 291 inches (~24 feet) of G-9.74

applied discharge over 4 acres over the summer months (Appendix J, Attachment 2), with and without recycling, respectively. G-9.74 (cont.)

Section 3.3 of the Draft EIS states that the ground water depth ranges between 6 feet to 23 feet below ground surface, and that the Russian River is a gaining system. It thus appears the treated effluent discharged to the four acres of vineyards would co-mingle with ground water and would likely enter the Russian River.

The Draft EIS should be revised to evaluate the wastewater treatment and the potential impacts to the groundwater table and the Russian River. The Draft EIS should specifically evaluate impacts related to nutrients and pathogens, both of which components of domestic waste.

Third, Appendix B identifies that the proposed upland drainage release system is essentially a large bubble-up system. Small or residential bubble-up systems are not permitted in Sonoma County due to their propensity for plugging. These systems collect debris and solids at the low point, typically a 90 degree bend or elbow, prior to the water rising and bubbling out the top of the system. The material builds up over time to the point the storm drain becomes plugged. Debris and solids settle at these points due to the low velocities as the water rises. G-9.75

The County anticipates that maintenance and cleaning would be a key to the successful operation of the proposed upland drainage release system. Treating the storm water prior to entry into the storage system would assist or reduce the need for frequent cleaning.

The Draft EIS offers only a conceptual design of the proposed system, and more detail is need to understand and assess potential impacts. The Draft EIS should be revised to provide additional details of the subterranean detention system, the piping network, and the upland drainage release system. It should also impose long-term maintenance and cleaning requirements to avoid potential adverse impacts.

Fourth, Mitigation Measure 5.3-3 states that if the private water supply option is selected, groundwater quality shall be monitored for nutrients and pathogens. The Draft EIS further states in the event the water supply well becomes contaminated with nutrients or pathogens associated with the project some further action will be taken. Table 3.3-1 presents monitoring results for groundwater, but states that nitrates and nitrites were not measured. Also, Table 3.3.-1 does not list phosphates or phosphorous containing compounds. Nitrates and phosphates are common nutrients associated with domestic waste. Without ambient concentrations, the public and decisionmakers are not able to G-9.76

determine whether or not the project would contribute to a future contamination condition. G-9.76 (cont.)

Fifth, the Draft EIS should explore ways to increase the land area available for effluent reclamation. The project sponsors appear to have another 10 acres (+/-) available for irrigation. Six additional acres of vineyards appear to be located just south of the four acres of vineyards identified in the Draft EIS, and another four acres of pasture land appear to be located just north of the vineyards. Reclaiming treated effluent on these lands would reduce the volume of treated effluent discharged to the ground and potentially the groundwater table. G-9.77

Sixth and finally, the Draft EIS still lacks information regarding the possibility of the City of Cloverdale serving as the wastewater treatment contractor, including the quality of effluent treated by the City. G-9.78

C. Flood Control and Storm Water Runoff

The County previously commented that the project proposes water treatment, wastewater treatment, and wastewater effluent storage in a Zone A floodplain. The Draft EIS states in Section 4.3.1 that the project would occupy 32 acres of the floodplain, a significant area. The Draft EIS further mentions that results from a flood height model predict that Alternative A would increase the base flood elevation of 0.67 feet during the 100 year flood event. The Draft EIS does not provide the model results or calculations that support this figure, however. It must be revised to include that information. G-9.79

The Draft EIS should also disclose that all similarly-situated private projects in the County would be required to implement and zero net fill. Indeed, the Draft EIS should be revised to require zero net fill for grading within the Special Flood Hazard Area (SFHA), consistent with local requirements for all private development. The Draft EIS should evaluate the project's total volume of displacement (including the volume inside the pond and earthen structure) when designing the zero net fill. G-9.80

The County previously noted that the ADEIS discusses mitigation measures to address concerns regarding storm water runoff and water quality, but did not present design work to quantify or verify the assumption of no significant impact. The County requested that the Draft EIS provide the design work (plans, detailed layout, hydrology, hydraulics, treatment and other calculations) needed to verify its conclusions. G-9.81

The Draft EIS does not appear to have addressed this comment. The document provides a conceptual plan to address storm water quality, but includes no details, calculations, or other verification that no significant impacts would occur. G-9.81 (cont.)

VII. Land Use and Agriculture

A. General Plan Consistency

The Draft EIS appears to contravene NEPA by failing to properly disclose, analyze, and mitigate the project's obvious inconsistency with the Sonoma County General Plan. NEPA requires that

> To better integrate environmental impact statements into State or local planning processes, statements shall discuss any inconsistency of a proposed action with any approved State or local plan or laws (whether or not federally sanctioned). Where an inconsistency exists, the statement should describe the extent to which the agency would reconcile its proposed action with the plan or law.

40 C.F.R. § 1506.2(d).

Impact 4.9-1 violates NEPA by asserting that the project is "generally compatible, although not specifically consistent" with the County General Plan and zoning. There is no such thing as "generally compatible" with General Plan or zoning designations. California law requires both zoning and project approvals to be consistent with the local General Plan. NEPA requires an EIS to identify any "inconsistency" with local plans and laws, not "general compatibility." (40 C.F.R. § 1506.2(d).) A project is either consistent with the General Plan or it is not. No other metric matters. G-9.82

On the western parcels, the project proposes a massive entertainment and lodging facility that is wholly inconsistent with the Limited Industrial General Plan designation and RR (Rural Residential) zoning. NEPA requires that the EIR disclose this inconsistency, and describe the extent to which the BIA can reconcile its proposed action with the General Plan and zoning law. Here, to comply with the General Plan, a project would need to change the General Plan designation from the existing Limited Industrial to Recreation and Visitor Serving Commercial. This change requires compliance with the Recreation and Visitor Serving Commercial site designation criteria on page LU-40 of the General Plan. These criteria include the generation of Transient Occupancy Tax (TOT) eligible for County appropriation for affordable housing, and uses of the site that

are compatible with nearby agricultural operations. (General Plan, p. LU-40, Designation Criteria (4) and (8).) G-9.82 (cont.)

On the eastern parcels, the project proposes wastewater and water supply facilities that are wholly inconsistent with the Land Intensive Agriculture (LIA) General Plan designation and zoning. NEPA requires that the EIR disclose this inconsistency, and reconcile the proposed project with the General Plan and zoning law. Here, a project would need to change the General Plan designation from the existing Land Intensive Agricultural to Public and Quasi-Public. This change requires compliance with the site designation criteria on page LU-44 of the General Plan.

Finally, it is odd that the Draft EIS refers to the draft City of Cloverdale General Plan. The City of Cloverdale adopted its General Plan by Resolution 022-2009 on May 13, 2009, just 12 days after the County and other cooperating agencies submitted comments on the ADEIS. The adopted General Plan is available at http://cloverdale.net/DocumentView.aspx?DID=381. G-9.83

B. Agriculture

Section 3.9.2 improperly dismisses all state and local regulations regarding farmlands and agriculture, and relies entirely on federal criteria to determine project impacts. The Farmland Conversion Impact Rating Form is not the beginning and end of NEPA analysis. The Draft EIS itself admits that the project site contains farmland of state importance and farmland of local importance (p. 3.9-11). Some of the County's most productive and valuable agriculture occurs on sites that do not rate as important on Form AD 1006. The Draft EIS should be revised to fully assess the agricultural capabilities of the impacted parcels. G-9.84

In addition, Impact 4.9-4 (p. 4.9-3) should be revised to delete its inappropriate focus on the City's land use designation for the eastern portion of the site. The project site is within the unincorporated County, not the City of Cloverdale, and County regulations control development absent annexation. More importantly, NEPA requires an evaluation of project impacts when judged against the existing environmental setting, not against a hypothetical condition that might one day exist if the project were denied. Those potential future uses are relevant only to Alternative F, the No Action Alternative. The Draft EIS should not conflate the baseline and the No Action Alternative. G-9.85

The simple fact is that the eastern parcels are predominantly in agricultural use, have been subject to Williamson Act contracts since 1983, and are designated Land Intensive Agricultural by the County. The project would result in significant adverse impacts on agriculture in this area. The Draft EIS should admit rather than ignore this significant impact. G-9.86

The Draft EIS should then impose mitigation measures sufficient to offset the project's loss of agricultural lands and inconsistency with Williamson Act contracts and Agricultural Preserves. Mitigation includes:

- minimizing impacts by limiting the degree or magnitude of the action and its implementation; and
- compensating for the impact by replacing or providing substitute resources or environments.

40 C.F.R. § 1508.20(a), (e).

The Draft EIS should avoid the project's significant adverse impact by preserving the agricultural lands on the eastern portion of the site, or compensating for the impact by permanently preserving substantial off-site agricultural lands.

C. Airport Policy

The subsection on "Airport Regulation and Policy" (pp. 3.9-7 to -9) and Impact 4.9-3 should be revised to explain how the location and length of the existing Airport runway would change upon implementation of the City's Airport Master Plan. The Draft EIS should clearly identify the adoption date and status of the Master Plan. G-9.87

The Draft EIS also should be revised to delete the statement on page 4.9-2 that the County's CALUP states that the Traffic Pattern Zone (TPZ) on the west side of the Airport "is not used." The County is not aware of any such statement in the CALUP, and the Draft EIS includes no page citation. The TPZ is narrow on the west side due to the published flight pattern being on the east side, but TPZ is on the CALUP map due to the proximity to the main runway and landing-takeoff activities. The TPZ designation affects the southeast portion of the proposed casino-hotel complex and the proposed Tribal headquarters building. The CALUP imposes standards including a limit on indoor occupancy of 150 persons per acre, requiring 15% usable open space on the site, and the directive to: "Discourage schools, auditoriums, stadiums or amphitheaters." (See the G-9.88

CALUP text at: http://www.sonoma-county.org/prmd/docs/airport/ch8-excerpt.htm.) Compliance with these standards is necessary to minimize potential injury and death resulting from possible accidents or emergency landings of aircraft approaching or departing the Cloverdale Municipal Airport. The restriction on indoor densities is also related to the potential difficulty of evacuating a building in case of an aircraft accident. G-9.88 (cont.)

When a discouraged land use is proposed, CALUP § 8.6.5 requires the applicant to show that alternative locations have been considered and are not feasible, and to consider a development plan that will minimize as much as possible the exposure to hazard. This might involve reducing structure heights, lot coverage, or the overall scale of the project, or considering different locations for some of the proposed functions of the facility if alternative locations are available. If entertainment areas, meeting space and other high occupancy areas are included in the proposed buildings in the TPZ portion of the project site, the Draft EIS should require building relocation and redesign to reduce indoor occupancy to acceptable levels.

VIII. Visual Resources

A. Baseline

The Draft EIS improperly relies on a potential future baseline in evaluating visual impacts. The Draft EIS discusses the City of Cloverdale's General Plan designations and zoning for the project site at pages 3.13-2 and 4.13-1, and emphasizes the various potential future uses that could be developed in the absence of the project. These discussions are irrelevant and inappropriate. The project site is within the unincorporated County, not the City of Cloverdale, and County regulations control development absent annexation. More importantly, NEPA requires an evaluation of project impacts when judged against the existing environmental setting, not against a hypothetical condition that might one day exist if the project were denied. Those potential future uses are relevant only to Alternative F, the No Action Alternative. The Draft EIS should not conflate the baseline and the No Action Alternative. G-9.89

Nor should the Draft EIS imply that impacts would be less than significant because the City approved a different project, the Alexander Valley Resort. (p. 4.13-1.) That project proposed different uses on a different site. The Alexander Valley Resort would be partially obscured behind a hill and is subject to further design review, including City Specific Plan requirements of visual breaks (such as building height, size and placement on the parcel) to prevent massing of development. By contrast, this

project is proposed to sit on top of a knoll in full view of the freeway and would be subject to any further design review or measures to reduce visual massing. The Alexander Valley Resort approval is thus legally irrelevant to the NEPA question of whether this project would adversely affect visual resources and, if anything, helps demonstrate that the EIS should be revised to include greater analysis and mitigation of aesthetic impacts. G-9.90

B. Threshold of Significance

The Draft EIS appears to cherry-pick between state and local policies to understate and downplay project impacts. For example, the Draft EIS admits that Highway 101 is a County-designated scenic corridor and a City-designated scenic road (p. 3.13-2), but dismisses both designations by noting that Caltrans does not consider Highway 101 a Scenic Highway. The Draft EIS similarly ignores the *Sonoma County Permit and Resource Management Department Visual Assessment Guidelines*, which provide objective standards to assess visual impacts, even though the project site is in the unincorporated County. A copy of those Guidelines is attached hereto as **Exhibit D**. G-9.91

Instead, the Draft EIS evaluates the project solely against one goal in the 1993 City of Cloverdale General Plan intended to protect views of prominent ridgelines. (Pp. 3.13-5, 4.13-1.) City-designated ridgelines are hardly the only relevant metric of visual impacts, however. The Draft EIS must evaluate impacts by establishing the site's level of visual sensitivity and characterizing the visual dominance of the project in terms of its form, line, color, texture, and lighting using criteria discussed in the PRMD *Visual Assessment Guidelines*.

Any fair assessment would disclose that the project site is immediately adjacent to Highway 101 and very visible to the public, and the visual impact of any large development on the site is potentially significant. As proposed, the project would result in a significant adverse impact over the baseline, which consists of very scenic pasturelands, rolling hills, and scattered rural residences. Alternative A proposes to replace these uses with 1,000+ feet of horizontal buildings up to five stories in height, all paralleling the highway. This vertical and horizontal massing would dwarf anything in Cloverdale, the project area, or lands within a significant radius from the project site. The development would substantially damage scenic resources, and substantially degrade the existing visual character and quality of the site and its surroundings. Both conditions

represent significant adverse impacts that should be disclosed and analyzed in the Draft EIS. G-9.91 (cont.)

C. Mitigation Measures

The Draft EIS fails to "[i]nclude appropriate mitigation measures not already included in the proposed action or alternatives" (40 C.F.R. § 1502.14(f)), and thus fails to "inform decisionmakers and the public of the reasonable alternatives which would minimize adverse impacts or enhance the quality of the human environment." (40 C.F.R. § 1502.1.)

The County appreciates that the Draft EIS includes a new sentence regarding project signage, but the measure is inappropriately vague. It requires only that the applicant "refrain" from using "excessively bright" signage, and design signage to "reduce" visual impacts. The Draft EIS does not define any of these terms. It should be revised to impose concrete, substantive limitations on the height, width, location, and light output of all project signage. G-9.92

In addition, the proposed mitigation of landscaping and blended colors remains inadequate to mitigate visual impacts to a less than significant level. The Draft EIS should require that the applicant reduce the height and break up the horizontal mass of proposed buildings. The EIS also should include an alternative with smaller building heights that would comport with existing and allowed structures in Cloverdale and the project area. G-9.93

Finally, the Draft EIS should identify all the dark sky lighting techniques that the applicant shall be required to implement, rather than stating in general terms that lighting techniques "will be incorporated into the project." G-9.94

IX. Noise

The Draft EIS continues to lack many details necessary for the public and decisionmakers to take the requisite hard look at noise impacts. A thorough review of the Draft EIS Noise section has been prepared by Illingworth & Rodkin, Inc., and is attached hereto as **Exhibit A**. As detailed therein, and summarized below, the Draft EIS should be revised to include the following: G-9.95

- Baseline noise levels at sensitive receptors to provide adequate comparison of existing to project noise levels. G-9.95 (cont.)
- Construction noise levels anticipated at the closest receptors.
- Analysis using a current and accepted noise model rather than an outdated FHWA noise model.
- Evaluation of project consistency with County noise standards, as set forth in General Plan 2020, in addition to City of Cloverdale standards.
- An adequate assessment of noise impacts from project traffic during the late nighttime hours.
- A proper description of potential cumulative traffic noise impacts.

In addition, the Draft EIS should be revised to include a map specifically identifying all sensitive receptors, and the distances from each receptor to roads and all proposed on-site sources of noise during both the construction phase and operational phases of the project. G-9.96

Impact 4.11.1-1, Construction Noise and Vibration, identifies typical construction equipment noise levels and noise levels at nearby receptors. This project would impose massive construction noise on surrounding receptors for up to two years. The mitigation measures identified to reduce the noise impacts are not adequate, and additional measures are needed. G-9.97

As noted in the County's ADEIS comments, the Draft EIS should be revised to delete its statement at p. 4.11-8 that future noise levels "would likely be similar to existing conditions." The existing conditions consist of six rural residences and associated outbuildings, vineyards, and wastewater ponds. None of these sources generate noise levels anywhere near the proposed 595,000 square-foot casino, hotel, convention center, and entertainment center. G-9.98

X. Biological Resources

The County previously commented that the Draft EIS should describe the plant community types, jurisdictional waters, and wildlife species expected both within and near the borders of the project site, and especially evaluate those resources that would be impacted by project implementation. This Draft EIS should also address all special status, candidate, and sensitive species that have been identified as possibly occurring within the range of the study site, or such species that could potentially be impacted offsite due to the project. The Draft EIS should further disclose the project's impacts to sensitive plant communities, such as oak woodlands, analyze how wildlife migration and dispersal could be affected, and require the project to comply with state and local laws and ordinances, such as the Oak Woodlands Conservation Act and other tree protection policies such as the County's tree protection policies. G-9.99

The County recognizes that after it and other cooperating agencies commented on the ADEIS, the EIS preparers held a site visit with staff from the U.S. Fish and Wildlife Service (FWS), and received two memoranda from FWS. The first memorandum found that a site assessment and protocol surveys should be conducted for the California red-legged frog (CRLF) because the project site is located within the range of CRLF and suitable foraging and dispersal habitat is available on site. The second reversed course and found that no further action is necessary. The Draft EIS should be revised to discuss this series of events, and Appendix P should be made available online. Appendix P is absent from http://www.cloverdalerancheria.com/eis/deis.htm. G-9.100

A. Wildlife Impacts

The Draft EIS should be revised to include additional analysis and mitigation of impacts to western pond turtles (WPT), which are likely to occur in the general area and on site. The Russian River and nearby creeks, ponds, backwaters, and marshes throughout the riparian zones all provide potential habitat for western pond turtle. WPT basking habitat within the area would typically consist of downed trees, large rocks, and logs. Potential breeding habitat could occur within the riparian communities and non-native annual grasslands, mainly on the upper banks of the creeks that are adjacent to the gravel bars, and up to 1,500 feet from the active stream corridor. WPT in the area likely use uplands above the winter flood line for nesting. In addition, WPT adults may over-winter in uplands for a distance over 1500-ft from the active stream in vegetated areas G-9.101

with adequate material such as leaf litter, within which they can be covered (Reese and Welsh 1997). G-9.101 (cont.)

B. Wetland Impacts

The U.S. EPA and the USFWS maintain a no net loss policy for wetlands and other waters of the United States, even if some features are not regulated by the Army Corps of Engineers (ACOE) due to lack of significant nexus or isolation. As a result, the applicability of Section 404 of the Clean Water Act to particular wetland features for the purpose of protecting sensitive wetland habitat is irrelevant. Project impacts to wetlands and other sensitive biological communities should be mitigated regardless of ACOE jurisdiction. G-9.102

The Draft EIS should be revised to provide a greater evaluation of indirect project impacts to wetlands and waterways from pollutant releases, such as oil and fuel from machinery during construction and automobiles during the project operations. Releases could cause acute and chronic toxicity to aquatic organisms and adversely affect the reproductive ability of salmonids, foothill yellow-legged frogs, and other sensitive aquatic organisms. Moderate effects such as decrease in essential body functions and reproductive failure lead to population decreases.

In addition, increased loads of sediment could result from the mobilization of exposed sediments during and after grading of the site. Runoff of sediment-laden waters could decrease the water quality for aquatic species and limit the clarity of the water, affecting any crucial activity dependent upon sight, such as foraging or escape from predators. Suspended sediment can also change oxygen diffusion rates, especially among early life stages of aquatic organisms such as juvenile salmonids and foothill yellow-legged frog larvae, possibly causing suffocation. Increases in sediment load could also cause deposition of sediments and fill in pools, and glides, changing the physical morphology and gravel quality of local streams.

In addition, increases in impervious surfaces are know to increase peak flood flows and increase scour and therefore diminish habitat offsite. Effective best management practices and permanent runoff detention basins and oil/water separators should be developed to mitigate these potentially negative project effects. The Draft EIS also should be revised to adequate setback distances from wetlands and drainages. A minimum 100-ft setback from wetlands should be used.

C. Impacts to Trees

The proposed project should comply with the Sonoma County Tree Protection and Replacement Ordinance, which requires mitigation of protected trees greater than 9 inches DBH, as well as conservation of protected trees. The Draft EIS should require compliance with the following Ordinance requirements: G-9.103

- Clearly show on all improvement plans whether protected trees are to be retained or removed, and place a note on the plans that "Construction is subject to requirements to protect certain trees."
- Clearly delineate every tree designated for protection with a substantial barrier (usually orange plastic netted construction fencing) at the protected perimeter, or limits established during the approval process, for the duration of all work. All trees to be removed shall be clearly marked. Measures shall be established for the removal and disposal of brush, earth and other debris as to avoid injury to any protected tree.
- When site work must encroach upon the protected perimeter of a protected tree, special measures shall be incorporated to allow the roots to obtain oxygen, water and nutrients. Tree wells or other techniques may be used where advisable. No changes in existing ground level shall occur within the protected perimeter unless a drainage and aeration scheme approved by a certified arborist is utilized.
- The project should proponent should not store or dispose of oil, gasoline, chemicals, or other substances that may be harmful to trees, within the drip line of any tree or any other location on the site from which such substances might enter the drip-line.
- If any damage to a protected tree occurs during or as a result of work on the site, and the tree cannot be preserved in a healthy state, the applicant shall replace it in accordance with the arboreal value chart. If on-site replacement is not feasible, the applicant shall pay the in-lieu fee to the tree replacement fund.
- Compaction of soils or stockpiling or parking of vehicles and equipment within the drip-line or protected perimeter should be prohibited.

XI. Cumulative Effects

The County appreciates that in response to comments, page 4.16-2 now includes a list of the three cumulative projects considered in the Draft EIS. This list unfortunately excludes the Dry Creek Rancheria Economic Development Master Plan (River Rock Casino) proposed by the Dry Creek Rancheria Band of Pomo Indians. That project proposes an expansion of existing gaming-related facilities and an addition of non-gaming facilities at the site of the existing River Rock Casino, located approximately fourteen miles south southeast of the project site. The Draft EIS should be revised and recirculated to include an analysis of the project's incremental effects when added to those of the River Rock Casino expansion. G-9.104

The Draft EIS also must be revised to include a quantitative assessment of cumulative air quality impacts. The Draft EIS still contains just five conclusory sentences on page 4.16-4 that provide no information or analysis, much less actual calculations. This approach is inadequate. NEPA instead requires that the BIA provide the "hard data" regarding past and potential future impacts. *Klamath-Siskiyou v. Bureau of Land Mgmt.*, 367 F.3d 989, 994 (9th Cir. 2004). G-9.105

XII. Conclusion

As noted above, the County appreciates the revisions to the Draft EIS in response to bas comments, and looks forward to working with the Tribe to identify a smaller, safer alternative that avoids significant adverse impacts to public services and the natural environment.

EXHIBIT A

ILLINGWORTH & RODKIN, INC.
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October 19, 2010

Chris Seppeler
Senior Environmental Specialist
Sonoma County Permit and Resource Management Department (PRMD)
2550 Ventura Avenue
Santa Rosa, CA 95403-2829

Re: Cloverdale Casino DEIS
Subject: Technical Review of Air Quality, Greenhouse Gas and Noise Sections

Dear Chris:

This letter describes the results of our review of the Cloverdale Rancheria of Pomo Indians Fee-to-Trust and Resort Casino Project Draft Environmental Impact Statement (DEIS). Our review was specific to the DEIS's described impacts to air quality, greenhouse gas and acoustic effects of the proposed action. Our comments are described for each discipline.

Air Quality and Greenhouse Gases

Setting

This section is outdated. For example, Table 3.4-1 does not reflect the current ambient air quality standards, specifically the recent changes made to the NO_2 and SO_2 standards. G-9.106

The attainment status designations are outdated. For example, the San Francisco Bay Area was designated nonattainment for the 24-hour $PM_{2.5}$ NAAQS (final designation made in 2009) and NCAB has changed with respect to ozone.

Table 3.4-4 only contains data through 2007, when data through 2009 is available. The $PM_{2.5}$ 24-hour NAAQS published in the table is not correct and the table does not include the State 8-hour ozone standard.

There is no discussion regarding SB 375, which would establish regional GHG reduction targets for 18 metropolitan planning organizations in the State. This would include the San Francisco Bay Area, which would be affected by this project. The DEIS should include a description of SB G-9.107

375 and describe how the project may conform or hinder the integration of long-range land use, housing and transportation planning for the region. G-9.107 cont.

Environmental Consequences

Section 4.4 overall comment: The DEIS does not describe the basis for significance criteria. It is difficult for the reader to understand how any of the environmental consequences pertaining to air quality would be significant. G-9.108

Alternative A

Page 4.4-1, Table 4.4-2 on page 4.4-2.

The EIS does not describe what "Local Air District Thresholds" are based on and do not describe how they apply to the proposed project.

The emission-based thresholds for MCAQMD do not appear correct and the authors should consult with the District to determine the appropriate thresholds that apply to land use projects. G-9.109

Both BAAQMD and MCAQMD recently updated their thresholds.

Table 4.4-2 should include a proper source citation.

The DEIS should make clear how these apply to the proposed project (e.g., construction, operation direct emissions, operation indirect, etc…). G-9.110

Page 4.4-2, Impact 4.4.1-1 Construction Emissions G-9.111

The EIS should describe the emissions modeling methodology, other than to state that the emissions are based on "emission factors embedded in the URBEMIS 2007 model." The lack of this information makes the DEIS conclusion unverifiable. Please provide more construction information such as the specific inputs to the model, construction schedule, and amount of import/export of material.

The DEIS should explain the conclusion that "Based on this evaluation, construction emissions would not violate federal standards or NSCAPCD thresholds." What is the basis? How are emissions calculations related to violation of federal standards, which we assume to be the concentration based national ambient air quality standards? G-9.112

Page 4.4-3, Toxic Air Contaminants

What are the criteria the DEIS used to evaluate the significance of TAC emissions? G-9.113

The EIS should address whether TAC emissions from project construction combined with operation (delivery truck, bus, patron traffic, and combustion equipment) would cause significant TAC exposures. G-9.114

Page 4.4-3, Impact 4.4.1-2 Operational Emissions

The EIS should describe the emissions modeling methodology, other than to state that the emissions were estimated using the URBEMIS 2007 model. The lack of this information makes the DEIS conclusion unverifiable. The EIS should provide more information regarding trip lengths and trip assumptions used and how those were developed. What year was analyzed? G-9.115

Were area sources included in the prediction of emissions for NSCAPCD? The DEIS indicates that only "Onroad Vehicle" emissions were computed. ROG emissions from area sources could be quite high and would likely change the findings for this impact with respect to ROG emissions in the NSCAPCD.

The description of how operational trips were estimated for each of the air basins is not clear. The EIS should provide information regarding the number of trips in each basin and the average distance of travel in each basin along with the basis for those estimates.

Page 4.4-5, and Table 4.4-5

The DEIS does not adequately describe the methodology for modeling CO concentrations. What methodology was used? The Transportation Project-Level Carbon Monoxide Protocol was approved by U.S. EPA, the Federal Highway Administration and California for determining project-level carbon monoxide impacts of transportation projects. This is the protocol used for determining whether or not projects conform with applicable State Implementation Plans that pertain to carbon monoxide. The modeling shown in Appendix C indicates that this protocol was not used. In addition, there is no information regarding how emissions or traffic inputs used in the model were developed. G-9.116

Why is the DEIS addressing federal Clean Air Act General Conformity requirements in an air basin that is not considered a nonattainment or maintenance area for the carbon monoxide NAAQS? Shouldn't this analysis be applied to the San Francisco Bay Area Air Basin where traffic levels are higher? G-9.117

Page 4.4-5, Toxic Air Contaminants

The DEIS states that the project (i.e., Alternative A) "would not itself contribute or generate toxic air contaminants." Then the DEIS goes on to conclude that diesel buses and delivery truck traffic "would result in an increased concentration of diesel emissions...resulting in a potentially significant impact." This is illogical and the conclusion in the DEIS is not supported by facts. The EIS should provide an evaluation of project TAC emissions and evaluate the significance. This analysis should include emissions of diesel particulate matter from bus and truck traffic, as well as other TAC emissions from patron traffic or equipment use. G-9.118

Page 4.4-5, Odors

The finding in the DEIS that odors from the wastewater treatment plant could affect a substantial number of people is not based on any evaluation or facts. G-9.119

Page 4.4-6 Impact 4.4.1-4 Greenhouse Gas Emissions

The significance thresholds applied to the proposed project appear arbitrary. There should be a discussion supporting the use of these thresholds (or what the DEIS refers to as "Considerations"). G-9.120

The DEIS states that the proposed project "would not pose any apparent conflict with the AB 32 Scoping Plan 39 recommended actions." There was no evaluation provided to support such a statement. Some examples of possible conflict (with measures listed in Table 3.4-3) that we believe the EIS should examine are provided below: G-9.121

- Measure T-3 Regional Transportation –Related Greenhouse Gas Targets. The EIS should evaluate how the relatively large volumes of traffic the proposed project would attract may conflict with these targets, given that trips lengths will be relatively long.
- Measure E-1, CR-1 and CR-2 – Energy Efficiency. The EIS should evaluate the consistency of the proposed project with respect to these measures.
- Measure GB-1 – Green Building. Again, the EIS should evaluate the consistency of the proposed project with respect to this measure.

The DEIS points out that the proposed project would contribute 0.03% of the overall statewide goal of reducing emissions by 174 million metric tons of CO2 per year, although erroneously reports this as 0.0003% in Table 4.4-6. G-9.122

There is no analysis or facts to support the conclusion statement on page 4.4-7 (1st paragraph below Table 4.4-6) that the proposed project "would not be consistent with the goals of AB32 and would generate substantial amounts of greenhouse gas emissions." This statement is in conflict with the previous statement on page 4.4-6 that states the proposed project "would not pose any apparent conflict with the AB 32 Scoping Plan 39 recommended actions." G-9.123

How does the EIS define "substantial amounts of greenhouse gas emissions?" G-9.124

The same comments apply to the air quality assessments for Alternatives B - E. The discussion and conclusions in the DEIS for these alternatives are almost identical to Alternative A. G-9.125

Cumulative Impacts

For air quality, we would have to agree with the statement that significant project impacts would be considered to have a significant cumulative impact. G-9.126

Mitigation

Overall comment regarding mitigation measures: No facts or evidence are presented in the DEIS to demonstrate how mitigation measures reduce impacts to a less-than-significant level or that they would not reduce impacts enough to be less-than-significant. A fairly generic list of G-9.127

mitigation measures appear to be somewhat arbitrarily put in the DEIS and there appears to be no analysis as to whether or not they would be effective. G-9.127 cont.

Page 5-3, Dust Abatement Program, Mitigation Measures 5.4-1 through 5.4-4

The EIS should explain how Mitigation Measures 5.4-2 through 5.4-4 reduce TAC impacts to a less than significant level as described on pages 4.4-3, 4.4-9, 4.4-15, 4.4-20, and 4.4-26. G-9.128

Mitigation Measures 5.4-2 and 5.4-3 are quite general and not specific. State law prohibits excessive equipment and truck idling, so perhaps the EIS mitigation should be consistent with the law and go further by requiring notification/signage and enforcement. How will the lead agency enforce Mitigation Measure 5.4-2? G-9.129

Suggest the EIS include a mitigation measure that would require construction equipment meet performance standards in terms of NOx and particulate matter emissions. This is used throughout the State and NSCAPCD would probably be willing to assist the applicant in developing such a mitigation measure. G-9.130

Page 5.-3 and 5-4, Transportation Motor Vehicle Measures, Mitigation Measure 5.4-5

2nd bullet: The EIS should identify how vehicle idling times will be limited and how the measure would be enforced. G-9.131

3rd bullet: Use low or zero emission vehicles for what? More explanation is necessary. G-9.132

6th bullet: Does the mitigation measure propose fee parking? If so, provide detail. G-9.133

8th bullet: Would the mitigation measure require the operator to provide free or low-cost monthly transit passes? G-9.134

What about mitigation measures to offset project emissions? Especially those emissions in the San Francisco Bay Area Air Basin, which is a nonattainment area for NOx, PM_{10}, and $PM_{2.5}$? G-9.135

Page 5-4, Mitigation Measure 5.5-6 Toxic Air Contaminants

This mitigation measure should be labeled as Mitigation Measure 5.4-6 rather than 5.5-6. In addition, it is almost the same as Mitigation Measure 5.4-5, and is therefore, redundant. G-9.136

Page 5-4, Mitigation Measure 5.4-7

As mentioned above, State Law restricts diesel vehicle idling time. Perhaps the Mitigation Measure should be revised to restrict idling times in a manner consistent with State Law and include signage and enforcement provisions. G-9.137

Page 5-5, Mitigation Measure 5.5-8 Odor Management Plan

The mitigation measure and analysis provided in Section 4.4 provide no evidence that significant or adverse odors would occur or not occur with the proposed project. The mitigation measure is vague and defers the impact finding. There are no specific measures that would prevent or reduce the potential for odors. The design of the treatment plant with respect to odor generation is not even described. How would odors from the head works, aeration ponds, or sludge be prevented? Our interpretation of this mitigation measures is that the operator would be informed of received "strong" odor complaints. There are no performance standards. In essence, odor controls would be developed after a significant impact, where odor complaints have occurred. G-9.138

Page 5-5, Mitigation Measure 5.5-9 Energy Efficient Measures

These mitigation measures are much too broad and not specific to the project. Is there any commitment by the project to meet verifiable energy efficiency standards (e.g., LEED standards)? By what standards would this mitigation measure be based? G-9.139

What are not performance standards or emission reduction goals identified for the proposed project? Is it possible to reduce greenhouse gas impacts through a combination of design features and mitigation measures, such that the emissions would be less than significant? G-9.140

Noise and Vibration

Setting

Noise sensitive receptors are generally identified in the text. The EIS should specifically identify the representative locations of most affected residential receptors near the project site that are referenced in the text. A graphic illustrating these locations would be helpful. G-9.141

The EIS should apply the results of the baseline noise survey and baseline traffic noise modeling to establish existing ambient noise levels at the representative sensitive receptors identified as requested in Comment 1. This would support the rationale for the ambient noise measurement locations and noise modeling. G-9.142

Affected Environment

Alternative A

The EIS should estimate construction noise levels at the most affected receptors and compare the levels to existing ambient levels and other appropriate criteria for speech, activity, or sleep disturbance. G-9.143

Note that the DEIS used the outdated FHWA traffic noise model (FHWA RD-77-108), developed in 1978 to predict traffic noise levels. FHWA replaced this model many years ago with the Traffic Noise Model (FHWA TNM). As outlined in 23 CFR 772 published on July 13 2010, only use of the FHWA TNM or any other model determined by the FHWA to be consistent with the methodology of the FHWA TNM may be used for highway traffic noise assessments. G-9.144

The proposed project is unique in that it would be a 24-hour operation. The traffic noise impact analysis only evaluates changes in the 24-hour day/night average noise level (Ldn). The DEIS applies a "general rule" that where traffic noise dominates, the Ldn is roughly equivalent to the peak hourly noise level. However, the proposed project is not likely to have a normal traffic distribution and would probably generate traffic at night that would have a greater effect on the Ldn noise level. The EIS should discuss the potential for traffic during the middle of the night (particularly buses) to cause an impact on the rural residents located along the access roads to the project site. Appropriate noise metrics would include hourly average noise levels and Lmax levels during the various nighttime hours to determine when the greatest effects may occur based on the expected distribution of project-generated traffic during the nighttime. G-9.145

The DEIS simplifies the prediction of non-transportation-related noise effects by only discussing the noise from rooftop HVAC systems. The proposed project, consisting of a large casino, hotel, and restaurant, with associated facilities is likely to include numerous sources of mechanical equipment noise. There would be several HVAC systems, possible chillers/refrigeration systems, exhaust fans, trash compactors, and possible emergency generators. Combined, these are likely to produce noise levels greater than 55 dBA at a reference distance of 100 feet. The EIS should utilize the stationary noise source standards set forth in Table NE-2 of the County of Sonoma General Plan to assess the effects of non-transportation noise sources. The EIS should present a range of expected noise levels for mechanical equipment (it is recognized that noise levels cannot be determined specifically until equipment has been selected during design). Estimated noise levels could then be made at the nearest potentially affected receptors to support the supposition that "a less-than-significant effect is expected". County General Plan standards should be used as performance standards. G-9.146

The same comments apply to the noise assessments for Alternatives B - F. G-9.147

Cumulative Impacts

The DEIS does not properly predict cumulative traffic noise impacts. The DEIS identifies noise level increases of 5 to 6 dBA along Asti Road north of Santana Drive. This would be a cumulatively significant increase in noise levels. The proposed project contributes 3 to 4 dBA to this significant cumulative impact, and therefore, should be considered to have a cumulatively considerable contribution. Much of the significant noise increase along this roadway would be the result of the project, even though it has a less-than-significant project impact. G-9.148

The cumulative noise analysis should compare the predicted General Plan build-out cumulative baseline noise level, plus noise contribution from each Alternative, to the existing noise level at representative sensitive receptors (or along roadway segments at the 50-foot reference distance) to determine whether or not an adverse effect would result cumulatively from the proposed project in combination with other projects by the General Plan build out year. Otherwise, it is not possible to determine the overall increase in noise that sensitive receptors in the area would experience between now, the existing condition, and the General Plan build out. G-9.149

Mitigation

The EIS should state that noise from stationary sources, including HVAC equipment, shall comply with the stationary noise source limits set forth in Table NE-2 (current County interpretation) in the Sonoma County General Plan. The EIS should clarify how unnecessary vehicle idling is to be prevented from trucks in loading docks or buses in areas adjacent to sensitive receptors. G-9.150

* * *

This concludes our review of the DEIS for the proposed Cloverdale Casino. Please let us know if you have any questions or comments.

Sincerely,

Digitally signed by James Reyff
DN: cn=James Reyff, o, ou, email=jreyff@illingworthrodkin.com, c=US
Date: 2010.10.19 09:32:10 -07'00'

James A. Reyff
Senior Consultant
Illingworth & Rodkin, Inc.

Cc Jeffrey Brax, Sonoma County PRMD

10-127

EXHIBIT B

National Indian Gaming Commission
Record of Decision

Approval of Management Contract for Gaming Facility at the Wilfred Site in Sonoma County, California, for the Federated Indians of the Graton Rancheria

in Section 4.0, Variant H-sub1 would have similar environmental impacts as Alternative H after mitigation, with a reduced impact to wetland features, as well as better meeting the purpose and need. Variant H-sub1 was therefore chosen as the Preferred Alternative.

6.0 MITIGATION MEASURES

All practicable means to avoid or minimize environmental harm from the Preferred Alternative (Variant H-sub1 with wastewater disposal Option 3) have been identified and adopted. The following mitigation measures and related enforcement and monitoring programs have been adopted as a part of this decision. Where applicable, mitigation measures will be monitored and enforced pursuant to federal law, tribal ordinances, and agreements between the Tribe and appropriate governmental authorities as well as this decision. By implementing these mitigation measures, it is reasonably expected that the Preferred Alternative would not result in any significant adverse impacts to the surrounding community or the environment. Specific best management practices and mitigation measures adopted pursuant to this decision are set forth below:

6.1 GEOLOGY AND SOILS

A. The following mitigation measures shall be implemented to result in a less than significant impact to the development from expansive soils:

   a. For structures with a light to moderate bearing load (one to three stories), a shallow, spread footing foundation system would be sufficient to provide support under expansive soil conditions (see FEIS Appendix K for more details and optional systems). However, a shallow foundation system shall be designed to reduce the potential for seasonal moisture variation under the buildings by providing continuous perimeter strip footings that extend below the depth of seasonal moisture variation (typically 18 inches or deeper).

   b. For structures with a high bearing load, either a post-tensioned concrete slab, or heavily reinforced structural mat slab (shallow foundation systems), or a deep foundation system such as a drilled piers would be necessary to provide support under expansive soil conditions (see FEIS Appendix K for more detail). Shallow system designs applied to high bearing load structures will also be designed to reduce the potential for seasonal moisture variation.

   c. To mitigate impacts to pavement caused by expansive soil, one or a combination of the following measures shall be required:
      i. Removal and replacement with non-expansive soils.
      ii. Lime treatment of soils.
      iii. Design of pavement sections to withstand potential swelling pressures.

B. All structures shall be designed in compliance with the California Building Code (CBC) Building Code (Article VI Chapter 6.04) current at the start of construction such that risks to the health or safety of workers or members of the public from earthquake hazards are reduced to a less-than-significant level.

6.2 WATER RESOURCES

Surface Water

Construction Impacts

A. During construction, surface water quality shall be protected by using BMPs as listed in the Erosion Control recommendations found in FEIS Appendix C. These BMPs would be included in the Stormwater Pollution Prevention Plan (SWPPP) to be filed with the USEPA).

B. A stormwater sampling and monitoring program shall be developed and implemented to assess the quality of surface water entering and leaving development sites. At a minimum, sampling sites shall include: a location upstream at an elevation above all proposed development; and a location downstream of all development, yet at an interception point prior to surface waters entering the Laguna de Santa Rosa. Analyses shall include total suspended solids (TSS), oils and grease.

Operational Impacts

C. Application of fertilizer shall be limited to the minimum amount necessary and shall be adjusted for the nutrient levels in the water used for irrigation. Fertilizer shall not be applied immediately prior to anticipated rain.

D. The garbage bin area shall be covered. Any runoff or drainage from the garbage bin area shall be directed to the sewer system and treated by the WWTP.

E. Landscape irrigation shall be adjusted based on weather conditions and shall be reduced or eliminated during the wet portion of the year in order to prevent excessive runoff.

Wastewater

F. In order to maintain the water balance described in Section 4.3.1 of the FEIS, a minimum of 50 gallon per minute (gpm) of treated wastewater shall be designated for use by the casino and hotel.

G. The WWTP shall be staffed with operators who are qualified to operate the plant safely, effectively, and in compliance with all permit requirements and regulations. The operators shall have qualifications similar to those required by the State Water Resources Control Board Operator Certification Program for municipal wastewater treatment plants. This program specifies that for tertiary level wastewater treatment plants with design capacities of 1.0 million gallons per day (MGD) or less, the chief plant operator must be a Grade III operator. Supervisors and Shift Supervisors must be Grade II operators. An Operations and Maintenance Program must be followed by the plant operators. Emergency preparedness shall include all appropriate measures, including a high level of redundancy in the major systems.

Regional Groundwater

H. Existing on-site wells shall be abandoned and sealed. On the Wilfred Site, two wells shall be abandoned and capped.

I. In order to offset the groundwater used by implementation of the project, the Tribe shall implement one or more of the following measures:

a. The Tribe shall work with the City of Rohnert Park and Sonoma County Water Agency (SCWA) to allocate and deliver more surface water, aiding in the City's compliance with the City's settlement with the South County Resource Preservation Committee.

b. The Tribe may work with and compensate the City and/or SCWA to implement a water conservation program and/or a conjunctive water use program. The program shall (1) assess existing and potential sources of reclaimed wastewater within SCWA's service area, and determine potential points of use for the reclaimed wastewater, and/or (2) supplement the City's and/or SCWA's existing water conservation programs to identify and implement additional conservation measures within City and/or SCWA service areas. The program(s) shall incorporate reclaimed water use and/or conservation to an extent that would completely offset groundwater pumping associated with the selected project Alternative.

c. The Tribe shall participate in the creation of or create an off-site artificial recharge project, such as purchasing a groundwater well in the sub-basin and retiring the well from service in order to offset a portion of the groundwater used by implementation of the project (in lieu recharge).

J. The Tribe shall cooperate with the conduct of the ongoing Joint USGS/SCWA Study of the Santa Rosa Plain Groundwater Sub-basin by providing its Groundwater Study and any aquifer testing and monitoring data compiled during the EIS mitigation phase. In addition, the Tribe shall join other stakeholders in participating in the *Cooperative Agreement to Provide Funding and Support Information for Santa Rosa Plain Groundwater Study* for Years 4 and 5 of the study and future supplemental studies, subject to the agreement of the other stakeholders in the Tribe's participation. If added to the agreement, the Tribe shall provide funding of an equitable share that is proportionate with other participating non-tribal stakeholders, and that considers its fraction of the municipal groundwater demand in the Santa Rosa Plain Groundwater Basin (currently about 1.8%). In addition, the Tribe shall participate in the identification and implementation of reasonable measures or action plans developed through the study, in the same manner as participating non-tribal stakeholders, and in proportion to its contribution to any basin decline identified by the study.

K. As part of the Tribe's MOU with the City of Rohnert Park, the Tribe will contribute to help establish or support ongoing water conservation measures city-wide in Rohnert Park.

L. Water conservation measures including use of reclaimed water for landscape watering, cooling tower makeup water, and toilets shall be implemented. In addition, the following water conservation measures shall be adopted (resulting in a water savings of approximately 12,800 gallons per day for the full size casino/hotel alternatives):

a. Check steam traps and ensuring return of steam condensate to boiler for reuse.

b. Limit boiler blowdown and adjusting for optimal water usage.

c. Use low flow faucets and/or aerators in casino and hotel.

d. Use low flow showerheads in hotel.

e. Encourage voluntary towel re-use by hotel guests.

f. Use pressure washers and water brooms instead of hoses for cleaning.

g. Use garbage disposal on-demand in restaurant.

h. Incorporate a re-circulating cooling loop for water cooled refrigeration and ice machines in restaurants.

i. Serve water to customers only upon request at restaurants.

j. Use air-cooled units in central plant.

k. Use low volume spray rinse valve for pre-cleaning dishes.

l. Use low volume dishwasher.

m. Operate dishwashers with full loads only.

n. Use high pressure/low flow spray rinsers with automatic shut off for pot washing.

o. Reuse dishwasher wastewater for low-grade purposes such as pre-washing and garbage disposals.

p. Use self-contained (connectionless) vegetable steamers.

q. Reduce flow to minimum necessary in scrapper troughs, wash down, and frozen food thawing.

r. Use air-cooled ice machines.

Localized Groundwater

M. The Tribe shall implement a groundwater monitoring program preceded by a pump test (see FEIS Appendix G for a detailed description of the recommended pump test and monitoring program) as soon as feasible after project approval and preferably at least one year before opening of the project facilities to the public (to allow for baseline monitoring). The pump test shall include at least one shallow monitoring well located in close proximity to the Laguna de Santa Rosa in order to verify that pumping associated with the Preferred Alternative will not affect the Laguna de Santa Rosa.

N. The Tribe shall implement a program to compensate neighboring well owners for impacts to well operation based on interference drawdown caused by project pumping. The actual amount of interference drawdown associated with the project shall be estimated from the proposed pumping test and groundwater level monitoring program (see above and FEIS Appendix G). At least one year of baseline data and one year of data after project pumping begins should be collected prior to implementation of the following well impact compensation program:

a. Well Usability (Impacts 1 and 2) – The tribe shall reimburse the owners of wells that become unusable within three years of the onset of project pumping for a portion of the prevailing, customary cost for well replacement, rehabilitation or deepening. The mitigation method for which reimbursement is made shall be the lowest-cost customary and reasonable method to restore the lost well capacity. The percentage of the cost reimbursed by the tribe shall depend upon the degree to which the impact is caused by project pumping vs. pumping by other wells. Reimbursement shall be for replacement in-kind; that is, for a well of similar construction, but deepened so as to restore the lost well capacity. A depreciation allowance shall be subtracted from the reimbursement amount for wells or pumps that have condition issues. In order to be eligible, the well owner must provide the Tribe with documentation of the well location and construction (diameter, depth, screened interval, pump type, etc.), and that the well was constructed and usable before project pumping was initiated.

b. Diminished groundwater level near or below pump intake (Impact 3) – The Tribe shall reimburse the owners of wells with pumps that require lowering within three years of the onset of project pumping for a portion of the prevailing, customary cost for this service. The percentage of the cost reimbursed by the Tribe shall take into consideration the degree to which the impact is caused by project pumping vs. pumping by other wells, and the degree to which a well's capacity may have been reduced in the absence of project pumping due to shallow placement of the pump intake. Replacement discharge piping shall not be reimbursed, and replacement of

pumps shall not be reimbursed unless the pump was damaged due to project-related interference drawdown. In order to be eligible, the well owner must provide the Tribe with documentation of the well location and construction, including pump intake depth, and that the well was constructed and usable before project pumping was initiated. The Tribe must be made aware of the cost reimbursement claim prior to lowering of the pump intake, so that the need for possible well deepening, replacement or rehabilitation can be assessed. At the Tribe's discretion, compensation may be paid toward well deepening, replacement, or rehabilitation in lieu of toward lowering the pump intake.

c. Increased Electrical and Maintenance Cost (Impact 4) – The Tribe shall reimburse well owners pumping more than 100 acre-feet/year for their additional annual electrical costs at the prevailing electrical rate based on the following formula:

$$\text{KWhr/year} = \frac{\text{(gallons Pumped/year) x (feet of interference drawdown)}}{1{,}621{,}629}$$

In order to qualify for reimbursement, the well owner must provide proof of the actual annual volume of water pumped and/or the electrical usage associated with the pumping. As an alternative to annual payments, a one-time lump sum payment of a mutually agreeable amount could be made.

d. No reimbursement would be made available for wells installed after operation of the project wells commences.

e. For any of the above impacts, the Tribe may choose at its discretion to provide the well owner with a connection to a local public or private water supply system in lieu of the above mitigation measures, at reduced cost in proportion to the extent the impact was caused by project pumping.

f. The known owners of identified wells within two miles of the project pumping well(s) shall be notified of the well impact compensation program outlined above before project pumping begins.

g. We recommend that the Tribe contract with a third party, such as Sonoma County, to oversee this well impact compensation program.

O. The proposed storm water detention basin shall retain a portion of the storm water runoff, where it will percolate into the ground, if possible without compromising primary stormwater flow control objectives.

6.3 AIR QUALITY

Construction Impacts

A. The generation of construction-related PM_{10} and $PM_{2.5}$ emissions would cause a less-than-significant impact. However, Basic Control Measures and Enhanced

Control Measures from Table 2 of the Bay Area Air Quality Management District (BAAQMD) CEQA Guidelines - Assessing the Air Quality Impacts of Projects and Plans are recommended as mitigation during construction.

a. The Tribe shall designate an on-site Air Quality Construction Mitigation Manager (AQCMM) who shall be responsible for directing compliance with mitigation measures for the construction project.

b. Basic Control Measures shall include the following:

   i. Water all active construction areas at least twice daily.

   ii. Cover all truckloads hauling soil, sand, and other loose materials or require all truckloads to maintain at least two feet of freeboard.

   iii. Pave, apply water three times daily, or apply (non-toxic) soil stabilizers to all unpaved access roads, parking areas and staging areas at construction sites.

   iv. Sweep daily (with water sweepers) all paved access roads, parking areas and staging areas at construction sites.

   v. Sweep streets daily (with water sweepers) if visible soil material is carried onto adjacent public streets.

c. Enhanced Control Measures shall include the following:

   i. Hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas (previously graded areas inactive for ten days or more).

   ii. Enclose, cover, water twice daily or apply (non-toxic) soil binders to exposed stockpiles (dirt, sand, etc.)

   iii. Limit traffic speeds on unpaved roads to 15 mph.

   iv. Install sandbags or other erosion control measures to prevent silt runoff to public roadways.

   v. Replant vegetation in disturbed areas as quickly as possible.

   vi. Use of construction entrances to reduce soil/dust transport off-site.

   vii. Time-staged construction shall be used to avoid dust/open soils.

B. The generation of ROG, NO_X, PM_{10}, and diesel particulate matter emissions from construction equipment would cause a less-than-significant impact. However, implementation of the following basic measures are recommended during construction in order to further reduce the effects from construction activities:

a. To the extent that equipment and technology is available and cost effective, the contractor shall use catalyst and filtration technologies

b. All diesel-fueled engines used in construction shall use ultra-low sulfur diesel fuel containing no more than 15-ppm sulfur, or a suitable alternative fuel.

c. All construction diesel engines, which have a rating of 50 hp or more, shall meet the Tier II California Emission Standards for off-road compression-

ignition engines, unless certified by the AQCMM that such an engine is not available for a particular use. In the event that a Tier II engine is not available, Tier I compliant or 1996 (or newer) engines will be used preferentially. Older engines will only be used if the AQCMM certifies that compliance is not feasible.

d. All diesel fueled engines used in construction shall have clearly visible tags or other suitable means of identification showing that engine meets the above requirements

e. Idle time shall be minimized to five minutes when the equipment is not in use, unless safety requirements or manufacturers specifications indicate that more time is required.

f. Heavy duty diesel equipment shall be maintained in optimum running condition.

Operational Impacts

C. In coordination with the regional transportation agency, such as the Sonoma County Transit, the Golden Gate Transit, and the potential Sonoma Marin Area Rail Transit (SMART) rail, the Tribe shall provide the following to support regularly-scheduled community transit or shuttle service to and from the nearest mutually-acceptable major transit node:

a. Transit shelter benches,

b. Street lighting,

c. Route signs and display, and

d. Bus turnouts.

D. The Tribe shall implement feasible travel demand management (TDM) measures for a project of this type. These measures shall include, but are not limited to:

a. Designation of an on-site TDM coordinator.

b. Provisions to encourage bicycle commuting. Bicycle lanes and parking areas will be provided wherever appropriate and feasible.

c. Provision of transit use incentives, provision of information, printed schedules and commuter promotions.

d. Carpool incentives, such as monetary or other rewards will be made available to employees.

e. Installation of secure bicycle parking facilities at commercial areas.

E. Buses and other commercial diesel-fueled vehicles shall comply with the California Air Resource Board's (CARB) Airborne Toxic Control Measure to Limit Diesel-Fueled Commercial Motor Vehicle Idling (California Code of Regulations, Title 13, Division 3, Article 1, Chapter 10, Section 2485), which requires that the driver of any diesel bus shall not idle for more than five minutes at any location, except in the case of passenger boarding where a ten minute limit

is imposed, or when passengers are onboard. Furthermore, the Tribe shall provide a "Drivers Lounge" for bus and truck drivers to discourage idling.

F. Where feasible, the Tribe shall use alternative fuels for casino vehicles.

G. The Tribe shall encourage and facilitate the use of 'carpools' for construction workers and facility employees; tour buses for casino patrons to reduce vehicular use and air pollution.

H. The Tribe shall maintain all vehicles to manufacturer's specifications.

I. The Tribe shall ensure that buildings are oriented to take advantage of solar heating and natural cooling, and use passive solar designs.

J. The Tribe shall ensure use of solar, low-emission, central, or tankless water heaters and install wall insulation that shall exceed Title 24 requirements.

K. If mechanical ventilation is included in the parking structure design, the exhaust shall be vented in a direction away from inhabited areas. Directing the exhaust away from inhabited areas would reduce the impacts of parking structure-generated CO to a less-than-significant level.

L. The Tribe shall ensure that all shift changes occur during non-peak hours.

M. A minimum of 20 percent of landscape maintenance equipment used by the Tribe shall be electric and outlets shall be provided on the exterior of all buildings for this use.

N. A final Conformity Determination has been issued (see FEIS Appendix W) based upon evidence of conformance with the State Implementation Plan (SIP) for NO_X and CO through the purchase of 149 tons of NO_X Emission Reduction Credits (ERCs). The ERCs will be purchased in the BAAQMD pursuant to an enforceable contract to purchase the ERCs before the start of construction (see FEIS Appendix W, Addendum 1).

O. Regional air quality impacts would be reduced, but not to a level that is less than significant for ROG, NO_x, or PM_{10} with the addition of Mitigation Measures 6.3A-M. However, with the implementation of Mitigation Measures 6.3N, NO_x impacts are less than significant. With the implementation of Mitigation Measures 6.3P, ROG and PM_{10} impacts would be less than significant, assuming Mitigation Measure P is cost and technologically feasible and appropriate mitigation programs are available within the air basin (see **Table 1**). If Mitigation Measure P is not implemented; then a significant and unavoidable impact to air quality would remain.

P. One or more of the following measures will be implemented to reduce ROG and PM_{10} emissions to less than 15 tons per year and $PM_{2.5}$ to less than 100 tons per year.

   a. Pave or resurface unpaved roadway(s) or roadway(s) in a deteriorated state within the San Francisco Bay Area Air Basin, which have a minimum daily vehicle count of 100 vehicles.

b. Contribute to a program to retrofit residential fireplaces that do not meet USEPA certification standards within the San Francisco Bay Area Air Basin.

c. Purchase low emission buses to replace older municipal or school buses used within the San Francisco Bay Area Air Basin.

d. Purchase hybrid vehicles to replace existing governmental fleet vehicles within the San Francisco Bay Area Air Basin.

e. Purchase and install on-site or within the San Francisco Bay Area Air Basin; a photovoltaic array, wind powered energy, and/or other form(s) of renewable energy.

f. Contribute a fair share percentage to the synchronization of traffic signals within the San Francisco Bay Area Air Basin.

g. Purchase Emission Reduction Credits if available from sources within the San Francisco Bay Area Air Basin.

TABLE 1
MITIGATED OPERATION EMISSIONS – VARIANT H-SUB 1

Sources	ROG	NOx	PM_{10}	$PM_{2.5}$[1]
	tpy	tpy	tpy	tpy
Mitigated Emissions (all mitigation except 5.2.3 P)	72.38	123.07	139.61	138.49
Reduction from Mitigation Measure 5.2.3 P	57.38	123.07	124.61	38.49
Final Mitigated Emissions	15	0	15	100
Significant Effect?	No	No	No	No

Note: tpy = tons per year. N/A = Not Applicable

[1] CARB speciation profile shows that 99.2% of PM_{10} is $PM_{2.5}$ for gasoline powered engine emissions and 92.0% for diesel powered engine emissions. 99.2% is assumed here for a conservative analysis. See Attachment 7 to this ROD for a technical memorandum demonstrating the conservative nature of this assumption.

Source: URBEMIS, 2007.

Odor Impacts

Q. The WWTP shall be constructed with comprehensive odor control facilities, including the injection of odor control oxidants at the sewage lift station and construction of a covered headworks with odor scrubber at the WWTP.

R. Spray drift from the WWTP or spray disposal field shall be monitored daily during operation by qualified personnel. Spray drift from these two sources shall not be allowed to migrate out of the plant's property boundaries. In the event that spray drift emanating from sprayfield does migrate outside of the property boundaries, operational measures shall be taken to eliminate offsite drift of spray.

S. Spray field irrigation will cease when winds exceed 30 mph.

Toxic Air Contaminants

T. Proposed commercial land uses (e.g., loading docks) that have the potential to emit toxic air emissions shall be located as far away as feasibly possible from existing and proposed sensitive receptors in accordance with CARB's Air Quality and Land Use Handbook. In addition, loading docks will provide refrigeration trucks with electrical outlets. Truck using the loading docks shall not idle for more than five minutes.

U. Air intakes associated with the heating and cooling system for buildings shall not be located next to potential TAC-emitting locations (e.g., loading docks) in accordance with CARB's Air Quality and Land Use Handbook.

Indoor Air Quality

V. The Tribe shall ensure that ventilation of outdoor air is consistent with American Society of Heating, Refrigerating, and Air-conditioning Engineers (ASHRAE) Standard 62-1999[2] under all operating conditions.

W. To limit public exposure to environmental tobacco smoke, the Tribe shall provide non-smoking areas, or "smoke-free zones" in the casino gaming area.

X. The Tribe shall provide non-smoking rooms in the hotel.

Y. The Tribe shall ensure that comfort levels are acceptable to most occupants, and be consistent with ASHRAE Standard 55-1992[3], under all operating conditions.

Z. Signage shall be prominently displayed alerting patrons and employees of areas that permit smoking, noting that environmental tobacco smoke has been found to be deleterious to health, and noting the availability of a brochure(s) describing the health effects of exposure environmental tobacco smoke.

AA. A brochure(s) describing the health effects of exposure to environmental tobacco smoke shall be made available to casino patrons in common areas that permit smoking.

BB. Prospective employees shall be informed, prior to their hire, that indoor smoking is permitted in portions of the buildings where they may be employed.

CC. Prospective employees shall be given a brochure(s) describing the health effects of exposure to environmental tobacco smoke.

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2 ASHRAE Standard 62-1999, *Ventilation for Acceptable Indoor Air Quality*, is the generally accepted standard for commercial buildings in the United States.

3 ASHRAE Standard 55-1992, *Thermal Environmental Conditions for Human Occupancy*, identifies many factors that influence thermal comfort and the perception of thermal conditions. Among them are temperature, radiation, humidity, air movement, vertical, and horizontal temperature differences, temperature drift, personal activity, and clothing.

DD. The Tribe shall ensure that significant expected sources of pollutant emissions are isolated from occupants using physical barriers, exhausts, and pressure controls.

EE. The Tribe shall ensure that outdoor air entering the building is protected from contamination from local outdoor sources and from building exhausts and sanitation vents.

FF. The Tribe shall ensure that provisions are made for easy access to heating, ventilation, and air conditioning (HVAC) equipment requiring periodic maintenance.

GG. The Tribe shall ensure that occupant exposure to construction contaminants is minimized using protocols for material selection, preventive installation procedures, and special ventilation and pressure control isolation techniques.

HH. The Tribe shall ensure the use of low-emitting building products pursuant to Integrated Waste Management Board's Section 01350 where feasible.

Climate Change

As noted in **Table 2**, a less than significant cumulative impact to global climate change would result after the implementation of Air Quality Mitigation Measures E. In addition, the implementation of the following mitigation measures is recommended, subject to the discretion of the Tribe, to further reduce project climate change impacts.

TABLE 2
Preferred Alternative Compliance with State emissions reduction strategies

Exec Order S-3-05 / AB 32 Strategy	Project Design / Mitigation Measure Compliance
Diesel Anti-Idling: In July 2004, the CARB adopted a measure to limit diesel-fueled commercial motor vehicle idling.	Project would be in compliance after implementation of Air Quality Mitigation Measure E.
Achieve 50 percent statewide Recycling Goal: Achieving the State's 50 percent waste diversion mandate as established by the Integrated Waste Management Act of 1989, (AB 939, Sher, Chapter 1095, Statutes of 1989), will reduce climate change emissions associated with energy intensive material extraction and production as well as methane emission from landfills. A diversion rate of 48 percent has been achieved on a statewide basis. Therefore, a 2 percent additional reduction is needed.	Project would be in compliance as discussed in FEIS Section 4.12.
Water Use Efficiency: Approximately 19 percent of all electricity, 30 percent of all natural gas, and 88 million gallons of diesel are used to convey, treat, distribute and use water and wastewater. Increasing the efficiency of water transport and reducing water use would reduce greenhouse gas emissions	Project would be in compliance as discussed in FEIS Section 4.12.

SOURCE: State of California, Environmental Protection Agency, and Climate Action Team, 2006

II. The Tribe shall ensure the use of low-emitting building products pursuant to Integrated Waste Management Board's Section 01350 where feasible.

JJ. The Tribe shall plant trees and vegetation on-site or fund such plantings off-site. The addition of photosynthesizing plants would reduce atmospheric CO2, because

plants use CO2 for elemental carbon and energy production. Trees planted near buildings would result in additional benefits by providing shade to the building; thus reducing heat absorption, reducing air conditioning needs and saving energy.

KK. The Tribe shall ensure use of solar, low-emission, central, or tankless water heaters and install wall insulation that shall exceed Title 24 requirements.

LL. The Tribe Shall use energy efficient appliances in the hotel and casino.

MM. Environmentally preferable materials shall be used to the extent practical for construction of facilities.

NN. The Tribe shall install a photovoltaic cell array(s) on the roof of the proposed parking garage and/or the roof(s) of other on-site structures, if feasible. The installation of photovoltaic (PV) on-site would reduce dependence on Pacific Gas and Electric (PG&E) electricity. PV cells convert energy from the sun into electrical energy with no emission of green house gases (GHGs); thus, the indirect GHG emissions would be reduced.

OO. The Tribe shall enroll in the ClimateSmart program that is offered to PG&E customs to reduce their indirect GHG emissions form electrical generation to zero. PG&E provides electricity uses with the opportunity to become "carbon neutral" under the ClimateSmart program.

PP. The Tribe shall purchase CO2e offsets to reduce or eliminate GHG impacts, where feasible.

QQ. The Tribe shall increase the recycling goal noted in Mitigation Measure 5.2.8d from 25 to 50 percent.

6.4 BIOLOGICAL RESOURCES

A. For impacts to wetlands or other waters of the U.S., authorization from the USACE is required. Replacement of directly affected wetlands will be at a ratio approved by the USACE. Clean Water Act Section 401 water quality certification will also be required from the USEPA.

B. Wetland mitigation shall be accomplished through creation/restoration of seasonal wetlands onsite and/or within an open space preserve. This creation/restoration will provide an increase in the inventory of seasonal wetlands for the area. The proposed 1.5:1 ratio of seasonal wetland restoration/creation to impacted acreage is expected to be sufficient to satisfy the ratio of replacement to impacted acreage required by regulatory agencies based on wetland functions and values present on the Wilfred Site. A detailed mitigation plan shall be designed that includes monitoring and reporting requirements, responsibilities, performance success criteria, reporting procedures and contingency requirements.

C. A plan shall be developed and implemented to conserve ecological resources in the southern portion of the Wilfred Site. The plan shall address management activities to ensure maintenance of breeding, refugial, and dispersal habitats for California tiger salamander (CTS); and should provide a grazing regimen that will conserve populations of Sonoma sunshine and Burke's goldfields. The current mitigation ratios for listed plants species on the Santa Rosa Plain as required in the Programmatic Biological Opinion are based on the presence of suitable versus occupied habitat, and the potential for presence of Burke's goldfields and Sonoma sunshine; or Sebastopol meadowfoam. The site is considered to be occupied if surveys conducted using the USFWS protocol determined presence of the plants, or if the site had listed plants in the past. Protocol botanical inventories for federal listed plants on the Santa Rosa Plain consist of a minimum of three site visits per year and a minimum of two years of negative survey data within three years of project proposal submission to substantiate a negative finding. Under the Programmatic Biological Opinion, seasonal wetlands such as those present on the Wilfred Site and that are within the range of the three listed plants species are considered suitable habitat for the listed plants even if intensive surveys fail to locate their presence. This provision is necessary because seed banks are often persistent; some plant species may not produce seedlings for many years until conditions are appropriate.

The mitigation requirements for the Preferred Alternative are shown in **Table 3**

TABLE 3
Preferred Alternative Mitigation Requirement for Impacts to Listed Plant Species of the Santa Rosa Plain

	Acres
Seasonal Wetland Impacts	0.55
Mitigation – Occupied/Established Habitat	0.55
Mitigation – Established Habitat	0.275
Total Mitigation Requirement	0.775

Source: AES, 2009

D. Development impacts on CTS aestivation habitat on the Wilfred Site have been evaluated in a USFWS Biological Opinion, issued on February 3, 2009. This approved BO requires mitigation for CTS aestivation habitat at a ratio of 1:1 within 1.3 miles of a known breeding site and 3:1 for projects that are within 500 feet of an adult occurrence.

With impacts to 81.13 acres of CTS habitat, Variant H-sub1 would require the purchase of 88.84 acres in a mitigation bank or of farmland purchase and placement under a conservation easement. Impacts to CTS aestivation habitat shall be mitigated off-site and shall consist of purchase of CTS credits from an approved mitigation bank or purchase of farmland providing suitable habitat for CTS (where CTS are known to occur) and placement of the land under conservation easement.

At least a 50-foot buffer shall be maintained between wetlands and sprayfields. Mitigation plans shall also include relocation of CTS from development areas (including locations of created wetlands), the use of biological monitors on a daily basis during construction and or excavation activities, and fencing to exclude the CTS from entering the construction zone. Prior to construction work beginning each morning, the biological monitor will check equipment for animals and CTS under construction equipment and stored pipes. The biological monitor shall also check all steep-walled holes and trenches greater than one foot in depth for any CTS. The biological monitor shall remove CTS as needed from equipment and construction-related features (i.e., trenches, holes, etc.). Purchase of credits at an off-site mitigation bank may be implemented if determined to be appropriate by the USFWS during the Section 7 consultation process.

E. A pre-construction survey for burrowing owls shall be conducted to ensure impacts to burrowing owls, if present in the construction area, do not occur during the nesting season. The pre-construction survey shall be conducted within 30 days prior to initiation of construction activity. If active burrows are found prior to the nesting season, passive relocation measures shall be provided for each burrow in the area of the Wilfred Site, as appropriate, that is rendered biologically unsuitable. Passive relocation measures shall include the creation of two natural or artificial burrows for each burrow rendered biologically unsuitable. Daily monitoring shall be implemented until the owls have been relocated to the new burrows. This measure will reduce potential impacts to burrowing owls. Other mitigation measures may be implemented, in lieu of the proposed mitigation, including avoidance or passive relocation with one-way doors, as outlined in the "Staff Report on Burrowing Owl Mitigation" (CDFG, 1995).

F. Pre-construction surveys for nesting birds shall be conducted within 30 days prior to initiation of construction activity. If feasible, construction and tree removal (grubbing, vegetation removal) should be timed to take place during late summer months and through winter, ideally from September through February, to avoid impacting nesting birds and other sensitive wildlife species. The approximate nesting season extends from February to September, with a peak nesting period between March through June. If construction or grubbing activities are to take place between late February and late June, a pre-construction survey shall be performed by a qualified biologist to identify any active nests or other special-status species, at least two weeks prior to the start of construction. If bird nests are found, appropriate buffer zones shall be established around all active nests to protect nesting adults and their young from construction disturbance. Through direct consultation with wildlife agency staff, the size of buffer zones shall be determined based on site conditions and species involved. If impacts to nests are unavoidable, consultation shall continue with specific agency guidelines followed for relocation. If construction is delayed for more than two weeks, a second survey shall be performed.

G. All grading and clearing shall be conducted after April 15 and before October 15 of any year, depending on rainfall and/or site conditions to minimize erosion.

Access roads and routes will be limited, as well as the construction staging area, to the minimum size required to achieve the goals of the project. A speed limit of 15 mph on dirt roads shall be maintained. These practices will limit erosion and dust borne particles.

H. During construction, vegetation shall only be cleared from the permitted construction footprint and necessary lay-down and assembly areas. Areas cleared of vegetation, pavement, or other substrates shall be stabilized as quickly as possible and BMPs applied (erosion fencing, straw and other material applied to soils) to prevent erosion and runoff that could affect steelhead fish in the Laguna de Santa Rosa.

I. Hazardous materials including fuels, oils, solvents, etc., shall be stored in sealed containers in a designated location at a minimum of 200 feet from aquatic environments. All fueling and maintenance of equipment shall be conducted at a minimum of 200 feet from aquatic environments.

J. All food items and food-related trash shall be sealed in containers prior to leaving the construction site at the end of the workday; these items shall be removed from the site once every three days. This measure will limit attraction of wildlife and eliminate trash pollution in the Laguna de Santa Rosa.

K. Where appropriate, vegetation removed as a result of project activities shall be replaced with native species that are of value to local wildlife. Native plants have a significant cultural value, are generally more valuable as wildlife food sources, and require less irrigation, fertilizers, and pesticides than exotic species.

L. Turn off as many exterior and interior lights as possible during the peak bird migration hours of midnight to dawn to reduce potential building collisions with migration birds.

M. Install downcast lights with top and side shields to reduce upward and sideways illumination. This will reduce potential disorientation affects from non-directed shine to birds and wildlife species.

N. The Tribe shall make feasible changes to the parking lot design, in consultation with the USACE, to reduce wetland fill.

6.5 CULTURAL RESOURCES

A. The Tribe will implement all mitigation measures concurred upon by the State Historic Preservation Officer (SHPO) during the Section 106 consultation process, including, but not limited to, the following:

a. Site RPC- 5 shall be avoided by all ground disturbing activity.

B. To avoid potential impacts to previously unknown cultural resources, including subsurface resources, the Tribe shall include the following requirements in construction contract specifications for the project:

a. 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 (NHPA) as amended (36 CFR 800). Once the land has been taken into trust for the Tribe, the inadvertent discovery of archaeological resources is also subject to the Native American Graves Protection and Repatriation Act (NAGPRA) (25 USC 3001 et seq.) and the Archaeological Resources Protection Act (ARPA) of 1979 (16 U.S.C. 470 aa-mm). Specifically, procedures for post review discoveries without prior planning pursuant to 36 CFR 800.13 shall be followed. The following shall apply to the inadvertent discovery of both archaeological or paleontological resources: All work within 50 feet of the find shall be halted until a professional archaeologist, or paleontologist as appropriate, can assess the significance of the find. If any find is determined to be significant by the archaeologist, or the paleontologist, then representatives of the Tribe and BIA shall meet with the archaeologist, or paleontologist, to determine the appropriate course of action.

b. If human remains are discovered during ground-disturbing activities on Tribal lands, pursuant to Native American Grave Protection and Repatriation Act (NAGPRA), Section 10.4 Inadvertent Discoveries, the County coroner, the Tribal Official, and representatives from the BIA and NIGC shall be contacted immediately. No further disturbance shall occur until the County coroner, the Tribal Official, and the BIA and NIGC representatives have made the necessary findings as to the origin and disposition.

6.6 SOCIOECONOMIC CONDITIONS AND ENVIRONMENTAL JUSTICE

A. The Tribe shall provide annual payments of at least $157,500 to Sonoma County to mitigate for fiscal impacts to Sonoma County. The County and the Tribe are free to negotiate payments greater than this amount; however, a MOU must at least provide for annual payments of $157,500 in order to mitigate fiscal impacts to a less-than-significant level.

B. Given that Variant H-sub1 has a gaming component that is smaller than FEIS Alternatives A-C, but still larger than most in California, the same crime mitigation payments cited in FEIS Table 5-5 (**Table 4** below) and the City of Rohnert Park MOU would apply. Thus, the Tribe shall provide annual payments of at least $500,000 to the City of Rohnert Park and $700,000 to Sonoma County and the additional neighboring cities (distributed per **Table 4**).

TABLE 4
Crime Impact Mitigation

Jurisdiction	Minimum Mitigation (dollars)
Cotati	$12,808
Petaluma	$102,591
Santa Rosa	$286,923
Sebastopol	$14,596
Unincorporated Sonoma County	$283,082

SOURCE: Bay Area Economics, 2008. Final Socio-economic Impact Study for the Proposed Graton Rancheria Hotel/Casino Project, February 8, 2008.

C. The Tribe shall provide at least $250,000 per year to a problem gambling treatment and prevention program(s). In order to maximize the effectiveness of MOU payments to treatment and prevention programs, the organization that receives the payments for problem gambling treatment must serve the Sonoma County region, and be accessible to County residents.

D. The Tribe shall prominently display (including on any automatic teller machines (ATMs) located on-site) materials describing the risk and signs of problem and pathological gambling behaviors. Materials shall also be prominently displayed (including on any ATMs located on-site) that provide available programs for those seeking treatment for problem and pathological gambling disorders, including, but not limited to a toll-free hotline telephone number.

E. The Tribe shall train employees to recognize domestic violence and sexual assault situations, display domestic violence hotline numbers, and work with local agencies in domestic violence and sexual assault prevention.

F. The Tribe shall conduct annual customer surveys in an attempt to determine the number of problem and pathological gamblers and make this information available to City of Rohnert Park, Sonoma County, state, or federal gaming regulators upon request.

G. The Tribe shall undertake responsible gaming practices that at a minimum require that employees be educated to recognize signs of problem gamblers, that employees be trained to provide information to those seeking help, and that a system for voluntary exclusion be made available.

H. ATMs shall be not be visible from gaming machines and gaming tables.

6.7 RESOURCE USE PATTERNS

Transportation/Circulation

Recommended intersection improvements identified in the FEIS traffic impact study (FEIS Appendix O) and the revised traffic impact study in ROD Attachment 4 are identified in **Table 5**. Additional detail on the recommended intersection improvements is contained in Appendix O of the FEIS and Attachment 4. Refer to FEIS Appendix O for traffic improvement recommendations that do not differ between Alternatives A and H (and hence would be the same for Variant H-sub1). Where traffic improvement recommendations differ between Alternatives A and H in FEIS Appendix O, refer to Attachment 4 for the Variant H-sub1 improvement recommendations.

In order to reduce or eliminate Variant H-sub1's traffic impact, the Tribe must pay either a proportionate share or the full cost of the implementation of the recommended traffic improvements. A proportionate share is required when the level of service (LOS) at the study intersection is recorded as an unacceptable LOS without the addition of project trips. In such cases, the Tribe shall be responsible for the incremental impact that the added project trips generate, calculated as a percentage of the costs involved for construction of the mitigation measure. The proportionate share is derived from the percentage that the added project trips contribute to the new total trips at the study intersection. The proportionate share calculation methodology recommended by the agency with jurisdiction shall be used for each individual improvement. In most cases, a full share is required when the LOS at the study intersection is recorded as an acceptable LOS without the addition of project trips. An exception to this general requirement is situations where the project's contribution to operation of an intersection may be relatively small, but sufficient to cause an intersection that is on the verge of operating unacceptably to operate at an unacceptable LOS. Note that the Tribe has independently agreed to "fund any and all mitigation improvements for Wilfred Avenue set forth in the FEIS which are within the County's jurisdiction when the improvements are made, including, but not limited to, any required acquisitions for right of way, environmental studies, and road improvements."

The Tribe shall make funding for implementation of the recommended near term road improvements available prior to initiation of project construction. Funding for long term improvements shall be made available prior to 2020. Funds shall be placed in an escrow account for use by the governmental entity with jurisdiction over the road to be improved so that the entity may design (funding shall be for design standards consistent with those required for similar facilities in the region, unless a deviation is approved by the entity with jurisdiction), obtain approvals/permits for, and construct the recommended road improvement (note that the entity may request that the Tribe directly perform some of these tasks). In some cases, the governmental entity may feel that an improvement slightly differing from that recommended may better facilitate traffic flow while still mitigating the alternative's impact. In this case, the terms of the escrow account shall allow use of the funds provided by the Tribe to implement the improvement even though the improvement differs slightly from that recommended by the traffic impact study.

A. Since Caltrans' funding is limited, the Tribe shall pay for a proportionate share of the remaining costs (if any) to implement the Caltrans high-occupancy vehicle (HOV) projects along US-101 between Wilfred Avenue and Old Redwood

Highway, thereby assisting in a more expedited and timely construction schedule (near term).

B. The Tribe shall contribute a proportionate share of the costs to widen Wilfred Avenue from Redwood Drive to Langner Avenue to three lanes in the near term and five lanes in the long term (2020).

C. The Tribe shall support efforts to complete the US-101 HOV lane project so that it can become operational prior to the scheduled completion as estimated by Caltrans (near term).

D. The Tribe shall contribute a proportionate share of the remaining costs (if any) of the construction of the Wilfred Avenue interchange project, including HOV lanes, ramp metering, and auxiliary lanes and support efforts related to the completion of the project in a timely fashion (near term).

E. The ramp metering shall be adjusted to account for the additional project traffic at the Wilfred Avenue interchange in the long term (2020).

F. The Tribe shall contribute a proportionate share to the construction of an additional traffic lane in the southbound direction from Santa Rosa Avenue to Rohnert Park Expressway and from SR-116 to West Sierra Avenue (2020). The Tribe shall contribute a proportionate share to the construction of auxiliary lanes between Rohnert Park Expressway and SR-116 (2020).

G. Should the above additional traffic lane mitigation on US-101 be infeasible or unavailable as mitigation in the near-term or long-term, the Tribe shall investigate other options to reduce traffic congestion on US-101, such as partial funding of the planned SMART commuter transit system and other regional transit programs.

H. A Traffic Management Plan (TMP) shall be prepared in accordance with standards set forth in the United State Department of Transportation (USDOT) *Manual on Uniform Traffic Control Devices for Streets and Highways*. The traffic management plan shall be submitted to each affected local jurisdiction and/or agency. Also, prior to construction, the Tribe shall work with emergency service providers to avoid obstructing emergency response service. Police, fire, ambulance, and other emergency response providers shall be notified in advance of the details of the construction schedule, location of construction activities, duration of the construction period, and any access restrictions that could impact emergency response services. The TMP shall include details regarding emergency service coordination. Copies of the TMP shall be provided to all affected emergency service providers.

TABLE 5
PREFERRED ALTERNATIVE INTERSECTION MITIGATION

FEIS Intersection #	Intersection Improvements	Near Term* Share	2020 Share
1	**Wilfred/Stony Point**		
	Signalize	P	P
5	**Labath/Wilfred**		
	Signalize	P	P
	Add WB left and change WB all shared to through-right	P	
	Add NB right and change NB all shared to left-through	P	P
6	**Dowdell/Wilfred**		
	Signalize	P	P
	Add WB left and change WB all shared to through right	P	
	Add EB left and change EB all shared to through-right	P	
7	**Wilfred/Redwood**		
	Change WB left-through to through	F	P
	Change phasing east-west to protected from split	F	P
	Optimize signal timing	F	P
	Add EB left and EB right and change EB all-shared to through-right	F	
10	**Golf Course/Commerce**		
	Add EB right turn overlap phase	-	P
12	**Commerce Blvd./US-101 NB Ramps**		
	Construct State Farm – Business Park Overcrossing and a southbound slip ramp from the US-101 NB Ramps to the overcrossing	F	F
14	**Business Park/Labath**		
	Preferred Alternative access intersection	F	F
17	**Labath/Rohnert Park Expwy**		
	Extend SB left turn bay to 350 feet (from 100 feet)	F	F
20	**US-101 NB Ramps/Rohnert Park Expwy**		
	Extend NB left turn lane bay to 400 feet (from 225 feet)	F	F
	Add second NB left turn lane	F	F
21	**Commerce Blvd./Rohnert Park Expwy**		
	Optimize signal timing	F	-
	Add an EB right turn overlap phase	F	-
22	**Stony Point Rd./SR-116**		
	Optimize signal timing	-	F
	Add an EB right turn bay for 100 feet	-	F
26	**Millbrae/Stony Point Rd**		
	Signalize	P	P

NOTE: F = full cost of mitigation measure, P = proportionate cost of mitigation measure, NB = northbound, SB = southbound, EB = eastbound, WB = westbound

- Near term improvements correspond with improvements labeled "2008" in the FEIS. Funding of these improvements shall occur according to the instructions found at the beginning of Section 6.8 in order to ensure that these improvements are in place as near as possible to the project opening date.

SOURCE: Kimley-Horn and Associates, Inc., 2008. Graton Rancheria Casino and Hotel – Alternative A, B, C, D, E, & F Final Traffic Impact Study. July 2008.

I. Flagging done in consultation with the California Highway Patrol (CHP), Caltrans, and the County's Sheriff's Department, shall be provided when necessary to assist with traffic control.

J. Importation of construction material shall be scheduled outside of the area wide commute peak hours.

K. Preferential carpool or vanpool spaces shall be provided at the site to encourage ridesharing by employees and patrons.

L. The Tribe shall sponsor charter buses from destinations such as Marin County and the North Bay.

M. The Tribe shall provide a shuttle between the casino and Rohnert Park transit hubs that would operate on a half hour rotational basis during busy hours and on a on call basis in the times when the frequency of employees and patrons arriving or leaving busy is low.

N. Where feasible, lane closures or obstructions associated with construction shall be limited to off-peak hours to reduce traffic congestion and delays.

O. Prior to construction, the Tribe shall work to notify all potentially affected parties in the immediate vicinity of the Wilfred Site, as appropriate. Notification shall include a construction schedule, location of construction activities, the duration of construction period, and alternative access provisions.

P. Emergency service providers shall be notified of the areas that have the greatest potential for unusual traffic delays as a result of construction activities. Specific detours shall be recommended to circumvent any area that might suffer traffic delays.

Q. The Tribe shall coordinate with the Green Music Center during events that will generate high traffic levels. During that period, traffic control services at the Rohnert Park Expressway interchange may be necessary. Thus, the Tribe shall provide funding for special event traffic monitoring at the Rohnert Park Expressway interchange to identify conflicts during outdoor events generating high traffic levels. Should conflicts occur, the Tribe shall provide traffic management coordination between the project and the Green Music Center, in consultation with the CHP and Caltrans.

R. Debris along construction vehicle routes shall be monitored daily during construction and the roadways cleaned as necessary.

S. The Tribe shall contribute their fair share to bicycle and pedestrian facilities that will increase casino patronage. The Tribe shall consider bicycle and pedestrian circulation in the design of intersections and turning movements, and that adequate

sidewalk facilities, striped crosswalks, and pedestrian countdown signals for elderly and disabled citizens be provided.

T. The Tribe shall minimize the amount of construction fill transported on the surrounding street network by eliminating the off-site travel route except where necessary to obtain materials that cannot be obtained on-site. Potential options for eliminating off-site transport include moving fill material via conveyors across barriers such as creeks and ditches or installing temporary bridges for haul vehicles across the barriers.

U. Construction material importation shall be scheduled outside of the area wide commute peak hours. Debris along the truck route caused by trucks should be monitored daily and the roadways shall be cleaned as necessary.

V. Roadways subject to fill truck traffic shall be assessed by an independent third party consultant prior to the start of construction and following the completion of construction. If the third party determines that roadway deterioration has occurred as a result of casino construction, the Tribe shall pay to have surrounding roadways resurfaced to restore the pavement to at least pre-construction condition, unless the resurfacing is already expected to occur within a year or sooner in conjunction with other planned or proposed roadway improvements. In any event, the Tribe shall fully fund the restructuring of Labath Avenue and Langner Avenue between Wilfred Avenue and Business Park Drive following construction to facilitate site access.

W. Even if Wilfred Avenue is not widened to increase capacity, due to the increased use of the roadway in combination with future cumulative traffic, the Tribe shall make a proportionate share contribution to roadway improvements along Wilfred Avenue from Redwood Drive to Stony Point Road, including widened shoulders and Class II bike lanes consistent with applicable standards.

Land Use

X. The Tribe shall maintain the existing Williamson Act requirements in place in accordance with the provisions of that Act.

6.8 PUBLIC SERVICES

Solid Waste

Construction

A. Construction waste shall be recycled to the fullest extent practical by diverting green waste and recyclable building materials away from the solid waste stream.

B. Environmentally preferable materials shall be used to the extent practical for construction of facilities.

Operation

C. A solid waste management plan shall be adopted by the Tribe that addresses recycling and solid waste reduction on-site. The plan shall have a goal of at least 25% diversion of materials from disposal, which includes reduction, recycling, and reuse measures.

D. The Tribe shall install a trash compactor for cardboard and paper products.

E. The Tribe shall install recycling bins throughout the facilities for glass, cans, and paper products.

F. Decorative trash and recycling receptacles shall be placed strategically throughout the area of the Wilfred Site, Stony Point site, or the Lakeville site, as appropriate, to encourage people not to litter at the facilities.

G. Security guards shall be trained to discourage on-site littering.

H. The Tribe shall pay all standard fees for trash collection and disposal.

Electricity, Natural Gas, and Telecommunication

I. Air conditioning and refrigeration systems shall utilize environmentally friendly refrigerants. Energy efficient chillers shall also be utilized.

J. The air handling systems shall utilize outside air economizer cycles to take advantage of ambient cooling when the outside air temperature is below 55 degrees F

K. For applicable alternatives, hotel and casino buildings shall be equipped with a direct digital energy management and control system to perform energy conservation measures, such as optimum start/stop, duty cycling, and demand limiting.

L. The Tribe shall use energy efficient appliances where feasible.

Public Health and Safety

M. The Tribe shall make an agreement with the applicable City or County department to address inspection, maintenance, and operation of any swimming pools, spas, or hot tubs available to patrons. The terms of the agreement shall include design review of the swimming facilities, inspection of the swimming facilities prior to operation, and at least one annual inspection for seasonal swimming facilities or bi-annual inspections for year-round swimming facilities thereafter. The agreement shall include a commitment to comply with standards for design, maintenance, and operation similar to those followed by non-tribally owned businesses in the City or County, as applicable.

Law Enforcement

N. The Tribe shall provide on-site security to reduce and prevent criminal and civil incidents.

O. The Tribe shall adopt employee training programs and policies relating to responsible beverage services with annual training, which would include, but not be limited to, checking patron identification and refusing service to those who have imbibed beyond their ability to function safely. The Tribe shall collaborate with law enforcement by warning intoxicated patrons not to drive and by reporting drunk drivers to the authorities.

P. The Tribe shall support local law enforcement efforts in conducting driving under the influence (DUI) checkpoints and other programs known to reduce the impacts of alcohol on the community (support shall include fully funding at least one DUI checkpoint in the vicinity of the Wilfred Site monthly or less frequently at the discretion of local law enforcement providers).

Q. All parking areas shall be well lit and monitored by parking staff and/or security guards. This will aid in the prevention of auto theft and other related criminal activity.

R. The Tribe shall 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 and safety issues.

S. The Tribe shall pass an ordinance creating a standard policy that encourages responsible drinking and designated driver programs. As part of this policy, the employees serving alcohol shall undergo annual Responsible Beverage Service Training (RBST), also known as "server training." RBST educates mangers, servers and sellers at alcohol establishments about strategies to avoid illegally selling alcohol to underage youth or intoxicated patrons. The goal of RBST is to decrease the number of illegal alcohol sales to underage youth and intoxicated patrons through education programs. Information provided in server training must at a minimum include:

- The importance of checking age identification of customers who appear to be under the age of 30.
- How to identify fake IDs and what to do once a fake ID is confiscated.
- How to recognize situations in which adults are buying alcohol for underage youth.
- How to refuse sales to individuals who may supply alcohol to underage youth.
- How to identify intoxicated customers.
- How to refuse service to underage youth and intoxicated customers.

T. To mitigate potential impacts to law enforcement resources, the Tribe shall adopt rules prohibiting anyone under 21 years of age from gambling, adopt employee training programs and policies relating to responsible beverage services with annual training, conduct background checks of all gaming employees, provide a full complement of security personnel at the Wilfred Site during all times, and adopt programs and policies which discourage gang members from visiting the gaming facilities.

U. Hotel management shall work collaboratively with school and law enforcement personnel to prevent the use of hotel rooms for parties involving minors and the hotel shall have an internal monitoring program to reduce the incidence of such parties

V. Areas surrounding the gaming facilities shall have "No Loitering" signs in place, shall be well lit and shall be patrolled regularly. This will aid in the prevention of illegal loitering and loitering behavior that could potentially lead to other criminal acts.

Fire Protection/Emergency Medical Service
Construction

W. Any construction equipment that normally includes a spark arrester shall be equipped with an arrester in good working order. This includes, but is not limited to, vehicles, heavy equipment, and chainsaws. During construction, staging areas, building areas, and/or areas slated for development using spark-producing equipment shall be cleared of dried vegetation or other materials that could serve as fuel for combustion. To the extent feasible, the contractor shall keep these areas clear of combustible materials to maintain a firebreak.

Operation

X. The Tribe shall make reasonable provisions for adequate emergency, fire, medical, and related relief and disaster services for patrons and employees including the development of a disaster management plan.

Y. The Tribe shall use fire resistant construction materials and equip all enclosed buildings with automatic sprinkler systems. The automatic sprinkler systems shall be designed to meet or exceed the National Fire Protection Association (NFPA) standards governing the different occupancies associated with the project structures.

Z. The Tribe shall employ the most modern construction and fire-engineering techniques in their automatic fire containment system designs so that any fire encountered is contained to the room of origin.

AA. Through the use of modern fire engineering technology, the Tribe shall create and maintain a facility equipped with early detection systems that assure an initial response time to any fire alarm (automatic, local, or report) within three minutes. These systems shall include automatic sprinkler systems in the occupied areas and smoke detection, along with automatic sprinkler systems, in the areas of the facility that are normally unoccupied, such as storerooms and mechanical areas.

BB. If only one fire pump is provided, it will be either diesel, or provided with emergency power; thereby, meeting the requirements of the California Fire Code (CFC), and the CBC.

CC. Prior to operation, the Tribe shall enter into an agreement with a fire service provider to provide primary fire protection services.

DD. Prior to operation, the Tribe shall enter into a contract with AMR or another entity for ambulance service.

6.9 NOISE

A. On-site HVAC equipment shall be shielded to reduce noise.

B. To the extent feasible, HVAC equipment shall be located a significant distance from neighboring houses along Whistler Avenue, Wilfred Avenue, and Labath Avenue. Whenever an HVAC unit is to be placed within 125 feet of an existing residence, an acoustical analysis shall be required to demonstrate that the HVAC noise level does not exceed 45 dBA at the nearest residence.

C. The Tribe shall fully fund the cost of installation of acoustically-rated, dual pane windows (with a minimum Sound Transmission Class (STC) rating of 30) and acoustically rated doors on the facades facing the noise source(s) to minimize noise effects for residences adjacent to Wilfred Avenue between Redwood Drive and Stony Point Road.

D. The Tribe shall fully fund the cost for the construction of raised, landscaped berms or solid walls at least 8 feet in height in order to separate sources of unwanted noise (including on-site traffic circulation noise) from potential noise receptors along Wilfred Avenue. Should a wall be installed, it shall be attractively designed. Adjacent landowners and adjacent governmental jurisdictions shall be consulted with prior to finalizing the design of the berm or wall.

E. Unnecessary vehicle idling shall be prevented during loading dock operations occurring between the hours of 10:00 PM and 7:00 AM.

F. Buses shall not be allowed to idle unnecessarily in areas adjacent to sensitive receptors. Bus parking areas shall also be located as far as feasible from sensitive receptors.

G. To the extent feasible, project construction shall not occur prior to 7:00 AM or after 10:00 PM.

H. Pile driving, should it take place, shall not occur prior to 9:00 AM or after 5:00 PM.

I. On-site wastewater treatment plant equipment shall be shielded or enclosed.

J. Stationary noise-producing equipment such as compressors and generators shall be placed as far as practical from homes, and shielding shall be provided between any such equipment and homes when it is necessary to operate the equipment closer than 200 feet from a home.

6.10 HAZARDOUS MATERIALS

A. In the event that contaminated soil and/or groundwater are encountered during construction related earth-moving activities, all work shall be halted until a professional hazardous materials specialist or a qualified environmental professional can assess the extent of contamination. If contamination is determined to be significant, representatives of the Tribe shall consult with USEPA to determine the appropriate course of action, which may include the development of a Sampling Plan and Remediation Plan if necessary.

B. To reduce the potential for accidental releases, fuel, oil, and hydraulic fluids shall be transferred directly from a service truck to construction equipment and shall not otherwise be stored on-site. Paint, paint thinner, solvents, cleaners, sealants, and lubricants used during construction shall be stored in a locked utility building, handled per the manufacturers' directions, and replenished as needed.

C. Personnel shall follow written standard operating procedures (SOPs) for filling and servicing construction equipment and vehicles. The SOPs, which are designed to

reduce the potential for incidents involving the hazardous materials, shall include the following:

a. Refueling shall be conducted only with approved pumps, hoses, and nozzles.

b. Catch-pans shall be placed under equipment to catch potential spills during servicing.

c. All disconnected hoses shall be placed in containers to collect residual fuel from the hose.

d. Vehicle engines shall be shut down during refueling.

e. No smoking, open flames, or welding shall be allowed in refueling or service areas.

f. Refueling shall be performed away from bodies of water to prevent contamination of water in the event of a leak or spill.

g. Service trucks shall be provided with fire extinguishers and spill containment equipment, such as absorbents.

h. Should a spill contaminate any soil, the soil shall be put into containers and disposed of in accordance with local, state, and federal regulations.

i. All containers used to store hazardous materials shall be inspected at least once per week for signs of leaking or failure. All maintenance and refueling areas shall be inspected monthly. Results of inspections shall be recorded in a logbook that shall be maintained on-site.

j. Staging areas, welding areas, or areas slated for development using spark-producing equipment shall be cleared of dried vegetation or other materials that could serve as fuel for combustion. To the extent feasible, the contractor shall keep these areas clear of combustible materials in order to maintain a firebreak.

k. Any construction equipment that normally includes a spark arrester shall be equipped with an arrestor in good working order.

D. The amount of hazardous materials used in project construction and operation shall be kept at the lowest required volumes.

E. The least toxic material capable of achieving the intended result shall be used to the extent practicable. Non-toxic alternatives shall include garden care products and organic non-toxic cleaners when feasible.

F. A hazardous materials and hazardous waste minimization program shall be developed, implemented, and reviewed annually by the Tribe to determine if additional opportunities for hazardous materials and hazardous waste minimization are feasible, for both project construction and operation.

G. Use of pesticides and toxic chemicals shall be minimized to the greatest extent feasible in landscaping; or less toxic alternatives shall be used.

H. In addition to mitigation described under FEIS Section 5.2.2, the following mitigation shall be implemented: During the groundwater monitoring and pump tests, the potential for the vertical and lateral migration of contaminants from nearby leaking underground storage tank (LUST) sites shall be evaluated (see FEIS Appendix Z for detailed recommendations). The pumping test conducted shall include taking water level measurements in wells that are screened in the Lower Intermediate Zone, Upper Intermediate Zone, and uppermost portion of the saturated zone to verify the conclusions based on historical well hydrographs, refine the drawdown model for the Site, and evaluate the potential for contaminant migration using a typical wellhead protection approach. Implementation of the above measures will reduce any potential impacts to less than significant.

I. Material Safety Data Sheets (MSDS) will be available to casino and emergency personnel and to janitors that identify emergency procedures, safe handling and storage practices. A Hazardous Materials Business Plan for the WWTP will be prepared to addresses emergency response and employee training in first aide in the event a spill of citric acid and sodium hypochloride occurs that compromises the chemical storage containment vessels.

J. A Wastewater Contingency Plan shall be prepared for the WWTP prior to construction that shall identify potential system failures and containment measures. These containment measures shall be made part of the WWTP design to ensure no untreated wastewater will be released from the WWTP in the event of a system failure.

K. Prior to demolition of any residential structures on the Wilfred Site, an asbestos consultant will be hired by the Tribe to determine if Asbestos Containing Materials (ACMs) and lead based paints are present within the residential structures. If ACMs are present within the residential structures, the Tribe shall comply with any federal NESHAP laws requiring BMPs to be employed during demolition as well as recommendations from the asbestos consultant for the removal and disposal of demolition debris that contain lead based paints and ACMs. Recommendations shall at a minimum include BMPs such as applying water to the structures before, during, and after demolition.

6.11 AESTHETICS

A. Design elements shall be incorporated into the project to minimize the impact of buildings and parking lots on the viewshed. These elements include:

a. Incorporation of landscape amenities to complement buildings and parking areas, including setbacks, raised landscaped berms and plantings of trees and shrubs (see Noise Mitigation Measures)

b. Use of earth tones in paints and coatings, and native building materials such as stone.

B. To minimize the impacts of light and glare:

a. Placement of floodlights on buildings shall be set so as not to cast trespassing light off-site.

b. Uplighting of structures has a high potential for off-site light spillage and shall be minimized by limiting uplighting to the main casino and hotel facades and prohibiting uplighting of the parking structure and ancillary structures. Any uplighting of the main casino and hotel facades shall be directly focused on the structures.

c. Shielding, such as with a horizontal shroud, shall be used for all outdoor parking lot lighting so as to ensure it is downcast.

d. Timers shall be utilized so as to minimize lighting after a certain hour.

e. Signs and facades shall be tastefully designed, without the use of obtrusive light emitting devices such as neon lights or flashing lights.

f. All exterior glass shall be non-reflective low-glare glass.

6.12 LEED CERTIFICATION

A. The Tribe shall pursue LEED Certification for the hotel component of the project.

6.13 MITIGATION MEASURES THAT ARE NOT ADOPTED

CEQ NEPA regulations 40 C.F.R. § 1505.2(c) call for identification in the ROD of any mitigation measures specifically mentioned in the FEIS that are not adopted. There are no mitigation measures listed in the FEIS for the Preferred Alternative that are not included in this ROD.

EXHIBIT C

February 18, 2010

MEMORANDUM FOR HEADS OF FEDERAL DEPARTMENTS AND AGENCIES

FROM: NANCY H. SUTLEY, Chair, Council on Environmental Quality

SUBJECT: DRAFT NEPA GUIDANCE ON CONSIDERATION OF THE EFFECTS OF CLIMATE CHANGE AND GREENHOUSE GAS EMISSIONS

I. INTRODUCTION

The Council on Environmental Quality (CEQ) provides this draft guidance memorandum for public consideration and comment on the ways in which Federal agencies can improve their consideration of the effects of greenhouse gas (GHG) emissions[1] and climate change in their evaluation of proposals for Federal actions under the National Environmental Policy Act (NEPA), 42 U.S.C. §§ 4321 et seq. This draft guidance is intended to help explain how agencies of the Federal government should analyze the environmental effects of GHG emissions and climate change when they describe the environmental effects of a proposed agency action in accordance with Section 102 of NEPA and the CEQ Regulations for Implementing the Procedural Provisions of NEPA, 40 C.F.R. parts 1500-1508. This draft guidance affirms the requirements of the statute and regulations and their applicability to GHGs and climate change impacts. CEQ proposes to advise Federal agencies that they should consider opportunities to reduce GHG emissions caused by proposed Federal actions and adapt their actions to climate change impacts throughout the NEPA process and to address these issues in their agency NEPA procedures.

The environmental analysis and documents produced in the NEPA process should provide the decision maker with relevant and timely information about the environmental effects of his or her decision and reasonable alternatives to mitigate those impacts. In this context, climate change issues arise in relation to the consideration of:

(1) The GHG emissions effects of a proposed action and alternative actions; and
(2) The relationship of climate change effects to a proposed action or alternatives, including the relationship to proposal design, environmental impacts, mitigation and adaptation measures.

NEPA demands informed, realistic governmental decision making. CEQ proposes to advise Federal agencies to consider, in scoping their NEPA analyses, whether analysis of the direct and indirect GHG emissions from their proposed actions may provide meaningful information to decision makers and the public. Specifically, if a proposed action would be reasonably anticipated to cause direct emissions of 25,000 metric tons or more of CO_2-equivalent GHG emissions on an annual basis, agencies should consider this an indicator that a quantitative and qualitative assessment may be meaningful to decision makers and the public. For long-term actions that have annual direct emissions of less than 25,000

[1] For purposes of this guidance, CEQ defines "GHGs" in accordance with Section 19(i) of Executive Order 13514 (carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride).

metric tons of CO_2-equivalent, CEQ encourages Federal agencies to consider whether the action's long-term emissions should receive similar analysis. CEQ does not propose this as an indicator of a threshold of significant effects, but rather as an indicator of a minimum level of GHG emissions that may warrant some description in the appropriate NEPA analysis for agency actions involving direct emissions of GHGs.

CEQ does not propose to make this guidance applicable to Federal land and resource management actions, but seeks public comment on the appropriate means of assessing the GHG emissions and sequestration that are affected by Federal land and resource management decisions.

Because climate change is a global problem that results from global GHG emissions, there are more sources and actions emitting GHGs (in terms of both absolute numbers and types) than are typically encountered when evaluating the emissions of other pollutants. From a quantitative perspective, there are no dominating sources and fewer sources that would even be close to dominating total GHG emissions. The global climate change problem is much more the result of numerous and varied sources, each of which might seem to make a relatively small addition to global atmospheric GHG concentrations. CEQ proposes to recommend that environmental documents reflect this global context and be realistic in focusing on ensuring that useful information is provided to decision makers for those actions that the agency finds are a significant source of GHGs.

With regards to the effects of climate change on the design of a proposed action and alternatives, Federal agencies must ensure the scientific and professional integrity of their assessment of the ways in which climate change is affecting or could affect environmental effects of the proposed action. 40 CFR 1502.24. Under this proposed guidance, agencies should use the scoping process to set reasonable spatial and temporal boundaries for this assessment and focus on aspects of climate change that may lead to changes in the impacts, sustainability, vulnerability and design of the proposed action and alternative courses of action. At the same time, agencies should recognize the scientific limits of their ability to accurately predict climate change effects, especially of a short-term nature, and not devote effort to analyzing wholly speculative effects. Agencies can use the NEPA process to reduce vulnerability to climate change impacts, adapt to changes in our environment, and mitigate the impacts of Federal agency actions that are exacerbated by climate change.

Finally, CEQ seeks public comment on several issues not directly addressed by this draft guidance, including the assessment of climate change effects of land management activities, and means by which agencies can tailor the amount of the documentation prepared for NEPA analysis so that it is proportional to the importance of climate change to the decision-making process.

II. CONSIDERATION OF THE EFFECTS OF A PROPOSED AGENCY ACTION ON GHG EMISSIONS: WHEN TO EVALUATE GHG EMISSIONS

By statutes, Executive Orders, and agency policies, the Federal government is committed to the goals of energy conservation, reducing energy use, eliminating or reducing GHG emissions, and promoting the deployment of renewable energy technologies that are cleaner and more efficient. Where a proposal for Federal agency action implicates these goals, information on GHG emissions (qualitative or quantitative) that is useful and relevant to the decision should be used when deciding among alternatives.

Many projects and programs proposed by the Federal government have the potential to emit GHGs. Accordingly, where a proposed Federal action that is analyzed in an EA or EIS would be anticipated to emit GHGs to the atmosphere in quantities that the agency finds may be meaningful, it is appropriate for the agency to quantify and disclose its estimate of the expected annual direct and indirect GHG emissions in the environmental documentation for the proposed action. Where the proposed

activity is subject to GHG emissions accounting requirements, such as Clean Air Act reporting requirements that apply to stationary sources that directly emit 25,000 metric tons or more of CO_2-equivalent GHG on an annual basis,[2] the agency should include this information in the NEPA documentation for consideration by decision makers and the public. CEQ does not propose this reference point for use as a measure of indirect effects, the analysis of which must be must be bounded by limits of feasibility in evaluating upstream and downstream effects of Federal agency actions. In the agency's analysis of direct effects, it would be appropriate to: (1) quantify cumulative emissions over the life of the project; (2) discuss measures to reduce GHG emissions, including consideration of reasonable alternatives; and (3) qualitatively discuss the link between such GHG emissions and climate change. However, it is not currently useful for the NEPA analysis to attempt to link specific climatological changes, or the environmental impacts thereof, to the particular project or emissions, as such direct linkage is difficult to isolate and to understand. The estimated level of GHG emissions can serve as a reasonable proxy for assessing potential climate change impacts, and provide decision makers and the public with useful information for a reasoned choice among alternatives.

The reference point of 25,000 metric tons of direct CO_2-equivalent GHG emissions may provide agencies with a useful indicator – rather than an absolute standard of insignificant effects -- for agencies' action-specific evaluation of GHG emissions and disclosure of that analysis in their NEPA documents. CEQ does not propose this reference point as an indicator of a level of GHG emissions that may significantly affect the quality of the human environment, as that term is used by NEPA, but notes that it serves as a minimum standard for reporting emissions under the Clean Air Act. Evaluation of significance under NEPA is done by the action agency based on the categorization of actions in agency NEPA procedures and action-specific analysis of the context and intensity of the environmental impacts. 40 CFR 1501.4, 1508.27. Examples of proposals for Federal agency action that may warrant a discussion of the GHG impacts of various alternatives, as well as possible measures to mitigate climate change impacts, include: approval of a large solid waste landfill; approval of energy facilities such as a coal-fired power plant; or authorization of a methane venting coal mine. Other Federal policies, programs, or plans that cover multiple actions subject to NEPA – such as actions tiered from programmatic NEPA documents – may more appropriately address GHG emissions at the level of individual projects. In many cases, the GHG emissions of the proposed action may be so small as to be a negligible consideration. Agency NEPA procedures may identify actions for which GHG emissions and other environmental effects are neither individually or cumulatively significant. 40 CFR 1507.3.

Many agency NEPA analyses to date have found that GHG emissions from an individual agency action have small potential effects. Emissions from many proposed Federal actions would not typically be expected to produce an environmental effect that would trigger or otherwise require a detailed discussion in an EIS. Significant national policy decisions for which the action's GHG impacts are expected to be substantial have, on the other hand, required analysis of their GHG effects.

HOW TO EVALUATE GHG EMISSIONS

To describe the impact of an agency action on GHG emissions, once an agency has determined that this is appropriate, CEQ proposes that agencies should consider quantifying those emissions using the

[2] 25,000 metric tons may provide a useful, presumptive, threshold for discussion and disclosure of GHG emissions because it has been used and proposed in rule-makings under the Clean Air Act (e.g., EPA's Mandatory Reporting of Greenhouse Gases Final Rule, 74 FR 56260, October 30, 2009). This threshold is used in Clean Air Act rule-makings because it provides comprehensive coverage of emissions with a reasonable number of reporters, thereby creating an important data set useful in quantitative analyses of GHG policies, programs and regulations. See 74 FR 56272. This rationale is pertinent to the presentation of NEPA analysis as well.

following technical documents, to the extent that this information is useful and appropriate for the proposed action under NEPA:

- For quantification of emissions from large direct emitters: 40 CFR Parts 86, 87, 89, et al. Mandatory Reporting of Greenhouse Gases; Final Rule, U.S. Environmental Protection Agency (74 Fed. Reg. 56259-56308). Note that "applicability tools" are available (http://www.epa.gov/climatechange/emissions/GHG-calculator/) for determining whether projects or actions exceed the 25,000 metric ton of CO2-equivalent greenhouse gas emissions.
- For quantification of Scope 1 emissions at Federal facilities: Greenhouse gas emissions accounting and reporting guidance that will be issued under Executive Order 13514 Sections 5(a) and 9(b) (http://www.ofee.gov)
- For quantification of emissions and removals from terrestrial carbon sequestration and various other project types: Technical Guidelines, Voluntary Reporting of Greenhouse Gases, (1605(b) Program, U.S. Department of Energy (http://www.eia.doe.gov/oiaf/1605/))

Land management techniques, including changes in land use or land management strategies, lack any established Federal protocol for assessing their effect on atmospheric carbon release and sequestration at a landscape scale. Therefore, at this time, CEQ seeks public comment on this issue but has not identified any protocol that is useful and appropriate for NEPA analysis of a proposed land and resource management actions.

CEQ notes that agencies may also find useful information in the following sources:

- Renewable Energy Requirements Guidance for EPACT 2005 and EO 13423 (http://www.ofee.gov/eo/epact05_fedrenewenergyguid_final_on_web.pdf)
- EPA Climate Leaders GHG Inventory Protocols (http://www.epa.gov/climateleaders/resources/inventory-guidance.html)

For proposed actions that are not adequately addressed in the GHG emission reporting protocols listed above, agencies should use NEPA's provisions for inter-agency consultation with available expertise to identify and follow the best available procedures for evaluating comparable activities. Agencies should consider the emissions source categories, measurement methodologies and reporting criteria outlined in these documents, as applicable to the proposed action, and follow the relevant procedures for determining and reporting emissions. The NEPA process does not require submitting a formal report or participation in the reporting programs. Rather, under this proposed guidance, only the methodologies relevant to the emissions of the proposed project need to be considered and disclosed to decision makers and the public.

WHAT DEPARTMENTS AND AGENCIES SHOULD CONSIDER AS PART OF THEIR GHG EVALUATION

Federal agencies should structure their NEPA processes "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 1502.1. Inherent in NEPA and the CEQ implementing regulations is a "'rule of reason,' which ensures that agencies determine whether and to what extent to prepare an EIS based on the usefulness of any new potential information to the decisionmaking process." *DOT v. Public Citizen,* 541 U.S. 752, 767 (2004). Where a proposed action is evaluated in either an EA or an EIS, the agency may look to reporting thresholds in the technical documents cited above as a point of reference for

determining the extent of direct GHG emissions analysis that is appropriate to the proposed agency decision. As proposed in draft guidance above, for Federal actions that require an EA or EIS the direct and indirect GHG emissions from the action should be considered in scoping and, to the extent that scoping indicates that GHG emissions warrant consideration by the decision maker, quantified and disclosed in the environmental document. 40 CFR 1508.25. In assessing direct emissions, an agency should look at the consequences of actions over which it has control or authority. *Public Citizen,* 541 U.S. at 768. When a proposed federal action meets an applicable threshold for quantification and reporting, as discussed above, CEQ proposes that the agency should also consider mitigation measures and reasonable alternatives to reduce action-related GHG emissions. Analysis of emissions sources should take account of all phases and elements of the proposed action over its expected life, subject to reasonable limits based on feasibility and practicality.

For proposed actions evaluated in an EIS, Federal agencies typically describe their consideration of the energy requirements of a proposed action and the conservation potential of its alternatives. 40 CFR 1502.16(e). Within this description of energy requirements and conservation opportunities, agencies should evaluate GHG emissions associated with energy use and mitigation opportunities and use this as a point of comparison between reasonable alternatives. For proposals normally evaluated in an EA, agencies may consider the GHG emissions as a factor in discussing alternative uses of available resources. 40 CFR 1508.9(b). CEQ proposes that this analysis should also consider applicable Federal, State or local goals for energy conservation and alternatives for reducing energy demand or GHG emissions associated with energy production.

Where an agency concludes that a discussion of cumulative effects of GHG emissions related to a proposed action is warranted to inform decision-making, CEQ recommends that the agency do so in a manner that meaningfully informs decision makers and the public regarding the potentially significant effects in the context of the proposal for agency action. This would most appropriately focus on an assessment of annual and cumulative emissions of the proposed action and the difference in emissions associated with alternative actions. Agencies may incorporate USGCRP studies and reports by reference in any discussion of GHG emissions and their effects. 40 CFR 1502.21.

Agencies apply the rule of reason to ensure that their discussion pertains to the issues that deserve study and deemphasizes issues that are less useful to the decision regarding the proposal, its alternatives, and mitigation options. 40 CFR 1500.4(f), (g), 1501.7, 1508.25. In addressing GHG emissions, consistent with this proposed guidance, CEQ expects agencies to ensure that such description is commensurate with the importance of the GHG emissions of the proposed action, avoiding useless bulk and boilerplate documentation, so that the NEPA document may concentrate attention on important issues. 40 CFR 1502.5, 1502.24.

An agency may decide that it would be useful to describe GHG emissions in aggregate, as part of a programmatic analysis of agency activities that can be incorporated by reference into subsequent NEPA analyses for individual agency actions. In addition, Federal programs that affect emissions or sinks and proposals regarding long range energy, transportation, and resource management programs lend themselves to a programmatic approach. For example, if GHG emissions or climate change and related effects in general are included in a broad (i.e., programmatic) EIS for a program, subsequent NEPA analyses for actions implementing that program at the project level should, if useful in the NEPA analysis for that decision, tier from the programmatic statement and summarize the relevant issues discussed in the programmatic statement. 40 CFR 1502.20, 1508.28. Such aggregated discussion may be useful under the consideration of agency compliance with requirements for Federal agencies to implement sustainable practices for energy efficiency, GHG emissions avoidance or reduction, petroleum products use reduction, and renewable energy, including bioenergy as well as other required sustainable practices. See, Executive Order 13514 – Federal Leadership in Environmental, Energy, and Economic Performance (74

Fed. Reg. 52117-52127); Executive Order 13423 - Strengthening Federal Environmental, Energy, and Transportation Management (http://nepa.gov/nepa/regs/E.O._13423.pdf). In particular, NEPA analyses for individual actions may incorporate by reference agency Strategic Sustainability Plans and account for GHG effects in accordance with Federal GHG reporting and accounting procedures to the extent that they are applicable to actions that carry out agency obligations under subsections 2(a), (b), (c) and (f) of Executive Order 13514. Such reference to the programmatic accounting of Federal agency GHG emissions under EO 13514 should note where appropriate that the scope of this accounting (for Scope 1, 2 and 3 emissions) may be much broader than the emissions that would be reasonable for assessment within the scope of an individual agency action under NEPA.

To the extent that a federal agency evaluates proposed mitigation of GHG emissions, the quality of that mitigation – including its permanence, verifiability, enforceability, and additionality[3] – should also be carefully evaluated. Among the alternatives that may be considered for their ability to reduce or mitigate GHG emissions are enhanced energy efficiency, lower GHG-emitting technology, renewable energy, planning for carbon capture and sequestration, and capturing or beneficially using fugitive methane emissions. In some cases, such activities are part of the purpose and need for the proposed action and the analysis will provide an assessment, in a comparative manner, of the alternatives and their relative ability to advance those objectives.

III. CONSIDERATION OF CURRENT OR PROJECTED EFFECTS OF CLIMATE CHANGE ON PROPOSALS FOR AGENCY ACTION

CEQ proposes that agencies should determine which climate change impacts warrant consideration in their EAs and EISs because of their impact on the analysis of the environmental effects of a proposed agency action. Through scoping of an environmental document, agencies determine whether climate change considerations warrant emphasis or de-emphasis. 40 CFR 1500.4(g), 1501.7; See Scoping Guidance (CEQ 1981) (http://www.nepa.gov/nepa/regs/scope/scoping.htm) When scoping the impact of climate change on the proposal for agency action, the sensitivity, location, and timeframe of a proposed action will determine the degree to which consideration of these predictions or projections is warranted. As with analysis of any other present or future environment or resource condition, the observed and projected effects of climate change that warrant consideration are most appropriately described as part of the current and future state of the proposed action's "affected environment." 40 CFR 1502.15. Based on that description of climate change effects that warrant consideration, the agency may assess the extent that the effects of the proposal for agency action or its alternatives will add to, modify, or mitigate those effects. Such effects may include, but are not limited to, effects on the environment, on public health and safety, and on vulnerable populations who are more likely to be adversely affected by climate change. The final analysis documents an agency assessment of the effects of the actions considered, including alternatives, on the affected environment.

Climate change can affect the environment of a proposed action in a variety of ways. For instance, climate change can affect the integrity of a development or structure by exposing it to a greater risk of floods, storm surges, or higher temperatures. Climate change can increase the vulnerability of a resource, ecosystem, or human community, causing a proposed action to result in consequences that are more damaging than prior experience with environmental impacts analysis might indicate. For example, an industrial process may draw cumulatively significant amounts of water from a stream that is dwindling because of decreased snow pack in the mountains or add significant heat to a water body that is exposed

[3] Regulatory additionality requirements are designed to ensure that GHG reduction credit is limited to an entity with emission reductions that are above regulatory requirements. See http://www.eia.doe.gov/oiaf/1605/FAQ_GenInfoA.htm#Additionality;

to increasing atmospheric temperatures. Finally, climate change can magnify the damaging strength of certain effects of a proposed action.

Using NEPA's "rule of reason" governing the level of detail in any environmental effects analysis, agencies should ensure that they keep in proportion the extent to which they document their assessment of the effects of climate change. The focus of this analysis should be on the aspects of the environment that are affected by the proposed action and the significance of climate change for those aspects of the affected environment. Agencies should consider the specific effects of the proposed action (including the proposed action's effect on the vulnerability of affected ecosystems), the nexus of those effects with projected climate change effects on the same aspects of our environment, and the implications for the environment to adapt to the projected effects of climate change. The level of detail in the analysis and NEPA documentation of these effects will vary among affected resource values. For example, if a proposed project requires the use of significant quantities of water, changes in water availability associated with climate change may need to be discussed in greater detail than other consequences of climate change. In some cases, discussion of climate change effects in an EA or EIS may warrant a separate section, while in others such discussion may be integrated into the broader discussion of the affected environment.

When assessing the effects of climate change on a proposed action, an agency typically start with an identification of the reasonably foreseeable future condition of the affected environment for the "no action" alternative based on available climate change measurements, statistics, observations, and other evidence. See *Considering Cumulative Effects* (CEQ 1997) at www.nepa.gov. The reasonably foreseeable affected environment should serve as the basis for evaluating and comparing the incremental effects of alternatives. 40 CFR 1502.15. Agencies should be clear about the basis for projecting the changes from the existing environment to the reasonably foreseeable affected environment, including what would happen under this scenario and the probability or likelihood of this future condition. The obligation of an agency to discuss particular effects turns on "a reasonably close causal relationship between the environmental effect and the alleged cause." *Public Citizen*, 541 U.S. at 767. Where climate change effects are likely to be important but there is significant uncertainty about such effects, it may also be useful to consider the effects of any proposed action or its alternatives against a baseline of reasonably foreseeable future conditions that is drawn as distinctly as the science of climate change effects will support.

Climate change effects should be considered in the analysis of projects that are designed for long-term utility and located in areas that are considered vulnerable to specific effects of climate change (such as increasing sea level or ecological change) within the project's timeframe. For example, a proposal for long-term development of transportation infrastructure on a coastal barrier island will likely need to consider whether environmental effects or design parameters may be changed by the projected increase in the rate of sea level rise. See *Impacts of Climate Change and Variability on Transportation Systems and Infrastructure: Gulf Coast Study,* (http://www.globalchange.gov/publications/reports/scientific-assessments/saps/sap4-7), and *Abrupt Climate Change* ((http://www.globalchange.gov/publications/reports/scientific-assessments/saps/sap3-4 (discussing the likelihood of an abrupt change in sea level). Given the length of time involved in present sea level projections, such considerations typically would not be relevant to an action with only short-term considerations.

The process of adaptive planning requires constant learning to reduce uncertainties and improve adaptation outcomes. The CEQ NEPA regulations recognize the value of monitoring to assure that decisions are carried out as provided in a Record of Decision. 40 CFR 1505.3. In cases where adaptation to the effects of climate change is important, the significant aspects of these changes should be identified in the agency's final decision and adoption of a monitoring program should be considered. Monitoring

strategies should be modified as more information becomes available and best practices and other experiences are shared.

For sources of the best scientific information available on the reasonably foreseeable climate change impacts, Federal agencies may summarize and incorporate by reference the Synthesis and Assessment Products of the U.S. Global Change Research Program (USGCRP, http://www.globalchange.gov/publications/reports/scientific-assessments/saps), and other major peer-reviewed assessments from USGCRP . Particularly relevant is the report on climate change impacts on water resources, ecosystems, agriculture and forestry, health, coastlines and arctic regions in the United States. *Global Climate Change Impacts in the United States* (http://www.globalchange.gov/publications/reports/scientific-assessments/us-impacts). Research on climate change impacts is an emerging and rapidly evolving area of science. In accordance with NEPA's rule of reason and standards for obtaining information regarding reasonably foreseeable significant adverse effects on the human environment, action agencies need not undertake exorbitant research or analysis of projected climate change impacts in the project area or on the project itself, but may instead summarize and incorporate by reference the relevant scientific literature. See, e.g., 40 CFR 1502.21, 1502.22. Where agencies consider climate change modeling to be applicable to their NEPA analysis, agencies should consider the uncertainties associated with long-term projections from global and regional climate change models. There are limitations and variability in the capacity of climate models to reliably project potential changes at the regional, local, or project level, so agencies should disclose these limitations in explaining the extent to which they rely on particular studies or projections. 40 CFR 1502.21, 1502.22. The outputs of coarse-resolution global climate models, commonly used to project climate change scenarios at a continental or regional scale, require downscaling and bias removal (i.e., the adjustment of future projections for known systematic model errors) before they can be used in regional or local impact studies. See *Climate Models: An Assessment of Strengths and Limitations.* (http://www.globalchange.gov/publications/reports/scientific-assessments/saps/sap3-1).

Agencies should also consider the particular impacts of climate change on vulnerable communities where this may affect the design of the action or the selection among alternatives. Tribal and Alaska Native communities that maintain their close relationship with the cycles of nature have observed the changes that are already underway, including the melting of permafrost in Alaska, disappearance of important species of trees, shifting migration patterns of elk and fish, and the drying of lakes and rivers. These effects affect the survival for both their livelihood and their culture. Further, sovereign tribal governments with legal rights to reservations and trust resources are affected by ecological changes on the landscape in ways that many Americans are not.

IV. BACKGROUND

1. NEPA and Cumulative Effects in General

NEPA was enacted to, *inter alia,* "promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man." NEPA Section 2, 42 U.S.C. § 4321. NEPA is best known for its action-forcing requirement that "all agencies of the federal government shall . . . include in every recommendation or report on . . . major federal actions significantly affecting the quality of the human environment, a detailed statement by the responsible official on –

(i) the environmental impact of the proposed action,
(ii) any adverse environmental effects which cannot be avoided should the proposal be implemented,
(iii) alternatives to the proposed action,
(iv) the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and

(v) any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented."

NEPA Section 102(2) (C), 42 U.S.C. § 4332(2) (C). This information must be provided for review by agencies with jurisdiction or special expertise regarding the environmental effects described. The agency's "detailed statement," known as an EIS, must be provided to the public, in accordance with NEPA Section 102(2)(C) and the Freedom of Information Act, and be incorporated into the agency decision-making process.

The EIS requirement thus has two purposes. First, it is meant to promote transparency and to ensure public accountability of agency decisions with significant environmental effects. In this sense, it promotes political checks and balances broader public interests against the motivations for agency action. Second, it is meant to ensure that agencies take account of those effects before decisions are made and as part of the agency's own decision-making process. In this sense, it attempts to ensure that agencies consider environmental consequences as they decide how to proceed and take steps, when appropriate, to eliminate or mitigate adverse effects. The agency's "responsibility is not simply to sit back, like an umpire, and resolve adversary contentions . . . Rather, it must itself take the initiative of considering environmental values at every distinctive and comprehensive stage of the process beyond the staff's evaluation and recommendation." *Calvert Cliffs Coordinating Comm., Inc. v. US Atomic Energy Comm'n*, 449 F.2d 1109, 1119 (D.C. Cir. 1971).

Alternatives analysis is an essential element of the NEPA process, both under section 102(2) (C) and in the EA of "conflicts concerning alternative uses of available resources" under Section 102(2) (E). The requirement of consideration of alternatives is meant to ensure that the agency consider approaches whose adverse environmental effects will be insignificant or at least less significant than those of the proposal. "This requirement, like the 'detailed statement' requirement, seeks 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 cost-benefit balance. Only in that fashion is it likely that the most intelligent, optimally beneficial decision will ultimately be made." *Calvert Cliffs*, 449 F.2d at 1114.

NEPA analysis and documentation should be designed to both inform Federal agency decisions and provide for collaborative, coordinated decisions by making "advice and information useful in restoring, maintaining, and enhancing the quality of the environment" available to States, Tribes, counties, cities, institutions and individuals. Section 102(2) (G), 42 U.S.C. § 4332(2) (G). NEPA also requires Federal agencies to support international cooperation by recognizing "the global character of environmental problems and, where consistent with the foreign policy of the United States, lend appropriate support to initiatives, resolutions, and programs designed to maximize international cooperation in anticipating and preventing a decline in the quality of mankind's world environment." Section 102(2) (F), 42 U.S.C. § 4332(2) (F).

Federal actions may cause effects on the human environment that are not significant environment effects, in isolation, but that are significant in the aggregate or that will lead to significant effects. Since 1970, CEQ has construed the term "major Federal actions significantly affecting the quality of the human environment" as requiring the consideration of the "overall, cumulative impact of the action proposed (and of further actions contemplated)." 35 Fed. Reg. 7390, 7391 (1970). "Cumulative impact" is defined in CEQ's NEPA regulations as the "impact on the environment that results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions . . ." 40 C.F.R. § 1508.7. Cf. *Kleppe v. Sierra Club*, 427 U.S. 390, 413-414 (1976). CEQ interprets this regulation as referring only to the cumulative impact of the direct and indirect effects of the proposed action or its alternatives when added to the aggregate effects of past, present, and reasonably foreseeable future

actions. See, CEQ Guidance on the Consideration of Past Actions in Cumulative Effects Analysis (June 24, 2005) at 2, 3 (www.nepa.gov/nepa/regs/Guidance_on_CE.pdf).

As explained in prior CEQ guidance, and described in its handbook *Considering Cumulative Effects,* the analysis of cumulative effects begins with consideration of the direct and indirect effects on the environment that are expected or likely to result from a proposal for agency action or its reasonable alternatives. See *Considering Cumulative Effects* (CEQ 1997) at www.nepa.gov. Agencies then should consider the affected environment by looking for effects of past, present, and reasonably foreseeable future actions that are, in the judgment of the agency, relevant because their effects would increase or change in combination with the direct and indirect effects of the proposal for agency action or its alternatives. The relevant cumulative effects typically result from human activities with effects that accumulate within the temporal and geographic boundaries of the effects of the proposed action.

The purpose of cumulative effects analysis is to document agency consideration of the context and intensity of the effects of a proposal for agency action, particularly whether the action is related to other actions with individually insignificant but cumulatively significant impacts. 40 CFR 1508.27(b)-(7). After such documentation, the dual purposes of NEPA will be satisfied. The public can scrutinize the relevant effects, and the agency, having been made alert to them, can decide how to proceed. The Supreme Court has emphasized that agencies may properly limit the scope of their cumulative effects analysis based on practical considerations. *Kleppe*, 427 U.S at 414 ("Even if environmental interrelationships could be shown conclusively to extend across basins and drainage areas, practical considerations of feasibility might well necessitate restricting the scope of comprehensive statements"). See also 40 CFR 1502.22 (regarding acquisition and disclosure of information that is "relevant to reasonably foreseeable significant adverse impacts" and "essential to a reasoned choice among alternatives").

2. Climate Change in General.

The science of climate change is rapidly developing, and is only briefly summarized in this guidance to illustrate the sources of scientific information that are presently available for consideration. CEQ's first Annual Report in 1970 discussed climate change, concluding that "man may be changing his weather." Environmental Quality: The First Annual Report at 93. At that time, human activities had increased the mean level of atmospheric carbon dioxide to 325 parts per million (ppm). Since 1970, the concentration of atmospheric carbon dioxide has increased at a rate of about 1.6 ppm per year (1979-2008) to the present level of approximately 385 ppm (2008 globally averaged value). *See* U.S. Department of Commerce, National Oceanic and Atmospheric Administration Earth Systems Research Laboratory (http://www.esrl.noaa.gov/gmd/ccgg/trends/). The atmospheric concentrations of other, more potent GHGs have also increased to levels that far exceed their levels in 1750, at the beginning of the industrial era. As of 2004, human activities annually produced more than 49 billion tons of GHG measured in carbon dioxide equivalency according to the Intergovernmental Panel on Climate Change (IPCC). IPCC Fourth Assessment Report: Synthesis Report at 38 (http://www.ipcc.ch/pdf/assessment-report/ar4/syr/ar4_syr.pdf). Nearly every aspect of energy choices and use affect the development of fossil fuel and other energy resources, either adding to or reducing the cumulative total of GHG emissions.

It is now well established that rising global GHG emissions are significantly affecting the Earth's climate. These conclusions are built upon a scientific record that has been created with substantial contributions from the United States' Global Change Research Program (formerly the Climate Change Science Program), which facilitates the creation and application of knowledge of the Earth's global environment through research, observations, decision support, and communication. (http://www.globalchange.gov/)

Based primarily on the scientific assessments of the USGCRP and NRC, EPA has issued a finding that the changes in our climate caused by GHG emissions endanger public health and welfare. (Endangerment and Cause or Contribute Findings for Greenhouse Gases Under Section 202(a) of the Clean Air Act, December 15, 2009, 74 Fed. Reg. 66496). Ambient concentrations of GHGs do not cause direct adverse health effects (such as respiratory or toxic effects), but public health risks and impacts as a result of elevated atmospheric concentrations of GHGs occur via climate change. 74 Fed. Reg. at 66497-98. For example, EPA has estimated that climate change can exacerbate tropospheric ozone levels in some parts of the U.S. Broadly, EPA states that the effects of climate change observed to date and projected to occur in the future include, but are not limited to, more frequent and intense heat waves, more severe wildfires, degraded air quality, more heavy downpours and flooding, increased drought, greater sea-level rise, more intense storms, harm to water resources, harm to agriculture, and harm to wildlife and ecosystems. The Administrator has determined that these impacts are effects on public health and welfare within the meaning of the Clean Air Act. However, the Administrator does not currently believe that it is possible to quantify with great specificity (i.e. geographic), the various health effects from climate change but, because the risks from unusually hot days and nights and from heat waves are very serious, has proposed to find that on balance that these risks support a finding that public health is endangered even if it is also possible that modest temperature increases will have some beneficial health effects. The EPA findings cite IPCC reports that climate change impacts on human health in U.S. cities will be compounded by population growth and an aging population and GCRP reports that climate change has the potential to accentuate the disparities already evident in the American health care systems as many of the expected health effects are likely to fall disproportionately on the poor, the elderly, the disabled, and the uninsured.

V. CONCLUSION

With the purpose of informing decision-making, CEQ proposes that the NEPA process should incorporate consideration of both the impact of an agency action on the environment through the mechanism of GHG emissions and the impact of changing climate on that agency action. This is not intended as a "new" component of NEPA analysis, but rather as a potentially important factor to be considered within the existing NEPA framework. Where an agency determines that an assessment of climate issues is appropriate, the agency should identity alternative actions that are both adapted to anticipated climate change impacts and mitigate the GHG emissions that cause climate change. As noted above, NEPA analysis of climate change issues necessarily will evolve to reflect the scientific information available and the legal and policy context of decisions that the NEPA process is intended to inform. Therefore, once this guidance is issued in final form, CEQ intends to revise it as warranted to reflect developments in the law, policy, and science regarding climate change.

VI. SPECIFIC QUESTIONS FOR PUBLIC REVIEW

In addition to comments on this draft guidance document, CEQ also requests comment on land and resource management issues, including:

1. How should NEPA documents regarding long-range energy and resource management programs assess GHG emissions and climate change impacts?
2. What should be included in specific NEPA guidance for projects applicable to the federal land management agencies?
3. What should be included in specific NEPA guidance for land management planning applicable to the federal land management agencies?
4. Should CEQ recommend any particular protocols for assessing land management practices and their effect on carbon release and sequestration?

5. How should uncertainties associated with climate change projections and species and ecosystem responses be addressed in protocols for assessing land management practices?
6. How should NEPA analyses be tailored to address the beneficial effects on GHG emissions of Federal land and resource management actions?
7. Should CEQ provide guidance to agencies on determining whether GHG emissions are "significant" for NEPA purposes. At what level should GHG emissions be considered to have significant cumulative effects. In this context, commenters may wish to consider the Supreme Court decision in *Massachusetts v. EPA,* 549 U.S. 497, 524 (2007).

After consideration of public comment, CEQ intends to expeditiously issue this guidance in final form. In the meantime, CEQ does not intend this guidance to become effective until its issuance in final form.

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EXHIBIT D

Permit and Resource Management Department

VISUAL ASSESSMENT GUIDELINES

PURPOSE

The purpose of this administrative procedure is to provide guidelines for the assessment of visual impacts in the preparation of Initial Studies and Environmental Impact Reports.

GENERAL

These guidelines provide procedures to guide staff and consultant's in preparing and analyzing visual impacts. While the analysis of visual impacts involves qualitative judgements, this procedure is intended to define a methodology that utilizes to the extent practicable, objective standards that can be described and utilized in a consistent manner.

PROCEDURE

To analyze the visual effects of a specific project the following procedures should be followed.

1. Determine Viewpoints and Characterize Environmental Setting

Project impacts will be analyzed by considering public viewing points. Public viewing points include public roads, public trails, and public parks. Other public gathering places may be considered on a case-by-case basis. Start with topographic maps and aerial photos. Follow up with a "windshield" survey of roads in the vicinity of the project to determine where the project would be most visible to the general public. Consider a variety of viewpoints, and not only the point at which the project is most visible. The "baseline" environmental setting of viewpoints should be discussed in terms of existing physical features, as well as applicable regulations pertaining to development and scenic resources.

2. Prepare Photos to Illustrate Visual Impacts

Photographic analysis is required to evaluate potential visual impacts. Architectural renderings can be used for design considerations, but are discouraged in visual impact analysis because they tend to soften the effects. The visual impact analysis focuses on the mass, scale and contrast of the structure in relation to its surrounding.

A. For smaller projects, staff shall coordinate with the applicant to construct story poles, or tethered balloon clusters that accurately represent the height and location of the project. The story poles or balloon tethers should be marked at 5-foot intervals to provide a reference scale on the photos. In some instances a notice to the area residents describing the purpose for the story poles should be provided and/or site visit should be arranged for the decision-making body.

Take photos of the site from the various viewpoints identified in Step 1, or require the applicant's representative or consultant to provide photos taken from the selected viewpoints along with a site plan illustrating the location and height of each story pole and the viewpoints for the photos. If telephoto photos are to be taken, be sure that a similar photo is taken that represents the view seen by the human eye. A 360 degree panoramic view, taken from where the project will be located, is helpful to convey the surrounding landscape.

The photos should be marked by outlining the proposed structure using the story

poles or balloons as a guide for the roof line and corners of the structure. In some instances, offsite views may be at such a distance, that the balloons or story poles are not readily apparent in the photos without the use of a telephoto lens – include both telephoto and normal eye view in these instances may be needed to illustrate the structure.

B. For more complex projects, a digitized photo simulation may be required. The following tasks are appropriate for visual assessments prepared by consultants:

1. Photograph site from viewpoints determined in Step 1 above. Verify site photography locations on field maps for use with computer model of the proposed project. Delineate additional field references to help verify the computer modeling and viewpoint locations.

2. Prepare baseline photographs from selected viewpoints for the simulations.

3. Develop plan and section figures describing the visual conditions within the project viewshed.

4. Produce a 3D realistic computer model of the proposed project using topographic, architectural and landscape drawings of project. Use AutoCAD or other appropriate software to develop the 3D terrain and architectural aspects of the model.

5 Additional simulations may be done to illustrate the effect of mitigation from landscape screening growth at 5- or 10-year intervals following construction.

6. Apply the proposed building materials and paint colors to the model and render, duplicating the view angle, distance, lighting conditions and time of year in the existing conditions photograph. Use existing elements in the baseline photograph as control points to register the model to the photograph. Repeat for each viewpoint.

7. Verify viewpoint accuracy using computer plot overlays on base photographs.

8. Digitize base photographs for each selected viewpoint.

9. Produce visual simulations that accurately show the proposed project ("before and after") for each selected viewpoint. The simulations should represent the mass, scale, density and proposed grading of the project. The computer simulation must include: all grading including roadways, driveways, landscape and parking areas and tree removal for required fire breaks; all structures and ancillary facilities; and landscaping at the time that construction is completed.

10. Analyze project impacts as described below.

3. **Characterize the Site's Sensitivity**

The visual sensitivity of the project site should be given a rating of low, moderate, high or maximum using the following criteria in Table 1.

Table 1
Site Sensitivity

Sensitivity	Characteristics
Low	The site is within an urban land use designation and has no land use or zoning designations protecting scenic resources. The project vicinity is characterized by urban development or the site is surrounded by urban zoning designations and has no historic character and is not a gateway to a community. The project site terrain has visible slopes less than 20 percent and is not on a prominent ridgeline and has no significant natural vegetation of aesthetic value to the surrounding community.
Moderate	The site or portion thereof is within a rural land use designation or an urban designation that does not meet the criteria above for low sensitivity, but the site has no land use or zoning designations protecting scenic resources. The project vicinity is characterized by rural or urban development but may include historic resources or be considered a gateway to a community. This category includes building or construction sites with visible slopes less than 30 percent or where there is significant natural features of aesthetic value that is visible from public roads or public use areas (i.e. parks, trails etc.).
High	The site or any portion thereof is within a land use or zoning designation protecting scenic or natural resources, such as General Plan designated scenic landscape units, coastal zone, community separators, or scenic corridors. The site vicinity is generally characterized by the natural setting and forms a scenic backdrop for the community or scenic corridor. This category includes building and construction areas within the SR designation located on prominent hilltops, visible slopes less than 40 percent or where there are significant natural features of aesthetic value that are visible from public roads or public use areas (i.e. parks, trails etc.). This category also includes building or construction sites on prominent ridgelines that may not be designated as scenic resources but are visible from a designated scenic corridor.
Maximum	The site or any portion thereof is within a land use or zoning designation protecting scenic resources, such as General Plan designated scenic landscape units, coastal zone, community separators, or scenic corridors. The site vicinity is generally characterized by the natural setting and forms a scenic backdrop for a designated scenic corridor. This category includes building or construction sites within the scenic resource designation on or near prominent ridgelines, visible slopes greater than 40 percent or where there are significant natural features of aesthetic value that are visible from a designated scenic corridor.

Note: A ridgeline is a landform which, when viewed from a public street, is silhouetted against

the sky and where no earth backdrop is provided by the subject or contiguous property for a proposed structure.

4. **Determine Visual Dominance**

The visual dominance of the project is determined comparing the contrast of the following elements or characteristics of the project with its surroundings and giving a rating of inevident, subordinate, co-dominant, or dominant:

- Form: shape, geometry, complexity
- Line: the edge of the shape, boldness, complexity of silhouette, orientation
- Color: reflectivity, hue (actual color), value (dark or light)
- Texture: surface characteristics, randomness, grain (fine or coarse)
- Night Lighting

Based on the criterion listed above, define the visual dominance of the project as described in Table 2.

Table 2
Visual Dominance

Dominance	Characteristics
Dominant	Project elements are strong – they stand out against the setting and attract attention away from the surrounding landscape. Form, line, color, texture, and night lighting contrast with existing elements in the surrounding landscape.
Co-Dominant	Project elements are moderate – they can be prominent within the setting, but attract attention equally with other landscape features. Form, line, color, texture, and night lighting are compatible with their surroundings.
Subordinate	Project is minimally visible from public view. Element contrasts are weak – they can be seen but do not attract attention. Project generally repeats the form, line, color, texture, and night lighting of its surroundings.
Inevident	Project is generally not visible from public view because of intervening natural land forms or vegetation.

5. **Determine Significance of Visual Impacts**

The determination of visual impact significance is made by:

a. Establishing the level of visual sensitivity of the site using the criteria discussed Table 1.

b. Characterizing the visual dominance of the project in terms of its form, line, color, texture, and lighting as described in Table 2.

c. Determining significance of the visual impact by comparing site sensitivity with visual dominance of the project in accordance in Table 3.

Table 3
Thresholds of Significance
for
Visual Impact Analysis

Sensitivity	Visual Dominance			
	Dominant	***Co-Dominant***	***Subordinate***	***Inevident***
Maximum	Significant	Significant	Significant	Less than significant
High	Significant	Significant	Less than significant	Less than significant
Moderate	Significant	Less than significant	Less than significant	Less than significant
Low	Less than significant	Less than significant	Less than significant	Less than significant

6. **Mitigation Measures.** Possible mitigation measures for visual impacts include the following:

- Limit the extent of grading, tree removal, amount of cuts and fills, length of roadways, height of retaining walls and areas for building envelopes. Conservation easements may be appropriate to protect viewsheds and sensitive visual resources.

- Building envelopes may need to be adjusted to avoid the most visible locations and/or reduced in size. Structures could be limited in their size or height to reduce bulk and contrast.

- Color and texture of building materials should be consistent with the surrounding environment. Non-reflective surfaces and darker colors should be utilized to avoid glare and contrast.

- Require screening vegetation and landscape plans subject to Design Review.

- Require exterior lighting plans subject to Design Review. Exterior lighting shall be low mounted, downward casting and fully shielded to prevent glare. Lighting shall not wash out structures or any portions of the site. Light fixtures shall not be located at the periphery of the property and shall not spill over onto adjacent properties or into the sky. Flood lights are not permitted. Parking lot fixtures should be limited in height (20-feet). All parking lot and/or street light fixtures shall use full cut-off fixtures. Lighting shall shut off automatically after closing and security lighting shall be motion-sensor activated.

- Lighting plans should be designed to meet the appropriate Lighting Zone standards from Title 24 effective October 2005 (LZ1 for dark areas, LZ2 for rural, LZ3 for urban).

Letter G-10

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Response Required NO
Due Date
Memo Ltr
Tele

October 19, 2010

Via Federal Express

~~Dale Morris~~, Regional Director, Pacific Region
Bureau of Indian Affairs
2800 Cottage Way
Sacramento, CA 95825

Re: Comments on the Administrative Draft Environmental Impact Statement Cloverdale Rancheria of Pomo Indians, 69 ± Acre Fee to Trust Casino/Hotel Project, Sonoma County, California

Dear Mr. Morris:

The City of Cloverdale (City), as a cooperating agency, appreciates the opportunity to review and comment on the Cloverdale Rancheria of Pomo Indians' Fee-to-Trust and Resort Casino Project Draft Environmental Impact Statement (DEIS) completed in August 2010. The City provided comments on the Administrative Draft Environmental Impact Statement (ADEIS) for the project on April 30, 2009, and met with representatives of the Cloverdale Rancheria of Pomo Indians (Tribe) and its environmental consultants on April 22, 2009, and raised its concerns with the proposed project and the adequacy of the environmental review. The City has conducted a thorough review of the DEIS, and provides a detailed analysis of the potentially significant environmental impacts of the proposed project. This letter analyzes the legal requirements under the National Environmental Policy Act (NEPA) for preparing an Environmental Impact Statement (EIS), examines the proposed alternative and its environmental impacts on land resources, water resources, air quality, socioeconomic conditions, transportation, land use, public services, noise, visual resources, growth-inducing, indirect and cumulative effects, and mitigation of the proposed project's environmental impacts.

Based on our assessment, the DEIS does not meet the basic legal standards under NEPA that require an EIS to provide accurate, scientifically-based information to enable informed public scrutiny of the potential environmental impacts of the proposed project. For example, the DEIS does not provide a sufficient factual basis for many of its most critical assumptions and conclusions, such as housing and economic impacts that will have significant impacts on the City of Cloverdale. Nor does the DEIS present a viable, sustainable alternative as the preferred alternative. Rather, the proposed alternative is G-10.1

unrealistic in scope and size given its location, current market conditions and competing Tribal enterprises. The DEIS is so legally deficient it precludes meaningful review of the potential environmental impacts and should be re-drafted and re-circulated based on reasonable alternatives that are supported by appropriate scientific data and a current market analysis that justifies a more realistic alternative. G-10.1 (cont.)

The City remains committed to working with the Tribe cooperatively and on a government-to-government basis to resolve its concerns, and in that spirit, provides the following detailed comments on the DEIS.

I. Basic NEPA Requirements

The purpose of NEPA is to ensure that environmental information is available to public officials and citizens before a federal agency makes a decision or takes an action. NEPA documents must be based on accurate scientific analysis that permit informed public scrutiny. (40 CFR § 1500.1(b).) Federal agencies must identify and assess the reasonable alternatives to the proposed project and use all practicable means that avoid or minimize the adverse effects of the action on the quality of the human environment. (40 CFR § 1500.2(e) and (f).) When an Environmental Impact Statement (EIS) is prepared, it must "provide full and fair discussion of significant environmental impacts and shall inform decisionmakers and the public of the reasonable alternatives which would avoid or minimize adverse impacts. . . ." (40 CFR § 1502.2.) The Bureau of Indian Affairs (BIA) has also adopted its own NEPA regulations that govern projects and actions taken by the BIA in addition to the standard NEPA statute and CEQ regulations. (BIA NEPA Handbook, § 4.4 C.)

A. Purpose and Need

The purpose and need for the proposed action includes achieving economic self sufficiency, improving the socioeconomic status of the Tribe and providing funding for Tribal services. (DEIS, § 1.3, p. 1-7.) Although NEPA does not require a cost-benefit analysis for an EIS, the CEQ Guidelines provide that an EIS should at least consider the cost-benefits of the various alternatives, including factors not related to environmental quality, when those factors are likely to be relevant and important to a decision. (40 CFR § 1502.23.) Here, the scale of the proposed project cannot be justified in light of other competing Indian casinos in the area without a market analysis that provides evidence that the proposed alternative is feasible. The proposed project is significantly larger than the Dry Creek Band of Pomo Indians' (the Dry Creek Tribe) current River Rock casino ("Dry Creek casino"), which is located approximately 15 miles to the south and closer to the population base from which the proposed project will draw its customers. The Dry Creek casino currently has 1,600 slots and 28 tables and two restaurants with 8,000 square feet of dining area with a total of 61,300 square feet of space situated on 75 acres of Tribal land. (Source: Dry Creek Rancheria Economic Development Master Plan, Environmental Study prepared by ESA January 2008, p. ES-2.) The proposed project analyzed in the DEIS consists of 2,000 slots, 45 gaming tables, and 52,445 square feet of food and beverage area, plus a 244-room hotel, 1,300 seat entertainment center and a 984 seat convention center with a total of 595,600 square feet on 69 acres. The alternatives include a reduced hotel and casino with the same basic footprint G-10.2

(Alternative B), Alternative B with a reduced casino (Alternative C), and a casino-only project (Alternative D). The DEIS also has a commercial retail-office space alternative (Alternative E) and a no project alternative (Alternative F). One critical fact is not addressed in the DEIS – that the Dry Creek casino experienced a revenue drop of 5 percent last year, which caused it to place its proposed expansion plans on hold indefinitely, possibly due to the recession. G-10.2 (cont.)

Moreover, the Federated Indians of the Graton Rancheria (Graton Rancheria) is in the final stages of approval for a 534,900 square foot casino and hotel project near the City of Rohnert Park, which is approximately 40 miles closer to the San Francisco Bay Area than the proposed project. The DEIS does not contain any evidence that economic studies were conducted to verify that the proposed project will meet the Cloverdale Rancheria's purpose and need for economic self sufficiency, particularly in light of the competition from the Dry Creek Tribe's existing facilities and the Graton Rancheria's planned facilities. Given the decrease in patrons the Dry Creek casino enterprise has experienced and the added competition from the Graton Rancheria's project, it appears the proposed project is unlikely to fulfill the stated purpose and need. G-10.3

If the proposed project fails or underperforms, it will be a financial burden, rather than a means of achieving economic self sufficiency for the Tribe. It could also result in significant environmental impacts if the Tribe is not able to maintain the facilities, none of which are addressed in the DEIS. For example, many of the health and safety provisions of the project, including safe water supply, treatment of wastewater, and sprayfield management of treated effluent, require sophisticated and continuous maintenance. If the project is built but cannot sustain itself, those systems and services would lack funding to be maintained. If they fail, they could negatively impact groundwater, Russian River water quality, endangered species and other biological resources. The DEIS must analyze the impacts on these resources if the project fails. Consequently, a cost-benefit analysis or market study with accompanying financial analysis comparing the various proposed alternatives must be completed and included in the DEIS, and a determination made indicating what type and scale of project will best meet the Tribe's purpose and need to be sustainable in light of the competing enterprises that are closer to the project's clientele. Although it appears a market assessment may have been completed for the project (see reference to a market assessment from June 2007 on p. 4.8-2), no study was included as an appendix as required by NEPA. (40 CFR § 1502.18; Council on Environmental Quality (CEQ) Forty Questions No. 25(a).) Because these impacts were not considered in the DEIS, a new DEIS that assesses these impacts must be drafted and re-circulated. G-10.4

B. Alternatives

The BIA NEPA Regulations explain that "[c]onsideration of alternatives should not be a mere exercise, but a good faith effort to find an adequate range of ways to fully and realistically meet the identified need or purpose of the proposed action." (BIA NEPA Handbook, § 4.4 D.) Courts have found that a "reasonable range of alternatives" does not mean variations of the proposed project in the proposed location. (CEQ Forty Questions No. 2(a); *NRDC, Inc. v. Morton*, 458 F.2d 827 (D.C. Cir. 1972).) Rather, a reasonable range of G-10.5

alternatives are those that can be carried out based on technical, economic, environmental, and other factors, and not simply the alternatives that are desirable to the applicant. (*Id.*; see also *Dubois v. U.S. Dept. of Agriculture*, 102 F.3d 1273 (1st Cir. 1996), cert. denied, 521 U.S. 1119 (1997), *City of Tenakee Springs v. Clough*, 915 F.2d 308 (9th Cir. 1990).) In fact, a lead agency may need to include alternatives that are outside the legal jurisdiction of the lead agency or even alternatives that require legislation. (CEQ Forty Questions No. 2(b); *NRDC, Inc. v. Morton*, 458 F.2d 827 (D.C. Cir. 1972).) G-10.5 (cont.)

The Cloverdale Rancheria DEIS fails to comply with NEPA because it does not present a reasonable range of alternatives to the proposed action that are practical or feasible from a technical and economic standpoint, using common sense. (CEQ Forty Questions No. 2(a).) Rather, the Cloverdale Rancheria DEIS presents six alternatives – the proposed project (Alternative A), a reduced hotel and casino alternative (Alternative B), a reduced casino alternative (Alternative C), a casino only alternative (Alternative D), a commercial retail-office space alternative (Alternative E) and a no action alternative (Alternative F). Alternatives A, B, C and D are all simply variations of the exact same project in the same identical location; they are not true alternatives, nor do they constitute a "reasonable range of alternatives" as required under NEPA. Moreover, because the DEIS fails to contain any market study justifying the size, scope or components of any of the alternatives, including the commercial-retail Alternative E, there is insufficient information to permit the "hard look" at the viability of the alternatives or their impacts under NEPA. The DEIS needs to include more variety of distinct and sustainable alternatives that meet the Tribe's purpose and need while reducing the environmental impacts.

C. Project Description

The maps in the DEIS still include the parcel of land currently held in equitable title by the City (Pond 7) at the north eastern portion of the eastern parcels. The City and Tribe's partners are currently attempting to settle title to this parcel, which will ultimately be with the City. Consequently, this parcel should not be included in the maps or project description since it will not be transferred into trust. G-10.6

The project description fails to include relevant plans for the proposed project and other alternatives that are necessary to meet the NEPA requirements for taking a "hard look" at the project. Of particular importance in evaluating the proposed project and alternatives are architectural plans for the proposed structures, a lighting plan, a grading plan, and a drainage plan that address earth movement and flooding issues. Also, because portions of the proposed project are within one of the Cloverdale Airport's Traffic Pattern Zones and the project is in a scenic corridor, a lighting plan and detailed description of the intended signage are required. (See below for a more detailed discussion of Airport impacts.)

II. Environmental Impacts

An EIS must include the possible conflicts between the proposed action and local land use plans, policies and controls for the area concerned. (40 CFR § 1502.16(c).) Other than making a general statement that the proposed project is "generally compatible" with the City G-10.7

and County General Plans, there is no actual analysis of such consistency as required under NEPA. Specific goals and policies from the City of Cloverdale's General Plan are included throughout this comment letter in the sections addressing each relevant environmental topic, along with comments on where the General Plan goals and policies are inconsistent with the proposed project. These inconsistencies have not been addressed in the DEIS as required under NEPA. The DEIS must note the inconsistencies and propose mitigation for the impacts on the City. G-10.7 (cont.)

Another major deficiency in the DEIS is its failure to fully assess the significant impacts on the City of Cloverdale if the proposed project fails or under performs. The potential impacts are significant based on the size of the project itself (600,000 square feet) and based on the size of the project in relation to the surrounding community. The City currently has 348,980 square feet of existing commercial space. The proposed project would increase the commercial space in the community by a factor of nearly 3 times. If the proposed project fails or under performs, the project will create blight that cannot be mitigated. This impact alone suggests the proposed project is too large and should not be considered as the preferred alternative. G-10.8

A. Land Resources

Section 3.2.3 – Seismicity – correctly states that the project site is 4.5 miles from the [Hayward/]Rogers Creek fault. The USGS projects that this fault will have a major seismic event (6.7 or greater) in the next 30 years. This projection implicates the need for assessing building height, building seismic reinforcement and emergency services in case of a major seismic event. Impact 4.2.1-3 states that potential seismic hazards are potentially significant. However, the description of existing conditions fails to cite to the relevant USGS maps and predictions for major seismic events for the Cloverdale area, which, as noted above, indicate the potential for a major earthquake are significant. Instead, the DEIS merely makes generalizations about statewide maps. The DEIS needs to reference the local USGS maps and the information contained in those maps as the basis for evaluating the existing seismic hazards and required mitigation. Moreover, the only mitigation in the DEIS is a statement that a design-level geotechnical report will be prepared and the Tribe will adhere to the recommendations in the report. There is no indication what agency, if any, will review the report and the recommendations or oversee compliance with the recommendations. The DEIS also indicates that the Tribal government will adopt development standards prescribed by the California Building Code (presumably meaning the California Building Standards Code), but this statement is not binding on the Tribe nor does it provide any indication of oversight or verification of compliance with the building standards. Given the extreme likelihood of a major seismic event in the relatively near future, the DEIS should provide details on enforcement of construction standards to ensure structural integrity of the buildings in the event of an earthquake. G-10.9

The potential soil hazards in Impact 4.2.1-2 are described as being potentially significant. The DEIS notes that subsidence "is generally attributed to consistent and long-term overdraft of the groundwater basin." (DEIS p. 4.2-1.) The DEIS does not analyze the G-10.10

impacts on the groundwater basin from the proposed project or the alternatives or whether overdraft will occur. The potential for subsidence must be addressed and mitigated. G-10.10 (cont.)

B. Water Resources

1. Water Supply

The Water Supply Report, Appendix I, which was used to determine the average and peak water demands of the project alternatives, is based upon the wastewater flow calculations in Appendix J, which in turn are derived from the US EPA Onsite Wastewater Treatment Systems Manual. This is not a generally accepted methodology for calculating water demands and does not result in reliable water demand estimates because this methodology doesn't take into account water used for irrigation or lost to evaporation. Water demands should be based upon unit demands for similar categories of uses obtained either from the records of similar facilities or from unit demand figures published by reputable sources. G-10.11

The descriptions of the required water facilities and potential impacts under both the private and municipal options are based upon the average and peak demands from the Water Supply Report. These sections should be revised after reliable demand estimates are determined. Accurate scientific analysis is required under NEPA (40 CFR § 1500.1(g).) Average peak demands are unreliable as a basis for projecting water demands as noted above because required water facilities and potential impacts may be underestimated using this methodology.

The analysis of the impact on the City of Cloverdale's water supply under the municipal option compares the project's average demand to the City's annual water production (Impact 4.3.1-5). The analysis should be based upon peak daily project demands relative to the City's maximum daily production as this is the critical operational parameter of the City's water production capacity. As discussed above, this analysis should also be based upon reliable water demand estimates; otherwise, the analysis is likely to underestimate the impact.

Because the Water Supply Report fails to rely on accurate scientific analysis, it must be re-done and the DEIS re-drafted to reflect the correct data.

See also comments under Public Services below.

2. Wastewater

Under the municipal option, the capacity of the City of Cloverdale's wastewater treatment facility should be analyzed with the additional flow from the proposed project. In particular, the cumulative affects of the City's build-out plus the project will most likely exceed the treatment plant's current permitted capacity. The DEIS does not address how this impact will be addressed or mitigated, and it needs to be amended to do so. G-10.12

See also comments under Public Services below.

Impact 4.3-6 and mitigation measure 5.3-3 regarding treated effluent spray provide for no review of the mitigation other than by the Tribe. The mitigation measures for treated effluent should identify the federal, State or County agency specifically designated to receive, review and require that mitigation be enforced. G-10.13

In addition to the above comments, the DEIS conflicts with the following Cloverdale General Plan policy: PS 5-9, which is to ensure that increased septic and well activity do not increase ground water contamination and require studies from developers to ensure major development does not adversely affect groundwater quality. Because the DEIS does not include enforceable mitigation of potential groundwater contamination, it is inconsistent with the General Plan policy. as such, the DEIS must address this inconsistency. G-10.14

3. Drainage (Flooding)

Under the private option, the project would include the construction of a water treatment plant, wastewater treatment plant and wastewater storage pond, within the FEMA-defined 100-year floodplain (Special Flood Hazard Area, Zone AE). According to the DEIS (p. 4.3-3) the construction of these facilities would remove 32.2 acres from the existing floodplain. The DEIS states that the impact of this activity on the 100-year flood elevation was modeled. However, this analysis was not provided. The model calculations should be included as an appendix in the DEIS. (40 CFR § 1502.18; CEQ Forty Questions No. 25(a).) G-10.15

According to the DEIS (p. 4.3-3), the flood height model indicates that the construction of these facilities within the floodplain would increase the height of the 100-year flood by 0.67 feet on adjacent areas including the City of Cloverdale's wastewater treatment plant immediately to the north. The DEIS goes on to state that this increase is within the available freeboard of the City's wastewater treatment plant pond levees and, therefore, no mitigation would be required. The freeboard between the existing 100-year flood elevation and the elevations of the City's wastewater treatment plant levees are a built-in design factor of safety that provides significant benefit to the City and protection against larger flood events. The loss of 0.67 feet of this factor of safety would be a considerable reduction in this benefit and significantly reduces the protection that Cloverdale has constructed for its wastewater protection facility. Mitigation for these impacts should be provided in the DEIS. G-10.16

The Tribe should also apply to FEMA for a Conditional Letter of Map Revision (CLOMR) prior to any construction within the floodplain and process a Letter of Map Revision (LOMR) upon completion. G-10.17

In addition to the above comments, the DEIS conflicts with the City's General Plan regarding drainage and flooding issues as follows:

- PS 5-9 requires new development to incorporate sound soil conservation practices and keep grading to a practical minimum by minimizing cuts and fills; limiting grading to the smallest practical area of land; replanting graded areas; and designing project-specific erosion control measures. The DEIS simply states that the Tribe will have grading and drainage plans completed and follow the plans. But because these G-10.18

plans will not be completed until after the NEPA review process is complete, there will be no opportunity to determine whether the grading activities will be minimal or the extent of proposed erosion control measures and re-planting efforts, thus precluding the required "hard look" under NEPA. These plans need to be completed and included as an appendix to the DEIS. (40 CFR § 1502.18.) G-10.18 (cont.)

- Policy CDO 7-1 requires preserving and protecting the area's natural vegetation by ensuring drainage and runoff from City sources is not impairing the water quality of the Russian River; retaining existing riparian vegetation within conservation buffers along all natural watercourses to preserve riparian vegetation and habitat; providing 100 feet (50 feet on each side) from creeks and rivers on the Conservation Element Map, except where the buffer along the Russian River portion of the Map is wider; and cooperating with other agencies in preparing a Russian River riparian corridor restoration and management plan. The eastern portion of the proposed project is within a conservation zone (proposed, as the land is currently pre-zoned as part of the City's sphere of influence). Because the land is proposed to be taken into federal trust, neither the City nor the County will have jurisdiction to require that the land be included as part of a Russian River riparian corridor restoration and management plan or to require a 100 foot buffer. The inconsistency between this policy and the project must be addressed in the DEIS. G-10.19

- Policy PS 2-5 requires a project applicant to mitigate potential downstream flooding based on cumulative impacts of other projects in the drainage basin by either preparing a focused environmental impact statement under the California Environmental Quality Act (CEQA) or agreeing to modify the project to construct improvements or pay costs to mitigate downstream impacts. Because the land is proposed to be taken into federal trust, the City will not have jurisdiction to require an EIR under CEQA, modification of the project or payment of mitigation costs. G-10.20

- Policy PS 2-7 provides for onsite and offsite flood related hazards to be reviewed for all projects within areas subject to known flood hazards. The project is within FEMA's 100-year floodplain, but neither the City nor the County will have authority to review the final project plans if the land is placed into trust. G-10.21

- PS 2-8 allows the City to regulate development, water diversion, vegetation removal, grading and fills to minimize any potential increase in flooding and related damage. If the land is in trust, the City lacks jurisdiction to regulate these activities. Because the DEIS does not contain grading or drainage plans, the City cannot adequately evaluate the potential flooding impacts of the project. The DEIS needs to include grading and drainage plans. G-10.22

- Policy PS 2-9 requires payment of costs for drainage facilities to handle the surface runoff from new development by the developer and others who will benefit from the improvements. The City will lack jurisdiction to obtain payments to mitigate costs of any drainage facilities that may be required by the impacts of the project, and the G-10.23

Tribe has not proposed paying such costs as a mitigation measure. The DEIS must address both the impacts and mitigation of costs G-10.23 (cont.)

- Policy PS 2-13 allows the City to consider the potential risk of damage from flooding in the design and review of project. If the land is taken into trust, the City will have no authority to review the design of the project. The DEIS needs to include the grading and drainage plans to permit analysis of the flooding potential. G-10.24

4. Groundwater Pumping

The Water Supply Report (Appendix I) projects peak demands that equate to well pumping rates of 88 gpm and 119 gpm (see p. 2-8) with and without the use of reclaimed water, respectively. The potential impacts on groundwater levels and the Russian River are based upon the average pumping rate of 45 gpm, assuming use of reclaimed water. The analysis of potential impacts on groundwater levels and the Russian River (Impact 4.3.1-5) should be based upon peak pumping rates, not average pumping rates, once reliable water demand estimates are determined, because average pumping rates underestimate the actual impacts. The Water Supply Report should be amended to include peak pumping rates. G-10.25

The analysis of potential impacts on groundwater levels relative to existing neighboring wells (Impact 4.3.1-5) states that the resulting drawdown of these wells from the project's pumping would be less than 2 feet and most likely would not be observable. Wells in this area typically have a very limited operational drawdown range due to the relatively small distance between the groundwater surface elevation and the bottom of the pervious gravel soil strata. Consequently, a small reduction in drawdown, even less than 2 feet, would likely have a significant impact on the production capability of these wells. The potential impacts on neighboring wells should be based upon peak pumping rates, not average pumping rates, once reliable water demand estimates are determined, in order to accurately assess the actual water impacts. Mitigation for the impacts on neighboring wells due to reduced available operational drawdown should be provided. G-10.26

The analysis of groundwater impacts does not identify impacts on the groundwater in drought years. Groundwater extraction at the proposed level could be potentially significant during drought because groundwater will be drawn down more in drought years by all users in the basin, thus resulting in significant cumulative impacts on the groundwater basin. An enforceable mitigation measure that allows reduction in groundwater extraction based on County-wide reduction levels should be added to address impacts on groundwater during drought years. G-10.27

C. Air Quality

In evaluating the environmental consequences of a proposed federal action, the EIS must consider the possible conflicts between the proposed action and state, local and regional land use plans and policies for the area concerned. (40 CFR § 1502.16(c).) The California Air Resources Board developed the Climate Change Scoping Plan pursuant to AB 32 (California Health and Safety Code §§ 38560-38565), which set the goal of reducing G-10.28

greenhouse gas emissions to 1990 levels by 2020. The DEIS gives lip service to the AB 32 Scoping Plan, stating, without any analysis, "Alternative A would not pose any apparent conflict with the AB 32 Scoping Plan 39 recommended actions." (DEIS 4.4.1-4, p. 4.4-6.) This conclusory statement falls well short of the "hard look" at the impacts of the proposed project on the conflict between the state and local goals of reducing GHG's. G-10.28 (cont.)

In addition, on February 18, 2010, the CEQ issued a memorandum entitled, "Draft NEPA Guidance on Consideration of the Effects of Climate Change and Greenhouse Gas Emissions" that provides guidance to federal agencies for evaluating climate change and greenhouse gas (GHG) impacts from federal projects. The CEQ memorandum notes that an EIS must include a description of energy requirements of a proposed action and the conservation potential of the various alternatives. (CEQ Memorandum at p. 5; see also, 40 CFR § 1502.16(e).) The CEQ memorandum then states that, "Within this description of energy requirements and conservation opportunities, agencies should evaluate GHG emissions associated with energy use and mitigation opportunities and use this as a point of comparison between reasonable alternatives." (CEQ Memorandum at p. 5.) The CEQ memorandum concludes that this analysis should also consider applicable federal, state and local goals for energy conservation and alternatives for reducing energy demand or GHG emissions. G-10.29

The DEIS identifies the potential GHG and climate change impacts of the project as being significant and unavoidable. (DEIS 4.4.1-4, pp. 4.4-6 – 4.4-7.) The DEIS acknowledges that the major sources of the significant and unavoidable impacts are from the automobile trips of patrons and employees. However, the only proposed mitigation measures are to install efficient lighting, energy efficient appliances and equipment, use of solar heating, a bus shelter, planting some trees and drought resistant plants and providing for "enhanced recycling." (DEIS 5.4-9, p. 5-5.) None of the proposed mitigation measures addresses the GHG impacts from the increased numbers of automobile trips, nor is there any analysis of the relative impacts between the various alternatives or the expected effect of the mitigation measures in reducing these impacts. G-10.30

In addition, the City's General Plan contains provisions to reduce GHG emissions by conserving energy and minimizing resource depletion by encouraging alternative energy, solar power and green building techniques. (Cloverdale General Plan Goal CDO 8.) The proposed project contains very minimal efforts to address GHG emissions, as noted above, which do not comply with the General Plan. G-10.31

Based on the deficiencies noted above, the DEIS must describe the energy requirements for the project and provide a detailed analysis of conservation measures.

D. Socioeconomic Conditions

NEPA requires that an EIS include appendices that support fundamental assumptions in the EIS (40 CFR §1502.18). Although there is passing reference in the DEIS to a market analysis, that document is not included as an appendix to the DEIS. As such, the City and public are unable to take a "hard look" at the impacts of the proposed project. NEPA G-10.32

requires that relevant environmental information be made available to the public before a decision is made or an action is taken. (40 CFR §1500.1(b).) The failure to include an accurate analysis of the market assumptions that provide the basis for the assumptions in the DEIS makes the DEIS fatally flawed. The DEIS should be re-drafted and re-circulated with a current market analysis. (The market study cited in the DEIS is dated 2007. General market conditions (the recession) and specific conditions impacting the project (Dry Creek casino's drop in revenue; Alexander Valley Resort's pending annexation and entitlements; Graton Rancheria's pending casino/hotel project) must be included in a new market analysis.) Without this information, no meaningful analysis of the project's impacts can occur. G-10.32

1. Housing and Commuting Assumptions

One of the major issues addressed in the City's ADEIS comments was the inadequacy of the analysis regarding assumptions of employee housing and commuting options. The DEIS, like the ADEIS, assumes that all project employees will live throughout Sonoma County and commute to work, mostly from Santa Rosa and Rohnert Park. (DEIS 4.7.1-3, pp. 4.7-13-4.7-14.) Based on this assumption, the DEIS concludes that there will be minimal impact on the local housing market because the current market can absorb the additional need. (DEIS 4.7.1-3, pp. 4.7-14 – 4.7-15.) But this assumption is based on several incorrect facts. G-10.33

First, the DEIS concludes that the employees do not need to relocate to Cloverdale because they can commute from Santa Rosa and Rohnert Park via bus or the Sonoma-Marin Area Rail Transit (SMART) train. However, based on the current bus schedule, service between Santa Rosa and Cloverdale does not adequately serve the project area. Bus times are limited to commute hours of 6:25 a.m. northbound (arriving in Cloverdale at 7:15 a.m.), with the last southbound bus leaving Cloverdale at 6:55 p.m. There are only four buses between Santa Rosa and Cloverdale on weekends, which the DEIS indicates is the busiest time for the proposed project. The currently proposed SMART service is even more limited, with only four trips daily during the same times as the bus currently runs. In addition, SMART is not projected to commence service until 2014 at the earliest. The proposed project is a 24-hour enterprise, which means that any employee whose shift begins before 7:00 a.m. or ends after 7:00 p.m. could not take the bus. Consequently, current public transportation is insufficient to move workers between Santa Rosa and Cloverdale, and the false assumption in the DEIS that workers reliant on public transportation will not need to relocate to Cloverdale must be addressed in the DEIS.

In addition to the faulty assumption that employees can commute from Santa Rosa to the proposed project location, the DEIS also contains contradictory assumptions about housing for project employees that leads to additional incorrect assumptions. As noted, the DEIS assumes that most of the employees will live in Santa Rosa and Rohnert Park. The DEIS then asserts that 88% of the available housing on which the project will rely for its employees is located in the unincorporated areas of the County. (DEIS 4.7.1-3, pp. 4.7-14 – 4.7-15.) But, as noted in the City's comments on the ADEIS, the unincorporated areas of the County are mostly remote communities from which it would be completely impractical to commute given the geographic realities of the County. Cloverdale is the northern-most

city in Sonoma County. Petaluma is the southern-most city, which is approximately 50 miles from Cloverdale. To the east are mountains that are quite treacherous to drive in the winter. To the north is Mendocino County. The closest community in Mendocino County with potentially-available housing is Ukiah, which is an approximately 30 minute drive. To the west is a winding road out to the coast with small agricultural communities with limited housing options. The nearest city south of Cloverdale is Healdsburg, which is more than 15 miles away and is one of the most expensive communities in the County. Windsor is the next closest city, and its housing prices are also out of range for an employee making the projected wages of project employees. (DEIS 4.7.1-1, p. 4.7-7, noting that 94% of the wages will be below $30,000.) Santa Rosa is the closest city with enough available affordable housing, but as noted, it has limited bus service. Other communities within the County are even less accessible. Even an employee who could afford a house on the coast is unlikely to commute the winding roads that often close during winter storms. Consequently, it will not be practical to commute to the project from outlying areas. G-10.33 (cont.)

Because commuting to Cloverdale is not a viable option for potential employees, the DEIS needs to assume that most of the project employees will seek housing in and immediately around Cloverdale and that many will commute via automobile. The DEIS indicates the proposed project will employ 1,600 people. The Association of Bay Area Governments (ABAG) estimates there are currently 3,232 households in Cloverdale. ABAG anticipates that Cloverdale will add 1,600 residents and 630 households between 2010 and 2025. The proposed project will actually exceed the number of households the City would add in the next 15 years. Based on that assumption, the DEIS must assess the impacts of the project on the Cloverdale housing market and the environmental impacts of the added housing and residents on the City, including, but not limited to, its water, wastewater, police services, fire services, schools, roads, parks, libraries and other infrastructure and services. The DEIS must also analyze the transportation and air quality impacts of employees driving from Santa Rosa.

The strained analysis of the housing impacts exemplifies the proposed project's lack of viability. A more conservative project, that is based on current market conditions as supported by a thorough updated market analysis, would significantly reduce the potential impacts. A significantly reduced project would require fewer employees, which would in turn have less impact on City services and infrastructure. The DEIS must consider a feasible project alternative that will avoid or minimize the adverse environmental impacts. (40 CFR § 1500.2(e); CEQ Forty Questions No. 2(a).)

2. Low Income Housing Impacts

The DEIS indicates that 94% of the project employees will make less than $30,000. This amount is near, or at depending on the household size, federal poverty levels. The influx of 1,600 permanent employees seeking housing in and immediately around Cloverdale will have a negative impact on current low-income residents by increasing the demand for scarce affordable housing. The DEIS indicates that the current housing stock of all types of housing in Cloverdale is 90 units. The current stock of affordable housing in Cloverdale is 220 units, 184 of which are either studios or one bedroom units. The vacancy rate for these G-10.34

units is very low, currently at 2%. The proposed project will have a significant impact on the City's affordable housing market. Although the DEIS now contains a section on affordable housing, that section consists merely of a series of statistics regarding Sonoma County property values, the weakened economy, rental rates, and similar irrelevant data. There is no description of, much less analysis of, the affordable housing in Cloverdale. In fact, the word "Cloverdale" isn't even mentioned in the entire section. The DEIS must address the impacts of the proposed project, not only on the Cloverdale housing market generally, but specifically on the low-income housing demand for Cloverdale, and how the proposed project will mitigate the need for affordable housing in Cloverdale. G-10.34 (cont.)

The influx of near-minimum wage employees residing in Cloverdale will also increase the low-income population and decrease the over-all spending power within the City. This will further burden local social service, already stretched thin due to the current economic conditions, by adding low-income families who will need medical and social services. The DEIS should provide an income breakdown and whether the lowest paid employees will be offered medical and dental benefits to adequately evaluate these impacts on local service providers.

3. Indirect and Induced Impacts on Local Businesses and City

(a) Potential Negative Economic Impacts

The DEIS assumes all economic impacts of the proposed project on the local community and City of Cloverdale will be beneficial. But the existence of a hotel and restaurant will have potentially significant negative impacts on local hotels that are currently struggling, as well as local restaurants. For example, if the project restaurant has loss-leader meals to entice customers to the casino, local restaurants will suffer because they will not be able to compete with the prices and will lose customers. Moreover, customers who would otherwise stay at local hotels may decide to stay at the project hotel, which will have a negative impact not only on the local hotels, but also on the City in lost transient occupancy taxes. These reasonably foreseeable, negative impacts must be evaluated. G-10.35

Impact 4.7-4 states that the City would lose $8,000 from its General Fund, with an additional potential loss of transient occupancy tax on $86,000. The DEIS provides no scientific basis for these calculations. Nor does the DEIS include the external costs the City would incur by providing services such as public works and public safety to patrons and employees of the project. The DEIS must provide a scientific basis for the assumptions and the full scope of the impacts need to be included for a realistic impact analysis.

(b) Conflict with General Plan Land Use Policies and Goals

The proposed project conflicts with the following Cloverdale General Plan land use goals and policies, and such conflicts are not addressed in the DEIS. The DEIS needs to address each of these conflicts. G-10.36

- Policy LU 1-3 provides that the City will seek to achieve a 1:1 job/housing ratio. As noted, the proposed project will increase jobs by 1,600 without providing for any

additional housing for the new employees. There is not enough available housing in the City to accommodate this increase in workers. G-10.36 (cont.)

- Policy LU 2-1 seeks to provide economic development resources to the downtown to maintain a focal point for the community, a strong community image and an anchor for economic growth. Because the proposed project is away from the downtown and it includes activities that will compete with downtown businesses, such as restaurants, retail and lodging, the proposed project conflicts with the policy of maintaining the downtown as the economic core of the City's businesses. Its size and scope will dwarf anything existing or planned in the downtown area.

- Policy LU 2-4 discourages the creation of retail commercial areas outside the downtown that will adversely affect the viability of the downtown, including freeway frontages south of the City and freeway frontages east of Highway 101. The proposed project fronts on the freeway and is south of the City and east of Highway 101. See comment to Policy LU 2-1 above.

- Goal LU 3 seeks to preserve and enhance Cloverdale's small town character. The proposed project will add 1,600 employees and nearly 600,000 square feet of development that is five stories high at the City's southern gateway, which will detract from the small town character of the City.

- Policy LU 4 proposes to maintain the built environment to support the quality of life and rural and small town atmosphere. See comment to Policy LU 3 above.

- Policy LU 7 encourages job and housing nexus, providing housing for workers to reduce commuting. The proposed project is based on the assumption that nearly all of its employees will commute to work from Santa Rosa and Rohnert Park. In addition to that assumption being misguided (see discussion of housing assumptions), if true, it conflicts with this policy and this impact has not been addressed in the DEIS.

(c) Removal of Prime Developable Land

The proposed project will also have negative impacts on future commercial development for the City as a result of removing some of the only existing prime developable land from the City's sphere of influence. Specifically, the project parcels have City water and sewer, plus utility services either already available or readily available. The DEIS needs to evaluate the short- and long-term economic impacts on the City and its businesses, such as the Citrus Fair; the impacts of such a large project on potential business and employment diversity for the City; and the financial impacts and costs of providing City services, particularly water and sewer, to other parcels. None of these impacts is addressed in the DEIS. G-10.37

(d) Blight Prevention

As noted above, the scope of the proposed project dwarfs the entire currently existing commercial space in Cloverdale. The project will have to compete for market share with the Dry Creek casino, which experienced a drop in revenue based on current economic conditions and the Graton casino and hotel. Both of these enterprises are closer to the client-base for the Tribe's proposed project. The DEIS needs to realistically evaluate the current market conditions and to evaluate mitigation measures to avoid blight if it fails to perform as anticipated. As part of this analysis, a market study should be conducted and incorporated into the DEIS to demonstrate that the financial assumptions are sound and based on long-term viability of the project and sustainability of the project through economic downturns, such as the one we are currently experiencing. Although it appears there may have been a market analysis conducted for the project (see, e.g., reference on p. 4.8-2 to a market assessment conducted in 2007), no study has been included as an appendix to the DEIS as NEPA requires. (40 CFR § 1502.18; CEQ Forty Questions No. 25(a).) Without such an analysis, the DEIS fails to comply with NEPA. (40 CFR § 1500.1(b).) A failure of the proposed project will add 600,000 square feet of unused commercial space to a community that only has approximately 350,000 square feet of commercial space. In addition, the impacts on City services and housing in the event the proposed project fails or under performs must be analyzed. For example, if the project is approved and commences operating, housing will need to be constructed for project employees. If the project fails or substantially underperforms, the City will have a massive increase in vacant residential units, which will further cripple the City's already struggling housing market. There is no scientific evidence in the DEIS that supports the viability of a project the size and scope of the proposed project. In fact, as noted throughout this comment letter, competition from tribal enterprises further south along the Highway 101 corridor and historic data suggest the proposed project will not succeed. The analysis should evaluate the balance between facility size required to support the Tribe and provide an adequate return for the Tribe's investors and the economic viability of the project and be based on scientific data. G-10.38

4. Tax Revenues

The DEIS assumes that the net tax consequences of the project will be beneficial. But there is no data to support this assumption in the DEIS. Although the DEIS significantly expanded the discussion of tax consequences of the project on the City and County, nearly all of the discussion consists of unsupported generalizations regarding how much in retail, dining, and lodging would be transferred from existing businesses, and Tribal (Dry Creek casino) businesses to the Tribe's project and what spillover and new sales the proposed project will create for Cloverdale and the County. But there is no data or studies to support these assumptions. Without any basis for the data, the DEIS discussion of the tax consequences fails to comply with the NEPA requirement of providing accurate scientific analysis to allow the requisite "hard look" at the tax consequences of the project. (40 CFR § 1500.1(b).) The DEIS only assesses lost property tax revenues based on existing uses for the City. It should also evaluate the impacts on the City for lost potential tax revenue based on full build out pursuant to the City's 2009 General Plan. G-10.39

5. Additional Service Demands

In addition to housing impacts, as noted above, the influx of employees will have adverse impacts on roads, police, fire protection, water, sewer and other municipal services. The DEIS needs to assess all of these impacts based on the assumption that most of the housing needs will be supplied in or near Cloverdale, which will require construction of additional housing, which will, in turn, burden local infrastructure and services. G-10.40

6. Pathological Gambling

The DEIS does not adequately address how services will be provided for pathological gamblers and related social ills, such as domestic violence and child abuse. G-10.41

E. Transportation

Some of the project drawings show a driveway connection to Santana Drive. It appears that this driveway would serve as the primary service and delivery access for the facility. However, the parcels included in the project location (p. 1-2) are not contiguous with Santana Drive. Additional land necessary to accommodate this connection should be included in the project location description and in the fee-to-trust application. G-10.42

The description of the site access (p. 4.8-1) does not include the driveway connection to Santana Drive. This driveway should be included in the trip distribution analyses. In addition, the impacts of heavy construction vehicles and delivery trucks on Santana Drive should be analyzed and mitigated.

The trip generation calculations assume a 67% reduction in traffic from the proposed event center based upon the assumption that events would be attended predominately by patrons of the casino. This appears to be an unreasonably high assumption given the size of the proposed event center and event traffic experienced at similar facilities. In addition, although event center traffic would typically occur off peak, it would be concentrated in the period immediately before and after events. The impacts of this concentrated off-peak traffic should be analyzed with a more reasonable trip reduction assumption. G-10.43

The City of Cloverdale's adopted Station Area Plan includes the Cloverdale Greenway project that will reduce Citrus Fair Drive between Asti Road and Cloverdale Boulevard to one lane in each direction. The traffic analysis of Citrus Fair Drive should be revised to consider the project impacts in light of this proposed lane reduction. G-10.44

The bicycle recommendations (p. 4.8-6) should be incorporated into the project description or included as mitigation measures. G-10.45

The pedestrian traffic analysis assumes that the proposed SMART multi-use path would be constructed prior to occupancy of the project. The analysis needs to consider the possibility that this will not occur within the assumed timeframe and provide appropriate mitigation measures to accommodate pedestrians. G-10.46

The discussion of the South Interchange intersection impacts under Cumulative Effects, 2030 Build-out Plus Project (p. 4.16-12), states that Mitigation Measures 5.8-1, 5.8-7 and 5.8- G-10.47

8 (signalization options) result in "unavoidable impacts." However, Mitigation Measures 5.8-4 and 5.8-9 (roundabout options) reduce these impacts to less than significant. Clearly, if mitigation measures are available that reduce the impacts to less than significant, then the impacts are not "unavoidable." G-10.47 (cont.)

Mitigation Measures 5.8-2, 5.8-3, 5.8-4, 5.8-7, 5.8-8, 5.8-9 and 5.8-10 state that the project sponsor would "pay their fair contribution" towards the construction of the mitigation measures. The other "shares", if any, are not likely to be available until well after the facility is in operation and the impacts are occurring. Paying a fair share does not achieve mitigation. The project sponsor should be required to construct the mitigation measures and pursue reimbursement agreements or other means of recovering the other "shares" at such time as they become available. G-10.48

The City of Cloverdale Station Area Plan proposes that the City bus be supported by development in outlying areas and that the City bus be used in lieu of individual shuttles for major uses such as the proposed project, hotels, new industrial areas, and new outlying residential subdivisions. A traffic impact mitigation measure could incorporate funding for additional bus service to the downtown area from the proposed project site. G-10.49

F. Land Use and Agricultural

1. Airport

The proposed project is very close to the Cloverdale Airport and, as noted in the DEIS, is within one of the Airport Traffic Pattern Zones (TPZ). The City's General Plan contains several provisions specifically addressing land uses near the Airport, as well as general lighting concepts, which are addressed in the "Visual Impacts" section of this letter. The following are some of the General Plan goals and policies relating to land uses near the Airport with which the proposed project is not consistent.

- Goal LU 8 provides for maintaining the Cloverdale Airport and allowing only Airport-compatible land uses near the Airport. As noted, a portion of the project will be within one of the Airport TPZ's. The DEIS fails to address the impacts of the project on the TPZ. Instead, the DEIS simply concludes that this TPZ is not used. No evidence of this assertion is provided in the DEIS and it cannot be assumed the TPZ will not be used in the future. G-10.50

- Goal PS 7 provides for appropriate regulations for land use and Airport operations to ensure that the safety of Airport operations and the public are protected. If the land is placed into trust, the City will have no jurisdiction to regulate the land uses to ensure public safety at the Airport. One of the major concerns, discussed more fully in the "Visual Impacts" portion of this letter, is the potential lighting impacts from the project on pilots landing at night. Detailed plans regarding the lighting and signage for the proposed project are necessary in order to evaluate the potential impacts of the project on the Airport safety. G-10.51

- Policy PS 7-11 permits the City to prohibit electrical interference, glare, misleading lighting sources, visual impairments and other hazards to aircraft. See comment to Goal PS 7 above. G-10.52

- Policy PS 7-12 allows the City to prohibit objects or structures to be erected in critical areas that, because of height or other factors, would result in an increase in minimum ceiling or visibility criteria for an existing or proposed instrument approach procedure, including ensuring height limitation standards are met for the Runway Clear Zone. The City may, through environmental and project review, regulate property located near the Airport such that no structures are constructed that would interfere with Airport operations. If the land is placed into trust, the City will have no jurisdiction to regulate the design of the structures for the project. The project will be five stories tall, with no consideration of placement with respect to Airport flight patterns or lighting. In contrast, the Alexander Valley Resort project, which is proposed adjacent to the Airport, is subject to a height limit and project design review that will require it to be compatible with the Airport Master Plan. The DEIS fails to evaluate the impacts of the proposed project on the City's Airport Master Plan. It also fails to evaluate the impacts of the lighting and signage from the project on airport traffic, particularly at night. G-10.53

G. Public Services

One of the core policies in any land use management scheme is to ensure that development does not outpace the capacity of local infrastructures and public services. The City's General Plan contains several goals and policies designed to ensure that these issues are addressed to avoid system failure. The following are some of the General Plan goals and policies that are inconsistent with the proposed project and must be addressed in the DEIS:

- Goal LU 6 requires new development to be coordinated with the provision of infrastructure and public services. The proposed project will provide on-site water and wastewater, but the proposed mitigation for other impacts on services, such as police and schools, is completely inadequate (see respective discussions of each of these topics in this comment letter). G-10.54

- Policy LU 6-1 requires adequate water and wastewater capacity or improvements are in place prior to granting approval for new development and requires an infrastructure audit if development exceeds 200 residential units in a year. The DEIS includes a municipal option for water and wastewater, but does not adhere to the requirement that the capacity or improvements are in place prior to the project being approved by the federal government. Moreover, as noted below, the assumptions in the DEIS regarding the City's water and wastewater capacity are erroneous. The proposed project will also generate the need for well over 200 residential unites in a short time. G-10.55

- Policy LU 6-2 requires that the City provide adequate public facilities and services to meet the needs of the community. The DEIS fails to mitigate its impacts on G-10.56

housing, water, wastewater, solid waste disposal, police, schools, and other public facilities and services, thus placing the burden on the City without any compensation. The City will not be able to meet the needs of the community due to the unmitigated impacts of this project on City services and infrastructure. G-10.56 (cont.)

- Policy LU 6-3 discourages development beyond areas with planned expansion of sewer, water and roads and requires the City to develop a growth phasing plan to address the location and timing of development and infrastructure. If the land is placed into trust, there will be no coordination with the City's growth phasing plan. G-10.57

- Policy LU 6-4 requires new development to fund the costs of necessary infrastructure and services via cost recovery mechanisms that require new development to pay the costs of the impacts of the development on the City's infrastructure and services, as well as other impacts. The Tribe will not be required to fund the costs of any infrastructure or services relating to its impacts if the land is placed into trust. G-10.58

1. Water Supply

Under the municipal option, the project description recognizes that a 16" water main would need to be constructed along Asti Road to connect the project to the City of Cloverdale's water supply (p. 2-9). However, there is no analysis of the amount of water storage necessary to provide fire protection flows or the capacity of the City's water transmission lines between its storage sites and the project. The Preliminary Utilities Plan (Appendix H) should be revised to include an analysis of the amount of additional water storage necessary to provided fire protection flows in accordance with the California Fire Code Standards. This is likely to identify the need for the construction of a significant amount of additional water storage facilities. The Preliminary Utility Plan should also analyze the capacity of water mains between identified storage sites and the project site. The construction of additional water storage should be included as a part of the project description under the municipal option or identified in the DEIS as a mitigation measure. G-10.59

In addition, the DEIS must analyze the water production capacity for the municipal option. There must be a comparison of the City's current and projected demands to the current water production capacity. G-10.60

2. Wastewater Service

Under the municipal option, the DEIS (p. 4.10-2) states that the project would connect to the existing 18-inch sewer main which runs along the southern and northeastern project boundary. The Preliminary Utilities Report (Appendix H) states that the existing sewer mains adjacent to the project have capacity to serve the project. This is incorrect. According the City of Cloverdale Sewer System Master Plan the sewer trunk lines downstream of the project are nearing capacity. In order to accommodate the project sewer flows the 18-inch and 24-inch trunk lines between the project and the City's wastewater G-10.61

treatment facility would have to be upsized. The upsizing of these lines should be included in the DEIS as mitigation measures under the municipal option. G-10.61 (cont.)

3. Solid Waste

Under current state law (AB 939, the California Integrated Waste Management Act), Sonoma County must, among other criteria, reduce, recycle and reuse solid waste to the maximum extent feasible. Local jurisdictions were also required to develop and implement integrated waste management plans and were supposed to divert 50 percent of their solid waste by the year 2000. Although Sonoma County did not meet the target by the year 2000, it has since exceeded that diversion rate (see Sonoma County Waste Management Waste Diversion Rate by Year (http://www.recyclenow.org/agency/waste_stream_profiles.asp). The County currently has a diversion goal of 70 percent by 2015. G-10.62

The CEQ has issued guidance on integrating pollution prevention measures in NEPA documents. (Memorandum to Heads of Federal Departments and Agencies Regarding Pollution Prevention and the National Environmental Policy Act, CEQ, January 12, 1993.) Federal agencies must include pollution prevention considerations in the proposed action and reasonable alternatives to the proposal, and address pollution prevention in the environmental consequences section of an EIS. (*Id.*, see also 40 CFR §§ 1502.14(f), 1502.16(h), and 1508.20.) In addition, Executive Order 13432, Section 2(e) requires each agency to increase the diversion of solid waste and maintain cost-effective waste prevention and recycling programs in its facilities. (Executive Order 13423, January 24, 2007, Strengthening Federal Environmental, Energy, and Transportation Management.)

The DEIS states that the Tribe would contract with Redwood Empire or a similar provider to provide solid waste and recycling services, and calculates a solid waste disposal rate to be approximately 2,000 to 4,000 tons per year. (DEIS 4.10.1-3, p. 4.10-3.) The DEIS then concludes that, "This amount is not expected to significantly decrease the life expectancy of any single landfill and thus impacts would be less than significant." (*Id.*) This is a conclusory statement with no factual or scientific basis in the DEIS and does not support the assertion that the project's solid waste impacts will be less than significant. Moreover, the DEIS fails to address recycling or green waste diversion. The City's General Plan has a goal of meeting or exceeding the State and County-wide recycling goals. (Policy LU 9-1.) Based on the above federal requirements and State diversion goals, the DEIS should commit to solid waste recycling and green waste diversion programs for the project that include enforceable implementation measures.

4. Law Enforcement

Despite comments on the ADEIS from both the City of Cloverdale and Sonoma County, the DEIS still incorrectly asserts that the only mitigation that would be required for law enforcement impacts of the proposed project would be to add a single patrol officer. As noted in the City's comments on the ADEIS, the proposed project will require coverage on a 24-hour basis, seven days per week. The analysis is not based in fact, because it assumes one officer could work 24 hours per day, 7 days per week. According to the Cloverdale Police G-10.63

Chief, providing coverage for a single additional position for 24 hours will require at least 2.3 sworn positions to account for vacation, days off, etc. Costs of additional cars, salary, benefits, annual training and other ongoing costs must also be factored into the costs. The County estimates are even higher, at 6 positions to provide police services. G-10.63 (cont.)

The DEIS also made no changes in its assumptions regarding the impacts of the project on laws enforcement services in general. The DEIS compares its impacts on law enforcement services with a tourist attraction or shopping mall. But this comparison is not accurate, given the unique aspect of the casino being operated 24 hours per day, seven days per week. No tourist attractions or shopping malls are open all night. Consequently, the impacts on local law enforcement and other public services will be much more extensive than any other commercial enterprises in the area, and the DEIS needs to examine the impacts of this proposed project, not a hypothetical tourist attraction or shopping mall. G-10.64

The DEIS also fails to address any other impacts on the local justice system, including the courts and jails. Moreover, the project is inconsistent with the City's General Plan, which requires that fire and police facilities and equipment are adequate for proposed development before granting approval. (Cloverdale General Plan Policy PS 5-6.) G-10.65

5. Fire and Emergency Services

The City noted in its comments on the ADEIS that there needs to be an analysis of the projects impacts on fire and emergency services in the event of a natural disaster, such as a major earthquake. As noted in the DEIS, the City is located just 4.5 miles from the Hayward-Rogers Creek Fault. According to the USGS, there is a 31% likelihood of a 6.7 magnitude or greater earthquake on the Rogers Creek Fault within the next 30 years, making it the most likely fault in Northern California to have a major earthquake. CEQ Regulations require an agency to evaluate reasonably foreseeable significant adverse effects, which include impacts that have catastrophic consequences, even if their probability is low, providing the analysis of the impacts is supported by credible scientific evidence. (40 CFR § 1502.22; see also, *San Luis Obispo Mothers for Peace v. Nuclear Regulatory Com'n Nuclear Reg.*, 449 F.3d 1016 (2006) (interpreting this requirement to include evaluating the threat of terrorist attacks on a nuclear facility.)) The USGS probability findings provide credible scientific evidence that a major earthquake is likely near the project site. Because the City is the northern-most city in the County and the only access from the south is via Highway 101, the City would likely be cut off from outside assistance in the case of a major disaster. G-10.66

The DEIS notes that the project will attract over 9,000 visitors daily. The current population of Cloverdale is only 8,400. Based on the likelihood of a major earthquake near the project site, the DEIS needs to address the impact of the project on the City's emergency response capabilities for accommodating project patrons, in addition to existing area residents, during a major disaster. Specifically, the analysis and mitigation should include a disaster preparedness plan that will provide emergency services for its patrons for a ten day period following a major disaster. The only mitigation measures noted in the DEIS are entering into a fire protection services contract with the Cloverdale Fire Protection District, paying its "fair share" of costs for fire apparatus replacement and staffing needs, and G-10.67

entering into a service contract with Cloverdale Healthcare District for the provision of ambulance service. These measures do not even come close to adequately addressing the impacts of having over 9,000 non-residents stranded in Cloverdale after a major earthquake. G-10.67

In addition, the failure to address impacts of the project on emergency services is inconsistent with the City's General Plan, which requires that the City ensure that City emergency procedures are adequate in the event of a potential natural or man-made disaster. (General Plan Goal PS 6.)

6. Impacts on Services From Employees

As noted in the City's comments on the ADEIS and again here, the DEIS utterly fails to address the fact that the project will create a need to house up to 1,600 employees because there is no viable public transportation to the project for employees from outside of the Cloverdale area. According to the DEIS, Cloverdale currently has 90 available housing units. Thus, conservatively, an additional 900 to 1,000 units will need to be constructed in and around Cloverdale. The DEIS fails to address the impacts of the additional housing on City services, including its water and sewer services, police services, schools, roads, libraries, and parks. This impact, individually, and cumulatively with other proposed projects, such as the Alexander Valley Resort, must be evaluated. G-10.68

The project will also have a significant impact on health care in the Cloverdale area, particularly form project employees. These impacts are not addressed at all in the DEIS. Cloverdale has very limited health care available, and the project will add up to 1,600 households to an already strained system, with no proposed mitigation.

H. Noise

The DEIS lacks any detail on baseline noise receptors; evaluation of the project's consistency with County or City noise standards; assessment of noise impacts from the project during nighttime hours; or cumulative impacts of noise from the project. The City's General Plan requires that noise from stationary sources, such as music, machinery, and air conditioners shall be contained on-site and not exceed standards set forth in the General Plan. The project will generate noise from on-site events, such as concerts; from machinery during construction; and from air conditioners that will be running 24-hours per day in the summer. The DEIS needs to address noise impacts and propose enforceable mitigation measures. G-10.69

I. Visual Resources

1. Visual Impacts Generally

The proposed project consists of several buildings, including a five-story structure in what is currently an agricultural area. The only proposed mitigation is to use colors and materials that "seek to reduce the visual impacts of the proposed facilities," and to avoid using bright colors. (DEIS 5.13-1, p. 5-15.) The DEIS fails to analyze the impacts of constructing a five-story structure on the City and its compatibility with the County's General Plan and the City's General Plan, including the Housing Element, fails to evaluate impacts on the quality G-10.70

of life for the City's residents and businesses and fails to examine mitigation measures to help bridge the gap between the project and these values. G-10.70 (cont.)

Some of the inconsistencies between the proposed project and the City's General Plan include:

- Policy LU 4-2, which requires the City to protect views from the Highway 101 corridor. The proposed project fronts on Asti Road, a frontage road to Highway 101.

- Goal CDO 3 is designed to maintain and improve the design of the built environment and improve the entries and approaches to the downtown and community, as well as provide design guidelines for new development and growth. The City will have no jurisdiction to approve or provide any meaningful input into the design of the project, which will be located in the southern gateway to the City.

- Policy CDO 3-1 provides for enhancing the major entrances to Cloverdale in order to provide definite gateways to the City, including views seen from the freeway at the southern end of the City. See comment to Goal CDO 3 above.

- Policy CDO 3-9 calls for developing a design plan for industrial and commercial areas visible from the freeway, with standards that encourage significant landscape areas, including tree screening, between the freeway and the uses. See comment to Goal CDO 3 above.

- Policy CDO 3-10 emphasizes street trees and landscaping on Asti Road. See comment to Goal CDO 3 above.

2. Lighting

In addition to the general visual impacts, lighting from the project will significantly impact the environment. The project is inconsistent with many aspects of the City's General Plan with respect to lighting, and the DEIS fails to address the lighting impacts of the project. Some of the City's General Plan goals and policies include: G-10.71

- Goal UL 1 requires maintenance of night time lighting levels that provide security and safety but also preserve and maintain views of nighttime skies. The City will have no jurisdiction to enforce this goal on the project if it is placed into trust. As noted in the Airport discussion herein, the lighting from the project will also have significant impacts on the Airport, which is in the process of installing new runway lights to assist nighttime landings at the Airport. The DEIS needs to address these impacts and provide mitigation, including providing actual lighting and signage plans to allow the required "hard look" at the impacts of the project.

- Policy UL 1-1 requires that all new development projects maintain night time lighting levels at the minimum necessary to provide security and safety using fixtures that

shield the light source so that light is directed downward with height and power limited to the minimum necessary to provide adequate lighting. Because the DEIS utterly fails to include any details on the lighting for the proposed project, there is no way to evaluate these impacts. G-10.71 (cont.)

- Policy UL 1-2 requires projects to minimize light spillage that carries off the property where the lights are located. Because the DEIS utterly fails to include any details on the lighting for the proposed project, there is no way to evaluate these impacts.

- Policy UL 1-3 calls for reducing light glare from businesses at the south interchange and not allowing similar high intensity lighting sources at the other two interchanges. The project would directly conflict with this policy as it will generate significant amounts of light and glare, with no proposed mitigation.

- Policy UL 1-4 requires eliminating excess lighting from illuminated signs. The City has attempted to get the Tribe to provide details regarding signage for the project. The DEIS contains no details whatsoever on the proposed signs, which will have significant impacts on the City and Airport because the project is a 24-hour enterprise.

The DEIS fails to address lighting produced by the parking structure. Mitigation should include internal garage lighting that is not visible from outside of the garage structure. (Impact 4.13.1-2 and Mitigation 5.13.2-4.) G-10.72

Mitigation 5.13-2 should require that all lighting be screened and designed so that direct lighting sources cannot extend beyond the bulb's enclosure. G-10.73

Mitigation 5.13-3 fails to set lighting levels. An objective and enforceable lighting level needs to be included in the DEIS. G-10.74

J. Growth-Inducing and Indirect Effects

Indirect effects include growth-inducing impacts and other effects that relate to the changes in the pattern of land use, population density or growth rate, and related impacts on air, water and other resources. (40 CFR § 1508.8(b).) As noted elsewhere in this comment letter, and in the City's ADEIS comments, the project will induce a significant growth within the City of Cloverdale and the area immediately surrounding the City as a result of the need to house 1,600 employees. This large influx will impact the City's water, sewer, police, fire, schools, roads, libraries, parks, and other services and infrastructure. It will also negatively impact the City's land use plans and patterns as set forth in its General Plan adopted in 2009 and effective through 2020. Pursuant to the City's General Plan, infrastructure and land use policies are based on a maximum anticipated population of 12,000 residents (the current population is approximately 8,400) and 4,700 housing units in 2025, with an average of 75 new housing units per year, not to exceed 375 units in any five-year period. (Policy LU 1-2, LU 1-2(a).) G-10.75

See also "Indirect and Induced Impacts on Local Businesses and City" above.

K. Cumulative Effects

Cumulative effects result from a proposed action's incremental impacts when added to the impacts of other past, present and reasonably foreseeable future actions, regardless of the agency, person or corporation that undertakes them. (40 CFR § 1508.7.) Cumulative effects can result from individually minor, but collectively significant actions that take place over time. (*Id.*) Analyzing cumulative effects requires focusing on the resource, ecosystem and human community that may be affected and developing an adequate understanding of how these resources are susceptible to effects. (CEQ Guidance Regarding Cumulative Effects, Table 1-2, No. 2.) The CEQ has explained in great depth in their Guidance Regarding Cumulative Effects that cumulative effects analyses should be conducted on the scale of human communities, landscapes, watersheds or airsheds, rather than within political or project boundaries. (*Id.*) The CEQ has also explained that appropriate geographical boundaries for a cumulative impacts analysis are the project impact zones. (*Id.*) Project impact zones for a proposed action are likely to vary for different resources and environmental media. (*Id.*)

1. Cumulative Impacts With Other Local Projects

(a) Other Casinos

The DEIS does not evaluate the cumulative impacts from other casino projects and assumes that the project will "cannibalize" customers from the existing Dry Creek casino and the proposed Graton Rancheria casino/hotel project. This assumption contradicts historical patterns in Sonoma and Mendocino counties. Specifically, both the Dry Creek and Graton projects are further south along the Highway 101 corridor, making both projects more accessible to patrons living in the San Francisco Bay Area. Historically, tribal casinos located farther north along Highway 101 have suffered dramatic decreases in patrons when new casinos have opened closer to the Bay Area. As the DEIS notes in Table 4.8-3, 90% of the visitors will come from the south (p. 4.8-3) because that is where the population base is located. Here, the Dry Creek casino had a significant impact on the income of the next closest casino – Hopland's – when the Dry Creek casino opened. The Graton casino and hotel project is very similar in size to the proposed project, and it is much further along in the approval process than the proposed project. Graton's land is already in trust and the Record of Decision has been issued. Accordingly, it is likely Graton will already have an established customer base before the proposed project is complete. The only realistic access to Cloverdale is via Highway 101. Given historical patterns, it is highly unlikely that Graton's patrons will travel an hour north to Cloverdale, just to have the same benefits they can have at Graton. Moreover, such potential patrons will pass the Dry Creek casino before reaching Cloverdale, making it even more unlikely they will travel the extra distance to Cloverdale. The population gets increasingly sparse from Cloverdale to Eureka, with the exception of Ukiah, which has a population of 15,000. Also, there are already two casinos just north of Cloverdale, one in Hopland, approximately 15 minutes away, and the other in G-10.76

Ukiah, about 30 minutes away. Thus, there will be little, if any, customer base north of the City for the proposed project. G-10.76 (cont.)

The DEIS also does not evaluate the impacts on the City of Cloverdale if the proposed project fails to perform as anticipated. Instead, the DEIS assumes that all socioeconomic impacts on the surrounding community will be beneficial. But, as noted above, the current economic crisis has caused Dry Creek, which is a significantly smaller enterprise, to lay off employees and put plans to add a hotel on indefinite hold. The DEIS needs to examine mitigation measures and strongly consider a more modest alternative given current economic conditions. Cumulative impacts if the project fails include impacts for failed water and sewer treatment, impacts on the Russian River, endangered species, adjoining wells, and groundwater. G-10.77

L. Mitigation

An EIS must contain appropriate mitigation measures and the necessary monitoring to alleviate the environmental effects of the proposed action and alternatives, even if they are outside the lead or cooperating agency's jurisdiction. (40 CFR §§ 1502.14(f); 1502.16(h); Forty Most Asked Questions Concerning CEQ's NEPA Regulations, Nos. 19(a) and (b), 46 Fed. Reg. 18026 (March 23, 1981), as amended, 51 Fed. Reg. 15618 (April 25, 1986); BIA NEPA Handbook, § 6(E)(9).) Mitigation includes avoiding the impact by not taking all or part of the action; minimizing the impacts by limiting the size or scope of the project; decreasing the impact by repairing, rehabilitating or restoring the affected environment; reducing or eliminating the impact over time via preservation and maintenance during the course of the action; and compensating for the impact by replacing or substituting resources or environments. (40 CFR § 1508.20.)

As noted in the respective sections addressing specific environmental consequences, the mitigation measures, when proposed at all, fall well short of providing a good faith attempt to mitigate the impacts of the proposed project. For example, despite identifying the seismic hazards as being potentially significant, the only proposed mitigation is to prepare a geotechnical report and construction drawings, after the environmental review process is complete, thus precluding any public review of the adequacy of the documents or recommendations. Mitigation measures necessarily flow from these documents, the mere preparation of the documents is not a mitigation measure. (40 CFR § 1508.20.) As written, the DEIS precludes the ability to know what the impacts are or might be with respect to the project as required under NEPA. The GHG and climate change impacts are identified as significant and unavoidable, but the main mitigation measures include providing designated parking spaces for employees who carpool and public transportation incentives (see discussion above regarding impracticability of using public transportation), building a bus shelter, and planting some trees. No explanation is provided as to how these measures will mitigate (avoid, minimize, rectify, reduce or compensate) for the GHG and climate change impacts. G-10.78

There is also no mitigation identified for the dramatic impacts of adding up to 1,600 new households to Cloverdale's housing and public services. As noted above, this figure G-10.79

significantly exceeds ABAG's projected growth for Cloverdale through the year 2025. The mitigation for impacts on law enforcement (adding a single officer who is presumed to work 24 hours a day/7 days per week) is less than half of the required mitigation to actually ameliorate the impact. There is no mitigation identified for impacts on emergency services in case of a large seismic event or other natural disaster. The potential impacts on the Cloverdale Airport of the lighting from the project, including signage are not even identified or analyzed, much less mitigated, despite the fact that the project is within one of the Airport TPZ's. Visual impacts of adding a five-story, nearly 600,000 square foot facility in an existing agricultural area will presumably be mitigated solely by avoiding bright colors. No groundwater monitoring is proposed, despite the size of the project and its identified significant impacts on neighboring wells. Nor is any pre-construction testing or post-construction monitoring of groundwater or the Russian River proposed to mitigate the potentially significant impacts of spraying treated effluent. G-10.79 (cont.)

As noted above, another major area of concern for the City is monitoring and mitigation of the project should it fail or perform below expectations, which is almost certain. Infrastructure maintenance should be addressed in the event the project fails to perform as anticipated. For example, the water and wastewater treatment facilities, if not properly maintained, are likely to cause damage to the groundwater and Russian River. G-10.80

M. Enforcement of Mitigation Measures

Because of the Tribe's sovereign immunity, the DEIS should also provide a plan for enforcement of the mitigation measures. The Record of Decision must contain a monitoring and enforcement program for the mitigation measures (40 CFR § 1505.2(c)), but the DEIS should indicate which agency will be responsible for enforcement and what mechanism will be used to ensure enforceability. The lead agency must implement mitigation and other conditions established in the EIS and committed as part of the decision, and agencies can and should provide for monitoring of mitigation measures in important cases. (40 CFR § 1505.3.) There is no mention in the DEIS of who will have responsibility for implementing or monitoring any of the mitigation measures. It appears the Tribe will be self-monitoring, with no oversight by any federal agency. G-10.81

III. Conclusion

Based on the failure of the DEIS to provide sufficient environmental information that is based on accurate scientific analysis, the DEIS is legally deficient. Nor does the DEIS include reasonable alternatives that are practical or feasible from the technical and economic standpoint and using common sense. (CEQ Forty Questions No. 2(a).) As such, it must be re-drafted and re-circulated in order to permit the required "hard look" at the environmental impacts that NEPA compels.

Very truly yours,

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1528511.3

Letter G-11

SONOMA~MARIN SMART AREA RAIL TRANSIT

Reg Dir ✓
Dep Reg Dir
Reg Adm Ofcr
Route DECRMS
Response Required NO
Due Date
Memo Ltr
Tele

Directors

Debora Fudge, Chair
Town of Windsor

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October 19, 2010

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RE: DEIS Comments, Cloverdale Rancheria of Pomo Indians' Fee-to-Trust and Resort Casino Project

Mr. Risling,

Thank you for the opportunity to comment on the Draft EIS for the Fee-to-Trust and Resort Casino Project (Project) proposed by the Cloverdale Rancheria of Pomo Indians (Tribe). The following comprises the comments of the Sonoma-Marin Area Rail Transit District (SMART) on the Project. These SMART District comments center primarily on impacts on the rail right-of-way, SMART operations, traffic, air quality, and greenhouse gas emissions.

SMART DISTRICT BACKGROUND

By way of background, the SMART District is a regional transportation district created in 2003 by the State of California. In 2008, the voters of the District approved a ¼ cent sales tax to fund the construction and operation of a 70-mile passenger rail and adjacent bicycle and pedestrian pathway (SMART's Multi-User Pathway). The passenger rail service will operate at speeds up to 79 miles per hour and will operate according to United States Department of Transportation Federal Railroad Administration (FRA) and California Public Utility Code (CPUC) rules and regulations. The rail system will have 14 stations across 12 jurisdictions, from Larkspur in the south to Cloverdale in the north. The District is governed by a 12-member Board of elected officials from those jurisdictions.

Since the voter approval of the ¼ cent sales tax measure, sales tax collection rates have significantly decreased, creating a financial shortfall for the full funding of the 70-mile SMART system. In 2009, the SMART Board adopted the *2009 SMART Strategic Plan*, which identified a shortfall of $155 million. Since 2009, SMART has completed Advanced Conceptual Engineering, has undertaken value engineering reviews of project capital costs, and has commenced with rail car procurement. In addition, further refinements of SMART District financial capacity have been underway and, at the September 2010 Board meeting, general direction was given to staff to pursue additional funding sufficient to complete the full rail/pathway project. Through November and December

2010, the SMART Board is expected to make several project implementation decisions regarding the timing of construction of the SMART project and potential phasing due to financial capacity limitations.

As of the Final Environmental Impact Report (EIR) certified for the SMART project, the pro-forma schedule for the passenger rail service to the City of Cloverdale would include four southbound weekday trips (three in the morning and one in the afternoon) and four northbound weekday trips (one in the morning and three in the afternoon). The Cloverdale Casino DEIS Transportation Section 4.8, page 4.8-7, states that "Existing local and regional transit service are expected to serve the proposed project adequately." SMART disagrees with this conclusion, especially since it appears that the analysis was based on erroneous information regarding the distance of the Cloverdale SMART Rail Station from the project site and a low mode split. SMART believes that there will be an increased rail demand for passenger rail services. Additional operating service trips, the additional rail cars to provide the additional service trips, and/or the additional rail cars to expand train capacity for the baseline proposed service trips are above and beyond the original SMART District capital and operating cost and funding projections. The transit demand analysis needs to be revised. Any increased demand on the SMART system that results in the need for additional services should be mitigated by funding of such additional services. In this way, project impacts on roadways and on air quality would be reduced. G-11.1

PROJECT DESCRIPTION, RAIL RIGHT-OF-WAY, SMART PATHWAY

The Draft EIS Cloverdale Rancheria of Pomo Indians' Fee-to-Trust and Resort Casino Project Descriptions (2.0 Alternatives) do not provide sufficient detail regarding the rail right-of-way bisecting the project and proposed access to the portions of the project located to the northeast of the railroad right-of-way to enable SMART to provide informed comments on potential impacts to SMART and SMART's operations. G-11.2

The SMART District will be operating passenger rail service at speeds up to 79 miles per hour according to FRA and CPUC rules and regulations. To that effect, the Draft EIS for this project should provide enough project description detail to enable SMART to determine the project's impact on SMART's ability to adhere to FRA and CPUC requirements.

Currently, the SMART Multi-User Pathway is proposed to be located on the east side of the rail track through this portion of the SMART project. It is unclear if it is possible to relocate the proposed pathway to the west side (closer to the proposed Casino) because of existing freight sidings farther south along the rail corridor that may be utilized in the future. If such a relocation of the pathway is determined to be possible, the Casino project should mitigate the expense of the relocation both north and south of the project. If the SMART pathway remains on the east side of the rail track from the proposed Casino, then any public grade crossing of the tracks would have to be approved by the CPUC. Currently, SMART has no plans to have a public crossing along this stretch of rail.

In addition, it is not clear from the information provided in the EIS, whether any private crossings of the rail right-of-way are proposed between the two general segments of the proposed project that are bisected by the rail corridor. The EIS does not clearly identify any maintenance-related traffic for the project and whether maintenance traffic will G-11.3

enter the eastern portions of the project across the rail right-of-way or via an easement across City of Cloverdale property. If any private crossing of the tracks is created, the CPUC may have concerns related to creating a potential de-facto public access point at grade across the rail tracks. Any private grade crossings within the proposed project may unintentionally be utilized by the general public if a higher than expected number of Casino patrons or employees wishes to access the SMART pathway, the SMART Cloverdale Rail Station, Downtown Cloverdale, or points south along the pathway by using the private crossing access as the shortest distance pedestrian route. Detail of any proposed private crossings of the rail right-of-way should be provided for public comment. SMART does not currently have identified funding to upgrade any private or public railroad crossings at this location. Any operating or safety impacts on the rail right-of-way from this proposed project should be fully mitigated by this project. G-11.3 (cont.)

GENERAL DESCRIPTION OF IMPACTED ENVIRONMENT

The Draft EIS erroneously states on page 3.8-5 that "the SMART Rail Train Depot is located approximately 1.5 miles north of the project site along Asti Road". The distance between the SMART Cloverdale Train Depot and the project site at the Asti Road intersection with the rail right-of-way is approximately .33 miles along the SMART Multi-User Pathway and .4 miles along Asti Road. Other sections of the DEIS (4.8 Transportation) list the distance as .6 miles, but it is unclear if that distance is between the SMART Cloverdale Train Depot and the first point of contact with the project site, or the project's auto entrance. It is also unclear if that .6 mile distance is along the SMART Multi-User Pathway or along Asti Road. G-11.4

Understanding the proximity of the SMART Cloverdale Train Depot to the project is critical to understanding the feasibility of accessing the project via regional rail transit. Research supported by the U.S. Department of Transportation has shown that people have a considerable willingness to take transit if their trip origin or destination is within ½ mile of a rail transit stop. That willingness is even stronger for origins and destinations within ¼ mile of a rail transit stop and for places that have been designed with pedestrians as a priority. Depicting the location of future SMART services as three times farther from the project site than it will actually be located inaccurately frames the discussion of the potential for rail transit services to mitigate the traffic and air quality impacts of the project. This error and associated analysis based on this error must be corrected.

PROJECT TRANSPORTATION/AIR QUALITY IMPACTS AND MITIGATION MEASURES

The transportation section of the DEIS for the proposed project, Section 4.8, makes similar assumptions under the *Project Trip Generation* sections of each alternative analyzed. Specifically, these assumptions state under each alternative "However, because Trip Generation does not contain rates for casinos, the rates for Alternatives A through D also utilized data contained in the Graton Rancheria Casino and Hotel Traffic Impact Study (KHA, 2007)."

The Graton Rancheria Casino and Hotel Traffic Impact Study looked at four smaller gaming facilities in California for their trip generation rates. None of the gaming facilities specifically analyzed within the Graton Rancheria document, nor any of the other casino trip generation studies mentioned by reference in the Graton Rancheria document, were facilities located within walking distance of a regional rail station. In G-11.5

short, the proximity of the rail station to the proposed Cloverdale Rancheria Casino will create a unique situation for a gaming facility within California. Specifically, the percentage of employee and patron trips generated that will access the project via non-auto modes will likely be higher than projected in this EIS because of the proximity to the rail station and pathway. G-11.5 (cont.)

It is unclear if the Cloverdale Rancheria EIS traffic impact study also utilizes the Graton Rancheria Casino and Hotel Traffic Impact Study mode split of 4.7% as a baseline for employee commute and casino patron transit usage or if some other baseline project mode split is used. The Graton study utilized Rohnert Park's mode split of 4.7% for general work commute trips by transit. That figure is low for the circumstances of a development within walking distance of a rail station, since the 4.7% transit mode split is a Rohnert Park city-wide figure taking into account a range of densities and no rail transit services. The Air Quality Mitigation portion of the Cloverdale Rancheria Draft EIS lists a series of Transportation and Motor Vehicle Measures to be implemented, "to the extent feasible", as **Mitigation Measure 5.5-6**. Each specific measure lists a percentage range of "reduction of all trips". "Incorporate public transit into project design" is said to result in a "0.5 – 2% reduction of all trips". "Provide shuttle service to public transit" is said to result in a "1-2% reduction of work trips". The mitigation measure that states "provide public transit incentives such as free or low-cost monthly transit passes" has no specific "reduction to trips" performance measure listed. It is not clear from the DEIS text whether these "reduction of trips" measures are additive to a baseline public transit mode share, or whether they are the total resulting transit mode share. These points need to be clarified in the document. G-11.6

The Draft EIS includes several "recommendations" under the categories of bicycles, pedestrians, and transit (pages 4.8-6 through 4.8-8), but does not actually impose them as mitigations or require their implementation (with the exception of one pedestrian recommendation that is included as a mitigation measure). The EIS should clarify the status of these "recommendations" and should include specific mitigation measures in these three categories to reduce the amount of vehicle traffic generated from the project as compared to what the DEIS analysis predicts. Similarly, the Draft EIS lists the series of "Transportation and Motor Vehicle Measures" as mitigation measures under both Measure 5.4-5 (Transportation and Motor Vehicle Measures) and Measure 5.5-6 (Toxic Air Contaminants). The measures listed under 5.5-6 are to be implemented "to the extent feasible", even if they are already listed in 5.5-5 with the directive "implement". Please clarify whether these mitigation measures are merely recommendations or whether they are, in fact, required mitigations. Several of these mitigation measures could reduce the negative impacts caused by the project on air quality, including the significance thresholds exceeded for NOx, CO, and PM10. G-11.7

Further, the Transportation Chapter (4.8) documenting the environmental impacts identifies *Impact 4.8.1-3 Bicycle, Pedestrian and Public Transit Impacts* as potentially significant. Several "recommendations" are detailed in Section 4.8 that specify that the Asti Road/SMART Right-of-Way intersection bicycle and pedestrian crossings "should be" retrofitted with compliant equipment to ensure the safety of the non-motorized users. The creation of a pathway along the west side of the rail right-of-way from the project to Asti Road, "one-quarter mile north of the project site", as described in **Mitigation Measure 5.8-5**, will create higher than expected pedestrian and bicycle volumes crossing the rail right-of-way at the Asti Road intersection. Because of the intensification of the G-11.8

pedestrian and bicycle traffic related to the proposed project, the project must fund the additional equipment costs for upgrading the intersection of that bicycle and pedestrian traffic with Asti Road and the rail right-of-way as a mitigation measure. G-11.8 (cont.)

Providing shuttle service to public transit, whether to the Cloverdale SMART Rail Station or to other regional rail stations to the south, would facilitate rail transit access to the proposed project and improve public transit ridership for the project. A pedestrian and bicycle friendly orientation of the project to the Cloverdale SMART Rail Station would facilitate casino patrons and employees accessing the proposed project by means other than automobile. Providing additional rail transit services, through acquisition of additional rail cars to expand train capacity and additional rail trips to Cloverdale, would reduce the number of automobile trips projected to the proposed project. Provision of additional public transit bus services during non-peak periods to Cloverdale and the proposed project from both the North (Mendocino Transit Authority) and South (Sonoma County Transit) would provide alternatives to the private automobile for project employees and patrons. G-11.9

Analyses from casino locations inside and outside of California where supplemental transit services were provided, regardless of casino size, may provide a more accurate projection of the transit mode splits that are likely for employees and casino patrons if the project included such supplemental services. Cache Creek Casino in Yolo County funds supplemental public transit bus services, predominantly for employees. A partnership of Atlantic City, N.J., hotels and casinos provides supplemental funding for capital and operating expenses for weekend rail services from New York City to their facilities. These two examples, and perhaps others, would provide a more likely prediction of the transit mode splits that are possible for casino related trips. Higher transit mode splits for casino patrons to the proposed Cloverdale Rancheria Casino than were identified in the EIS are likely in particular given the transit-oriented culture that exists in the more urban portions of the Bay Area, one of the regions targeted as the source of casino patrons.

CONCLUSIONS

The DEIS is flawed in several critical areas, as noted above. The overarching flaw of the DEIS is the premise that "existing local and regional transit service are expected to serve the proposed project adequately". One "recommended" measure to supplement that "adequate" local and regional transit service is stated in the DEIS with the sentence that "it would be beneficial if the Casino provided a shuttle as that could reduce the amount of vehicle traffic generated compared to what is projected in this study". Such supplemental shuttle and public transit service levels would not only be beneficial, but would actually mitigate environmental impacts associated with traffic and therefore should be included as required mitigation. G-11.10

In addition, project impacts could be reduced by incorporation of several bicycle, pedestrian and transit-supportive measures shown as "recommended" in the DEIS, as well as additional measures identified in this letter, including:

1. A pedestrian and bicycle orientation of the Casino toward the Cloverdale SMART Rail Station,

2. Financial support for operating additional public transit bus services to both the

north (Mendocino Transit Authority) and the south (Sonoma County Transit), G-11.10 (cont.)

3. Financial support for operating shuttle services between the project and the Cloverdale SMART Rail Station, Downtown Cloverdale, and/or rail stations farther to the south during the times SMART does not operate services as far north as Cloverdale,
4. Financial support for operating additional passenger rail services,
5. Financial support for the passenger rail car requirements to run additional services and/or longer trains,
6. Financial support for the completion of the multi-user pathway between the project and the Cloverdale SMART Rail Station.

SMART looks forward to working with the Tribe to resolve these issues, ensure adverse impacts on SMART and its project are minimized, and to maximize the benefits of the public's investment in rail and pathway transportation infrastructure.

Sincerely,

Lillian Hames
General Manager

Letter G-12

United States Department of the Interior

U. S. GEOLOGICAL SURVEY
Reston, VA 20192

RECEIVED BIA
2010 OCT 22 PM 2:46
PACIFIC REGIONAL OFFICE

OCT 18 2010

In Reply Refer To:
Mail Stop 440

Ms. Dale Risling, Acting Regional Director
Bureau of Indian Affairs, Pacific Region
2800 Cottage Way
Sacramento, California 95825

Subject: Draft Environmental Impact Statement for the Cloverdale Rancheria of Pomo Indians' Proposed 70-Acre Trust Acquisition and Resort Casino Project, Sonoma County, California

Dear Ms. Risling:

As requested by your correspondence of July 30, 2010, the U.S. Geological Survey (USGS) has reviewed the subject draft environmental impact statement (EIS) and offers the following comment.

COMMENT

Pg. 3.3-4: The document sites a USGS report, published in 2006, several times but the referenced document is not included in the reference list that begins on page 3.3-13. Suggest the Final EIS include the USGS (2006) report in the reference list. G-12.1

Thank you for the opportunity to review and comment on the DEIS. If you have any questions concerning our comment, please contact Gary LeCain, USGS Coordinator for Environmental Document Reviews, at (303) 236-5050 (x229) or at gdlecain@usgs.gov

Sincerely,

James F. Devine
Senior Advisor for Science Applications

Reg Dir ✓
Dep Reg Dir
Reg Adm Ofcr
Date DECRMS
Response Required NO
Due Date
Memo Dir
Date

LAW OFFICES OF
MICHAEL A. VILLA
A PROFESSIONAL CORPORATION

PACIFIC REGIONAL OFFICE

September 24, 2010

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

Re: Cloverdale Rancheria

Dear Mr. Risling,

This law firm represents South Cloverdale Water Corporation, a non-profit entity which provides water for the exclusive use of its approximately 40 household/shareholders in Cloverdale, Sonoma County, California. On September 16, I attended a public hearing sponsored by BIA to receive public comment about the Draft Environmental Impact Statement prepared by Adobe & Associates, Inc. and ESA on behalf of Sirrah, LLC, a wholly owned subsidiary of Sealaska Corporation. At the meeting, I addressed the panel of BIA representatives on behalf of my client. Concerned members of the public – and my client is such – were instructed at the meeting to submit the same in writing to BIA on or before October 20, 2010. That is what I am doing here – repeating my client's concerns, publicly expressed at the foregoing meeting, that the Draft EIR Statement makes absolutely no mention of it or the fact that its well and 4" water main are located right smack in the middle of the proposed develop site for Sealaska's contemplated casino resort project in Cloverdale. B-1.1

On behalf of my client, I urge BIA to insist that the Tribe/developers revise the Draft EIR Statement so that is squarely addresses how they intend to reconcile their contemplated development (no matter which proposed "alternative" design plan is ultimately adopted) with the fact that today, as it has for more 60 years, my client has its well and water delivery system literally right in the middle of the site on which they want to build.

In the interest of brevity, I will not repeat here my client's entire list of concerns. Instead, I will enclose a copy of my March 27, 2008 letter to BIA's Amy Dutschky on the issues. For more than 2.5 years, my client has B-1.2

250 HEALDSBURG AVENUE, SUITE 201 · HEALDSBURG, CALIFORNIA 95448
TELEPHONE (707) 473-2800 · FACSIMILE (707) 473-2801

been in sporadic negotiations with the attorney's representing the Tribe/developers but to date no agreement has been reached. B-1.2 (cont.)

Mentioned BIA's November 2008 Scoping Report on this proposed project but omitted from its recent Draft EIR Statement, South Cloverdale Water Corporation does not want either BIA of the Tribe/developers to overlook the fact is has a central and very vital interest in the future disposition of the subject lands in which it claims to have valuable, longstanding legal and equitable rights. It goes beyond saying that its water source and water delivery system can not be unilaterally disrupted or destroyed by the Tribe/developers and their plan to have the subject lands taken into trust by the federal government and declared "Indian Land." Something has to be done to protect my client's legitimate interests. Right now, the Tribe/developers have to date done nothing but "talk" about how my client's interests will be safeguarded. "Talk" is cheap, as the expression goes, and until there is some concrete agreement in place – and there is not as of now – the Tribe/developer's Draft EIR Statement should be made to expressly mention how, and on what terms, it intends to mitigate the profound impact its project will undoubtedly have on my client. B-1.3

Thank you very much for your time and attention to this matter.

Sincerely,

Michael A. Villa

MAV
Enclosures
cc Client w/Enclosures

March 27, 2008

Amy Dutschky
Acting Regional Director, Pacific Region
Bureau of Indian Affairs
2800 Cottage Way, Room W2820
Sacramento, CA 95825

Re: Cloverdale Rancheria/Amonos, LLC, a subsidiary of Sealaska Corporation

Dear Ms. Dutschky,

My law firm represents the South Cloverdale Water Corporation, a non-profit water mutual. Located in Cloverdale (Sonoma County), SCWC provides water for approximately 40 member households. The purpose of this letter is to alert you to the fact that my client owns and maintains a water pipe (located 2-3' underground) under and across a 25-acre parcel of land in Cloverdale which is the subject of an application, now pending with the Office of the Solicitor in Washington, D.C., by several Indian tribes to have said 25-acre parcel designated as restored tribal lands. The tribes' end objective is the construction of resort-type casino on said land. The water pipe delivers water from SCWC's well, located on a separate parcel adjoining the Russian River, to a pumping station – which not on the 25-acre parcel – from which it is distributed to its members' homes. My client, which has a recorded easement to maintain its water pipe where it is and two licenses from the California State Water Resources Control Board to draw water from the Russian River underflow, wants to make certain its vested property and water rights are fairly considered, and not overlooked, during all phases of the federal and state review of the pending application.

Pertinent background facts and the reasons SCWC believes the pending application threatens its water supply are as follows:

The subject 25-acre parcel was recently purchased for more than $8,000,000 by Amonos, LLC, a Delaware-based subsidiary of Sealaska Corporation, which I understand is a large consortium of numerous Alaskan Indian tribes. Sealaska, through the agency of Amonos, has partnered with the local Cloverdale Rancheria to file the aforementioned application with the Office of the Solicitor to have the land declared "Indian Land." The publicly announced long-term goal of the tribes is to have the land taken into trust by the federal government as a preliminary to their construction of a resort-type casino thereon. SCWC is deeply concerned that the tribes' planned large-scale development of the land – and attendant high volume consumption of water – would interfere with its right to maintain

and repair its water pipe in its present location and, more importantly, jeopardize its supply of water from its well. This concern is not unsubstantiated either, for attorneys for the tribes are already "asking" (read: demanding) that SCWC relocate its water pipe to the periphery of the 25-acre tract to accommodate their future development plans. Recently, the tribes' attorney stated that his client also has a right to use water transported through SCWC's pipe.

SCWC's water pipe has been in its present location, and serving the needs of its members, for nearly 60 years pursuant to multiple agreements with private individuals and various state agencies. Enclosed is a copy of a recorded November 20, 1950 easement agreement which granted to SCWC's predecessor-in-interest (Ulmann) the right to install and maintain the water pipe. Also enclosed are copies of a July 11, 1950 Encroachment Permit from the State of California, Division of Highways (allowing SCWC's predecessor to install and construct said water pipe under what today is known as Highway 101) and two separate Licenses for Diversion and Use of Water, issued to SCWC by the State Water Resources Control Board in 1959 and 1995, for the purpose of drawing water from the Russian River underflow via the aforementioned well. The status quo for the last 60 years for literally hundreds of persons comprising SCWC and who are dependent thereon for their water, is now being threatened by the proposed casino. If one criterion for the BIA to consider as part of its review of the pending application is whether the proposed casino would be detrimental to the surrounding community, SCWC respectfully submits that this project definitely poses a serious threat to its water supply and water delivery system.

For these reasons, on behalf of my client, I urge BIA to decline the tribes' application to have the 25-acre parcel taken into trust for the purposed of constructing a casino thereon.

If you have any questions, or require any further information, please do not hesitate to contact me.

Thank you for you time and attention to this matter.

Sincerely,

Michael A. Villa

MAV
Enclosures
cc Denise Jensen (w/Enclosures)
Linda Fairy (w/Enclosures)

COPY

March 27, 2008

Amy Dutschky
Acting Regional Director, Pacific Region
Bureau of Indian Affairs
2800 Cottage Way, Room W2820
Sacramento, CA 95825

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If you have any questions, or require any further information, please do not hesitate to contact me.

Thank you for you time and attention to this matter.

Sincerely,

Michael A. Villa

MAV
Enclosures
cc Denise Jensen (w/Enclosures)
Linda Fairy (w/Enclosures)

BOOK 1007 PAGE 160

WHEREAS, F.W. Ulmann and associates are desirous of boring a well on the property of Clifford Lile and Mary A. Lile, in the County of Sonoma, State of California, and acquiring an easement for a pipe line therefrom to the property of F.W. Ulmann and associates,

Now therefore, the said Clifford Lile and Mary A. Lile, his wife, as the parties of the first part herein, for the consideration hereinafter named, does hereby grant to the said F.W. Ulmann and his associates, the right to dig or bore a well on the premises of the parties of the first part, at a place to be designated by said first party, and does hereby grant to said Ulmann and his associates, the right to lay a pipe line from the said well over the land of said first party, for the purpose of conveying water to the premises of said second party and his associates;

In consideration thereof, first party shall have the right to the use of water from said pipe line for all domestic purposes, without let or hindrance, or any charge therefor.

The party of the second part shall have the right to enter upon the premises of first party to make any repairs to the pump on said well, or to make any repairs to the pipe line leading therefrom.

IN WITNESS WHEREOF, the said parties have hereunto set their hands, in duplicate, this 20th day of July 1950.

RECORDED AT REQUEST OF
F.W. Ulmann
AT 5 MIN. PAST 10 A.M.
Book 1007 Official Records p. 160
SONOMA COUNTY, CALIFORNIA
NOV 20 1950
Reginald H. Wendt RECORDER
FEE $ 1.80 D 27570
SERIAL No.

F W Ulmann

C. A. Lile

Mary A. Lile

STATE OF CALIFORNIA,
COUNTY OF SONOMA } ss.

On this 22 nd day of July in the year one thousand nine hundred and fifty before me Edward Haczela, a Notary Public in and for said County and State, residing therein, duly commissioned and sworn, personally appeared F. W. Ulmann and Clifford Lile known to me to be the persons described in, whose names are subscribed to and who executed the within instrument, and acknowledged that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal at my office in said County, the day and year in this Certificate first above written.

Edward H. Haczela
Notary Public in and for said County and State

My Commission Expires April 20 1954

DRM 103 - N. C. FOX, 1707 PARKER ST., BERKELEY, CALIF.

STATE OF CALIFORNIA
DEPARTMENT OF PUBLIC WORKS
DIVISION OF HIGHWAYS

No. G-41989

ENCROACHMENT PERMIT

To Mr. F. Wellman
Route 1, Box 29
Cloverdale, California

San Francisco, California
July 18, 1950

In compliance with your request of July 11, 1950 *and subject to all the terms, conditions and restrictions written below or printed as general or special provisions on any part of this form*

PERMISSION IS HEREBY GRANTED TO

install 4" water supply line under and across the State Highway from Right of Way to Right of Way of State Highway IV-Son-1-A, Station 354+75.

Five days before work is started under this permit, notice shall be given to, and approval of construction details obtained from Highway Superintendent P. A. Loeffler, P. O. Box 126, Napa, telephone Napa 6-3184.

The pipe shall be placed through a metal casing previously placed under and across the improved portion of the highway by boring and jacking, without disturbing the said portion.

This permit is to be strictly construed and no work other than that specifically mentioned above is authorized hereby.

This permit shall be void unless the work herein contemplated shall have been completed before December 1, 1950

DEPARTMENT OF PUBLIC WORKS
DIVISION OF HIGHWAYS
G. T. McCOY
State Highway Engineer

By [illegible] District Engineer

GENERAL PROVISIONS

1. *Definition.* This permit is issued under Chapter 3 of Division 1 of the Streets and Highways Code. The term encroachment is used in this permit as defined in the said Chapter 3 of said code. Except as otherwise provided for public agencies and franchise holders, this permit is revocable on five days notice.

2. *Acceptance of Provisions.* It is understood and agreed by the Permittee that the doing of any work under this permit shall constitute an acceptance of the provisions.

3. *No Precedent Established.* This permit is granted with the understanding that this action is not to be considered as establishing any precedent on the question of the expediency of permitting any certain kind of encroachment to be erected within right of way of State highways.

4. *Notice Prior to Starting Work.* Before starting work on which an inspector is required, or whenever stated on the face of this permit, the Permittee shall notify the District Engineer or other designated employee of the district in which the work is to be done. Such notice shall be given at least three days in advance of the date work is to begin.

5. *Keep Permit on the Work.* This permit shall be kept at the site of the work and must be shown to any representative of the Division of Highways or any law enforcement officer on demand.

6. *Permits from Other Agencies.* The party or parties to whom this permit is issued shall, whenever the same is required by law, secure the written order or consent to any work hereunder from the Public Utilities Commission of the State of California, or any other public board having jurisdiction, and this permit shall be suspended in operation unless and until such order or consent is obtained.

7. *Protection of Traffic.* Adequate provision shall be made for the protection of the traveling public. Barricades shall be placed with red lights at night, also flagmen employed, all as may be required by the particular work in progress.

8. *Minimum Interference With Traffic.* All work shall be planned and carried out so that there will be the least possible inconvenience to the traveling public except for the specific work permitted.

9. *Storage of Material.* No material shall be stored within eight (8) feet from the edge of pavement or traveled way or within the shoulder line where the shoulders are wider than eight feet.

10. *Clean Up Right of Way.* Upon completion of the work, all brush, timber, scrap and material shall be entirely removed and the right of way left in as presentable condition as before work started.

11. *Standards of Construction.* All work shall conform to recognized standards of construction.

12. *Supervision of Grantor.* All the work shall be done subject to the supervision of, and to the satisfaction of, the grantor.

13. *Future Moving of Installation.* It is understood by the Permittee that whenever construction, reconstruction or maintenance work on the highway may require, the installation provided for herein shall, upon request of the Department of Public Works, Division of Highways, be immediately moved by, and at the sole expense of, the Permittee.

14. *Expense of Inspection.* On work which requires the presence of an employee of the Division of Highways as inspector, the salary, traveling expense and other incidental expense of such inspection during the work shall be paid by the Permittee upon presentation of a bill therefor.

15. *Liability for Damages.* The Permittee is responsible for all liability for personal injury or property damage which may arise out of work herein permitted, or which may arise out of failure on the Permittee's part to perform his obligations under this permit in respect to maintenance. In the event any claim of such liability is made against the State of California, or any department, officer, or employee thereof, Permittee shall defend, indemnify and hold them and each of them harmless from such claim. This permit shall not be effective for any purpose unless and until the above named Permittee files with the Department of Public Works, Division of Highways, a surety bond in the form and amount required by said department, unless specifically exempted on the face hereof. The requirement that a bond be filed does not apply in the event the Permittee is a governmental board which derives its revenue by taxation.

16. *Making Repairs.* If the grantor shall so elect, repairs to paving which has been disturbed shall be made by employees of the grantor and the expenses thereof shall be borne by the Permittee, who shall purchase and deliver on the road the materials necessary for said work as directed by the State Highway Engineer. All payments to laborers, inspectors, etc., employed by said grantor for or on account of the work herein contemplated, shall be made by said Permittee forthwith on receipt of written orders, pay rolls or vouchers approved by grantor. Or the grantor may elect to require a deposit before starting repairs, in an amount sufficient to cover the estimated cost thereof.

The grantor will give reasonable notice of its election to make such repairs. If the grantor does not so elect, the grantee shall make such repairs promptly. In every case the grantee shall be responsible for restoring any portion of the highway which has been excavated or otherwise disturbed to its former condition as nearly as may be possible except where the grantor elects to make repairs to paving as above provided in this paragraph and except where provision to the contrary is made in the typewritten portion of the permit.

17. *Care of Drainage.* If the work herein contemplated shall interfere with the established drainage, ample provision shall be made by the Permittee to provide for it as may be directed by the grantor.

18. *Submit Location Plan.* Upon completion of underground or surface work of consequence, the Permittee shall furnish plan to the District Office showing location and details.

19. *Maintenance.* The grantee agrees by the acceptance of this permit to exercise reasonable care to maintain properly any encroachment placed by it in the highway and to exercise reasonable care in inspecting for and immediately repairing and making good any injury to any portion of the highway which occurs as a result of the maintenance of the encroachment in the highway or as a result of the work done under this permit, including any and all injury to the highway which would not have occurred had such work not been done or such encroachment not placed therein.

PIPES, CONDUITS, GAS PUMPS, ETC.

20. *Crossing Roadway.* Service and other small diameter pipes shall be jacked or otherwise forced underneath pavement without disturbing same. Pavement or roadway shall not be cut unless specifically permitted on the face hereof. Service pipes will not be permitted inside of metal culvert pipes used as drainage structures.

21. *Limit Excavation.* No excavation is to be made closer than eight (8) feet from the edge of the pavement except as may be specified.

22. *Tunneling.* No tunneling will be permitted except on major work as may be specifically set forth on the face hereof.

23. *Depth of Pipes.* There shall be a minimum of two (2) feet of cover over all pipes or conduits.

24. *Backfilling.* All backfilling is to be moistened as necessary and thoroughly hand tamped, there being not less than one tamper to each shoveler. Whenever required by the grantor, a trench crossing the roadway shall be backfilled with gravel or crushed rock.

25. *Preserve Surfacing Material.* Whenever a gravel or crushed rock surface is trenched, such material shall be placed at one side and when backfilling is started the rock material shall be replaced to its original position.

26. *Maintain Surface.* The Permittee shall maintain the surface over structures placed hereunder as long as necessary.

27. *Pipes Along Roadway.* Pipes and utilities paralleling the pavement shall be located at the distance from traveled way and at such depth as specifically directed on the face hereof. Cutting of tree roots will not be permitted.

POLES, WIRES, CABLES AND OVERHEAD STRUCTURES

28. *Location Pole Lines, etc.* Pole lines shall be located one foot from the property line unless otherwise specified on the face hereof.

29. *Public Utilities Commission Orders.* All clearances and type of construction shall be in accordance with the applicable orders of the Public Utilities Commission of the State of California.

30. *Permission from Property Owners.* Whenever necessary to secure permission from abutting property owners, such authority must be secured by the Permittee prior to starting work.

31. *Clearance of Trees.* Poles must be of such height as to permit clearance over a tree 40 feet in height, where quick growing trees are in place. At locations where slow growing trees are in place, normal construction standard may be followed at the option of the pole line company, with provision to ultimately clear a 40-foot tree.

32. *Guy Wires.* No guy wires are to be attached to trees except on specific authority and in no event shall they be so attached as to girdle the tree or interfere with its growth. Guy wires shall be kept at a minimum elevation of six feet above the ground whenever so directed.

33. *Clearing Around Poles.* The Permittee shall remove and keep clear all vegetation from within a radius of at least five feet of the poles.

34. *Painting or Visibility Strips.* All poles are to be painted for a distance of six feet above the ground using white lead and oil or aluminum paint or in lieu thereof, when poles have creosoted butts, wood, metal or other approved type of visibility strips may be placed. Wood strips are to be Douglas fir 1" x 3"—5' long placed on 6" centers about the base of pole and painted with white lead and oil or aluminum paint. If metal strips are used such strips may be placed either vertically or horizontally. Paint is to be renewed as often as may be required to maintain a satisfactory covering. If not painted when installed or renewed as the grantor may consider necessary, the right is reserved to have this painting done and the Permittee hereby agrees to bear the cost thereof under the terms of this permit.

Poles that do not present a possible traffic hazard will be given consideration for exemption from these provisions upon written request of Permittee accompanied by pertinent data as to pole location, difference in elevation, etc. The grantor's decision will be final in this regard.

35. *Remove Old Poles, Guys and Stubs.* The entire length of such timbers shall be removed from the ground and the holes backfilled and thoroughly tamped.

PLANTING TREES

36. *Location and Species.* The location and kind of trees to be planted shall be specified on the face of this permit.

37. *Planting and Maintenance Cost.* The Permittee must bear the cost of planting the trees. The arrangement as to maintenance of the trees shall be specifically set forth on the face of the permit. In particular cases arrangements may be made for the Division of Highways to do this work upon deposit of a certain sum for each tree which is to be planted. The Division of Highways reserves the right to assume the maintenance or to decline to do so as conditions justify.

38. *Group Planting.* The cost of group plantings and similar special work which may be agreed upon with the Division of Highways shall be borne by the Permittee. Land for such plantings shall be secured in fee by the Permittee and turned over to the State. Plantings for parking and picnic grounds will not be considered in this connection.

REMOVAL OR TRIMMING OF ROADSIDE TREES

39. *Removal of Trees.* When permit is granted for removal of a tree as an independent operation or as a part of other work, the entire stump shall be taken out for a depth of at least two feet blow the ground surface.

40. *Clearing the Site.* All timber and debris shall be removed from the right of way. The hole left by the stump shall be backfilled and thoroughly tamped and the site left in a presentable condition.

41. *Trimming of Trees.* In general, only light trimming of branches two inches or less in diameter will be permitted and only when specifically so stated on the face hereof. The shapeliness of the tree must be preserved.

42. *Inspection.* If the permit requires inspection by the State during progress of the work the cost of inspection shall be borne by the Permittee. No charge will be made for occasional routine inspection.

Road Approaches, Connecting Pavements and Minor Work

43. *Grades and Specifications.* Grades and types of construction shall be as detailed by plans or stated on the face of this permit.

44. *Borrow and Waste.* Only such borrow and waste will be permitted and within the limits as set forth on the face of this permit.

45. *Minor Work.* Grading down of small banks, small ditches, placing of awnings, and other similar minor work shall be governed by the general provisions and as detailed on the face hereof.

Signs

46. *Clearance of Signs.* The minimum clearance from the sidewalk shall be twelve feet.

Railroad Crossings

47. *Safety and Convenience.* The future safety and convenience of the traveling public shall be given every consideration in the location and type of construction.

48. *Meet Highway Grade.* The grade and superelevation of the track must conform to the grade of the highway at point of crossing.

49. *Width of Paving.* The crossing shall be planked or paved as may be specified on the face of this permit for the full roadway and shoulder width.

STATE OF CALIFORNIA—STATE WATER RIGHTS BOARD

License for Diversion and Use of Water

APPLICATION 14045 PERMIT 8636 LICENSE 5767

THIS IS TO CERTIFY, *That* South Cloverdale Community Water Group
c/o Alan Furber
141 Caldwell Street
Cloverdale, California

has made proof as of April 9, 1959 *(the date of inspection) to the satisfaction of the State Water Rights Board of a right to the use of the water of* Russian River (underflow) in Sonoma County

tributary to Pacific Ocean

for the purpose of domestic use *under Permit* 8636 *of the State Water Rights Board and that said right to the use of said water has been perfected in accordance with the laws of California, the Rules and Regulations of the State Water Rights Board and the terms of the said permit; that the priority of the right herein confirmed dates from* November 13, 1950 *and that the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid, is limited to the amount actually beneficially used for said purposes and shall not exceed* twenty-eight thousandths (0.028) cubic foot per second to be diverted from January 1 to December 31 of each year.

The point of diversion of such water is located:

South one thousand fifty-two (1052) feet and east five hundred ten (510) feet from NW corner of projected Section 20, T11N, R10W, MDB&M, being within NW¼ of NW¼ of said projected Section 20.

A description of the lands or the place where such water is put to beneficial use is as follows:

Within S½ of NW¼ and N½ and S½ of SW¼ of projected Section 19, T11N, R10W, MDB&M, as shown on map filed with State Water Rights Board.

All rights and privileges under this license including method of diversion, method of use and quantity of water diverted are subject to the continuing authority of the State Water Rights Board in accordance with law and in the interest of the public welfare to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water.

Reports shall be filed promptly by licensee on appropriate forms which will be provided for the purpose from time to time by the State Water Rights Board.

The right hereby confirmed to the diversion and use of water is restricted to the point or points of diversion herein specified and to the lands or place of use herein described.

FORM 64

This license is granted and licensee accepts all rights herein confirmed subject to the following provisions of the Water Code:

Section 1625. Each license shall be in such form and contain such terms as may be prescribed by the board.

Section 1626. All licenses shall be under the terms and conditions of this division (of the Water Code).

Section 1627. A license shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code) but no longer.

Section 1628. Every license shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a license is issued takes the license subject to the conditions therein expressed.

Section 1629. Every licensee, if he accepts a license does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any license granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the service or the price of the service to be rendered by any licensee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any licensee, or the possession of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Section 1630. At any time after the expiration of twenty years after the granting of a license, the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State shall have the right to purchase the works and property occupied and used under the license and the works built or constructed for the enjoyment of the rights granted under the license.

Section 1631. In the event that the State, or any city, city and county, municipal water district, irrigation district, lighting district, or political subdivision of the State so desiring to purchase and the owner of the works and property cannot agree upon the purchase price, the price shall be determined in such manner as is now or may hereafter be provided by law for determining the value of property taken in eminent domain proceedings.

Dated: JUL 3 0 '59

L. K. Hill
L. K. Hill
Executive Officer

4-8-76 Assgd to South Cloverdale Water Company;

LICENSE 5767
STATE OF CALIFORNIA
STATE WATER RIGHTS BOARD

LICENSE
TO APPROPRIATE WATER

ISSUED TO South Cloverdale Community Water Group

DATED JUL 3 0 '59

2

Recording Requested by:
STATE WATER RESOURCES CONTROL BOARD
Pursuant to Water Code Section 1650 and
Government Code Section 27383

When Recorded Mail to:
STATE WATER RESOURCES CONTROL BOARD
P.O. Box 2000
Sacramento, CA 95812-2000

1995 0011441

OFFICIAL RECORDS OF
SONOMA COUNTY
BERNICE A. PETERSON

AT REQUEST OF:
02/09/1995 14:29:22
FEE: $ .00 PGS: 6
TT : $ .00 PAID

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

License for Diversion and Use of Water

APPLICATION 25682 PERMIT 18139 LICENSE 13102

THIS IS TO CERTIFY, That

South Cloverdale Water Company
c/o Robert Baumgardner, President
107 Brookside Drive
Cloverdale, CA 95425

has made proof as of July 1, 1993 (the date of inspection) to the satisfaction of the State Water Resources Control Board of a right to the use of the water of
Russian River Underflow in Sonoma County

tributary to Pacific Ocean

for the purpose of Domestic use

under Permit 18139 of the Board and that the right to the use of this water has been perfected in accordance with the laws of California, the Regulations of the Board and the permit terms; that the priority of this right dates from February 23, 1978 and that the amount of water to which this right is entitled and hereby confirmed is limited to the amount actually beneficially used for the stated purposes and shall not exceed nine-hundredths (0.09) cubic foot per second to be diverted from January 1 to December 31 of each year. The maximum amount diverted under this license shall not exceed 24.3 acre-feet per year.

The total quantity of water diverted under this license and License 5767 (Application 14045) shall not exceed 44.4 acre-feet per year. (0000114)

The equivalent of such continuous flow allowance for any 7-day period may be diverted in a shorter time provided there be no interference with other rights and instream beneficial uses and provided further that all terms or conditions protecting instream beneficial uses are observed. (0000027)

THE POINT OF DIVERSION OF SUCH WATER IS LOCATED:

South 1,100 feet and East 550 feet from NW corner of projected Section 20, T11N, R10W, MDB&M, being within NW¼ of NW¼ of said Section 20.

A DESCRIPTION OF THE LANDS OR THE PLACE WHERE
SUCH WATER IS PUT TO BENEFICIAL USE IS AS FOLLOWS:

At South Clearwater Water Company service area within projected Sections 19, 20, and 30, all within T11N, R10W, MDB&M, as shown on map on file with State Water Resources Control Board.

To the extent that water available for use under this license is return flow, imported water or wastewater, this license shall not be construed as giving any assurance that such supply will continue.

(0000025)

Licensee shall allow representatives of the State Water Resources Control Board and other parties, as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this license.

The quantity of water diverted under this license is subject to modification by the Board if, after notice to the licensee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.

Pursuant to California Water Code Sections 100 and 275 and the common law public trust doctrine, all rights and privileges under this license, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water.

This continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this license with a view to eliminating waste of water and to meeting the reasonable water requirements of licensee without unreasonable draft on the source. Licensee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to: (1) reusing or recirculating the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophyte growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this license and to determine accurately water use as against reasonable water requirement for the authorized project. No action will be taken pursuant to this reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the licensee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Sec. 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust.

Reports shall be filed promptly by licensee on appropriate forms which will be provided for the purpose from time to time by the Board.

The right hereby confirmed to the diversion and use of water is restricted to the point or points of diversion herein specified and to the lands or place of use herein described.

This license is granted and licensee accepts all rights herein confirmed subject to the following provisions of the Water Code:

Section 1625. Each license shall be in such form and contain such terms as may be prescribed by the Board.

Section 1626. All licenses shall be under the terms and conditions of this division (of the Water Code).

Section 1627. A license shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code) but no longer.

Section 1628. Every license shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a license is issued takes the license subject to the conditions therein expressed.

Section 1629. Every licensee, if he accepts a license does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any license granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any licensee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any licensee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

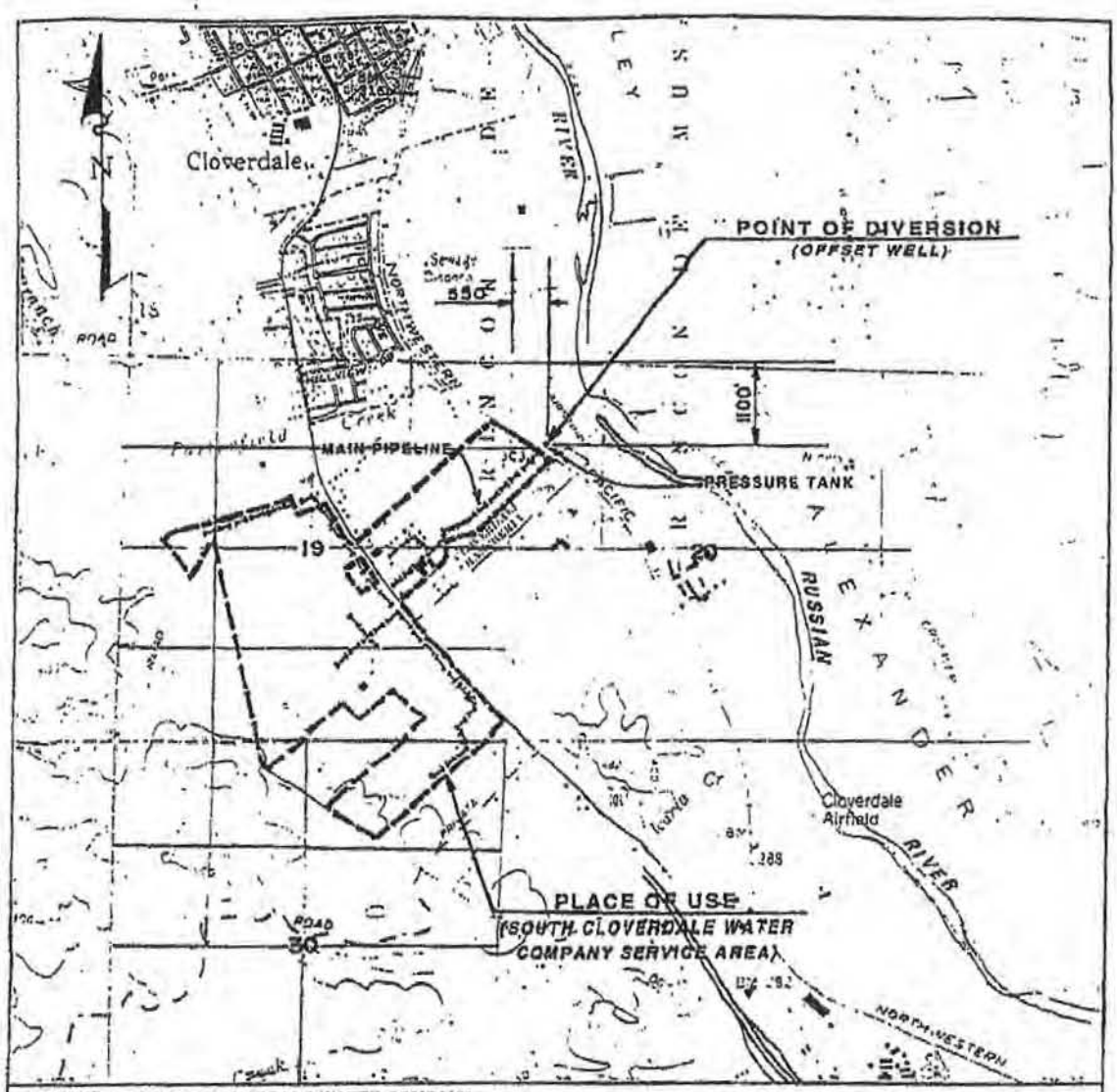
Section 1630. At any time after the expiration of twenty years after the granting of a license, the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State shall have the right to purchase the works and property occupied and used under the license and the works built or constructed for the enjoyment of the rights granted under the license.

Section 1631. In the event that the State, or any city, city and county, municipal water district, irrigation district, lighting district, or political subdivision of the State so desiring to purchase and the owner of the works and property cannot agree upon the purchase price, the price shall be determined in such manner as is now or may hereafter be provided by law for determining the value of property taken in eminent domain proceedings.

Dated: FEBRUARY 3 1995

STATE WATER RESOURCES CONTROL BOARD

David R. Bunger
For Chief, Division of Water Rights



LICENSEE SOUTH CLOVERDALE WATER COMPANY

SOURCE RUSSIAN RIVER UNDERFLOW

POINT OF DIVERSION

WITHIN NW 1/4 NW 1/4 OF PROJECTED

SECTION 20 , T 11N , R 10W , MD B&M

COUNTY OF SONOMA

CLOVERDALE	1960	1:24000
U S G S QUAD	DATE	SCALE

PERMIT NO. 18139

APPLICATION NO. 25682

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

LICENSE

13102

DATE: 10/1/94	DRAWN: Sp	CHECKED: J.O.

STATE OF CALIFORNIA

CERTIFICATE 15131
APPLICATION 25682
PERMIT
LICENSE 13102

I, Catherine A. Nease having custody of the files and records of the State Water Resources Control Board, State of California, do hereby certify that the attached

LICENSE FOR DIVERSION AND USE OF WATER

County of SONOMA dated, February 03, 1995

is a true and correct copy of a public record on file in this office.

WITNESS my hand and the seal of the State Water Resouces Control Board, State of California on this day February 03, 1995

Catherine A. Nease

Title Records Management Analyst

Letter B-2

Cloverdale Skate Park Fund, Inc.
P.O. Box 808
Cloverdale, CA 95425

RECEIVED BIA
OCT 18 PM 2:57
PACIFIC REGIONAL OFFICE
Reg Dir
Dep Reg Dir
Reg Adm Ofcr
Route DECRMS
Response Required NO
Date
Memo Ltr
Info

October 12, 2010

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

DEIS Comments, Cloverdale Rancheria of Pomo Indians' Fee-to-Trust and Resort Casino Project

Dear Mr. Risling,

We have grave concerns regarding the incompatibility of the proposed casino complex with the Skate Park planned for the neighboring property. The planned skate park is not mentioned in the Draft Environmental Impact Report even though the emerging plans have been in motion for more than 7 years now, with a non-profit organization formed to bring it to fruition in 2006. An initial plan called for a location at Furber Park, and was later changed to the city-owned land next door to the proposed casino complex. This location has been the focus now for the year and is in the final stages of agreement with the City of Cloverdale. The Skate Park is a top priority of the Cloverdale Youth Master Plan, a city-council initiative coordinated by Vice-Mayor Jessalee Raymond. B-2.1

Public meetings to plan for the skate park have been held at the Senior Center during the last 8 months A presentation was made to City Council requesting the 3.25 acre city-owned land in question on Asti Road on September 22, 2010. A plan has been devised for a competition skate park, a family-oriented park that will bring revenue to the city, with little drain if any facilities, and a business opportunity as overseer for the upkeep of the park. The plan calls for a family park, with picnic facilities that will make it usable for all of the family and parties. It will reuse water for cooling areas in summer and solar panels for electricity. It is a family area, for the people of Cloverdale. The SK8PARK is included in the General Economic Plan for the city of Cloverdale and will be completed within the next 3 years. A fundraiser at the Citrus Fair on 9/25/2020 raised $3,000 for the park.

The thought of having a casino complex next door to this facility for children and young adults is daunting. We would not want anything to stop or harm the kids in having the SK8PARK. We do not oppose the Cloverdale Rancheria from sustaining their group. We do, however, oppose a casino complex that is proposed to bring 9553 vehicle trips a day to the site next door to a family-oriented park and youth facility. We believe these buses and automobiles will pose safety hazard, and that the potential crime that is likely to arise around a casino is harmful to our youth at this proximity. B-2.2

What will be done to shield our youth from the traffic and potential crime impacts of such a facility next door? How will our youth who attend the park via bicycle, foot, or skateboard be protected from the volumes of traffic? What screening will be provided to prevent noise from the casino complex preventing the quiet enjoyment of this recreational family park next door? What screening will be in place to deter our children from exploring the casino complex unaccompanied by adults? How will security measures be implemented to prevent our children from expanding their skating into the expansive parking areas at the casino complex – a very dangerous temptation for them? What impact is a casino complex next door likely to have on prospective skateboarding competitions planned for this park? What research has been done on family-oriented parks and facilities located next door to casino complexes in other areas of the country? What are the findings of such research in terms of casino impact on these parks? B-2.2 (cont.)

We look forward to hearing more from you on your research of similar situations, the extent of harmful effect caused, and how such effects will be managed.

The Cloverdale Skate Park Fund, Inc is a 501(C)9 Recreational Non- Profit Corporation #65-1285844 and California Corporation #C2894754 formed specifically to create the Skate Park for Cloverdale California

Sincerely,

Nancy Turpen Lucas

Secretary/Treasurer, Cloverdale Skate Park Fund, Inc

Jessalee Raymond
Vice Mayor, City of Cloverdale
President, Cloverdale Skate Park Fund, Inc

Carol Figoni
Vice President, Cloverdale Skate Park Fund, Inc

John E. Lucas
Dir. Of Construction, Cloverdale Skate Park Fund, Inc

Anthony Gonzalez
Youth Advocate, Member at Large, Cloverdale Skate Park Fund, Inc

Letter B-2

Clearwater State Park Fund, Inc
P.O. Box 808
Clearwater, Ca 95425

NORTH BAY CA 949
15 OCT 2010 PM 3 T

USA FIRST-CLASS MAIL

Dale Risling, Acting Regional Dir.
Pacific Regional Office
Bureau of Indian Affairs
2800 Cottage Way
Sacramento, Ca 95825

95825+1846

FREDERICKS PEEBLES & MORGAN LLP
ATTORNEYS AT LAW

STEVEN J. BLOXHAM
1001 Second Street
Sacramento, CA 95814
T: (916) 441-2700
F: (916) 441-2067
E: sbloxham@ndnlaw.com
www.ndnlaw.com

Reg Dir
Dep Reg Dir
Reg Adm Offer
Date DECEMB
Response Required NO
Date
Ltr

October 20, 2010

PACIFIC REGIONAL OFFICE

VIA HAND DELIVERY

Amy Dutschke
Regional Director, Pacific Region
Bureau of Indian Affairs
2800 Cottage Way
Sacramento, CA 95825

Re: DEIS Comments, Cloverdale Rancheria of Pomo Indians' Fee-to-Trust and Resort Casino Project

Dear Ms. Dutschke:

This comment on the above-referenced Draft Environmental Impact Statement ("DEIS") is submitted on behalf of the Tribal Council of the Cloverdale Rancheria of Pomo Indians, and the Tribal Council's members, Javier Martinez, Sarah Goodwin, Lenette Laiwa-Brown, Gerad Santana, and John Trippo. B-3.1

The Tribal Council supports the Project, and in particular supports Alternative A. The Tribal Council submits this comment to correct and supplement the record regarding the Tribe's membership and government.

The DEIS states that "[T]here are currently 498 members of the Cloverdale Rancheria...." DEIS § 1.3. See also §§ 3.6.1 ("...the people of the Cloverdale Rancheria, currently numbering nearly 500..."), 3.7.1 ("The Cloverdale Rancheria of Pomo Indians (Tribe) has a population of 498 Tribal members..."). In addition, the DEIS identifies Patricia Hermosillo as the Chairperson of the Tribal Council. See, *e.g.*, Appendix L, Letter from Native American Heritage Association to ESA dated April 17, 2008.

As you are aware, there is presently a dispute as to the composition of the Tribal government and the size of the Tribe's membership. As briefly recounted in the DEIS (see §§ 1.3 and 3.6.1), the United States restored the Tribe to federally-recognized status pursuant to the stipulated judgment entered on December 22, 1983 in *Hardwick v. United States* (N.D.Cal. Case No. C-79-1710). The stipulated judgment provided that the only people authorized to organize the government of the restored Tribe were the

distributees of Tribal property, together with their dependents and lineal descendents. This is undisputed and is recognized by the Department of the Interior. See *Alan-Wilson v. Sacramento Area Director*, 33 IBIA 55, 57 (1998). The group entitled to organize the Tribe is referred to as the "Tillie Hardwick Class." B-3.1 (cont.)

The Tillie Hardwick Class elected an Interim Tribal Council in 1996, the sole purpose of which was to facilitate the eventual full and permanent organization of the Tribe by the Tillie Hardwick Class, and to assist with directing the provision of services and benefits to Class members during the interim period until that was accomplished. The Interim Tribal Council, however, began to take actions beyond its authority and without the consent of the members of the Tillie Hardwick Class. Among these actions was the purported expansion of Tribal membership beyond the members of the Tillie Hardwick Class.

In December 2008 the members of the Tillie Hardwick Class voted to approve a Tribal Constitution to formally organize the Tribe. In January 2009 the members of the Tillie Hardwick Class elected a Tribal Council comprised of the five individuals named above. This Tribal Council has requested the BIA to recognize it as the duly elected governmental body of the Tribe, and to acknowledge the Tribal Constitution approved by the members of the Tillie Hardwick Class. To date, the BIA has refused to reach a decision on the Tribal Council's request, a failure which has led to a lawsuit currently pending in the United States District Court for the Northern District of California, *Cloverdale Rancheria, et al. v. Salazar*, No. 5:10-CV-1605 JF (First Amended Complaint filed July 9, 2010), and an administrative appeal pending before the Interior Board of Indian Appeals, *Committee to Organize the Cloverdale Rancheria Government v. Acting Pacific Regional Director*, Docket No. IBIA 10-122 (Notice of Appeal filed July 6, 2010).

In the interest of an accurate and complete record, therefore, the Tribal Council, as elected by the Tillie Hardwick Class to represent and govern the Cloverdale Rancheria, advises you that in its view the Tribal membership currently stands at approximately 180 people, all members of the Tillie Hardwick Class. In addition, please be advised that the Tribal Council consists of Javier Martinez, Chairperson; Sarah Goodwin, Vice-Chairperson; Lenette Laiwa Brown, Secretary; Gerad Santana, Treasurer; and John Trippo, General Representative.

Should you have any questions or concerns, please contact the undersigned.

Sincerely,

FREDERICKS PEEBLES & MORGAN, LLP

Steven J. Bloxham

SJB:se

Letter I-1

September 15, 2010

RECEIVED-BIA
2010 SEP 23 PM 2:09
PACIFIC REGIONAL OFFICE

ad ✓
DECRMS Nd

Dale Risling, Acting Regional Director, Pacific Region
BUREAU OF INDIAN AFFAIRS
2800 Cottage Way
Sacramento, CA 95825

SUBJECT: DEIS Comments Cloverdale Rancheria

Dear Dale:

As a resident of Cloverdale, this letter is to express my opposition to having ANY Indian casino in Cloverdale. River Rock Indian Casino in Geyserville is approximately seven miles away; Shokawah Indian Casino in Hopland is fifteen miles away; Shodakai Indian Casino in Ukiah is approximately thirty miles away. They are all within easy reach for anyone who feels the need to participate in Indian gaming. There are also Indian casinos in Lake County nearby for those who want even more variety. I-1.1

Water is not plentiful in Sonoma County (and the surrounding counties). The Russian River and wells are our supply source. We have been on water rationing in recent years. The August 29, 2010 Press Democrat newspaper had a separate section addressed to water issues in the county. This proposed casino will severely tax our limited water resources. I-1.2

Tyris Corporation is proceeding with the Alexander Valley Resort in Cloverdale. (see attached flyer) This is a destination resort with a hotel having 100-150 rooms and a restaurant. It will have an 18 hole golf course; a full service spa; a business conference center; up to 40 villas; up to 150 single family detached homes; up to 25 estate homes; an approximately two acre Gateway commercial development and open space preserves. All of these amenities and homes will require a large amount of water and electricity to operate. I-1.3

People who live here enjoy the sense of small town community closeness, low crime and the beauty of the region. It's a nice place to raise a family. Cloverdale's population has increased in the past dozen years. With this growth, some very positive changes have occurred (an art gallery, a 4 screen movie theater, a performing arts center, art films, live concerts). These are the things that make a community more vibrant. Alternate A, the current "proposed action" would overwhelm our small town in so many ways. I-1.4

Having been a volunteer for the North Coast Wine & Visitor center, I am well aware that visitors come to this area from all over the world to enjoy what we offer here. Tourist dollars are infinitely better than gambling and the problems associated with it. I-1.4 (cont.)

What happens when a community has a casino: increased crime; more DUI's; more environmental pollution; increased cost to the city, and subsequently to the taxpayers. There could possibly be 6,000 or more people per day arriving in Cloverdale to gamble, which would be over half of our population. Buses are constantly driving up and down highway 101 to and from River Rock Casino currently.

There are other alternatives to yet another casino suggested in the summary of the Draft EIS. Alternative E, a commercial retail-office space could perhaps become what our city's economic development planners have wanted for Cloverdale and would demonstrate the Indians co-operation with our city towards a common goal. Alternative F, with no development, I believe would be the most desirable alternative. I hope the voices of the Cloverdale city council, other city and county officials and members of the community will be heard and considered while this process moves forward, and I hope the final decision made will not include a casino. I-1.5 I-1.6

Sincerely,

Marge Howser

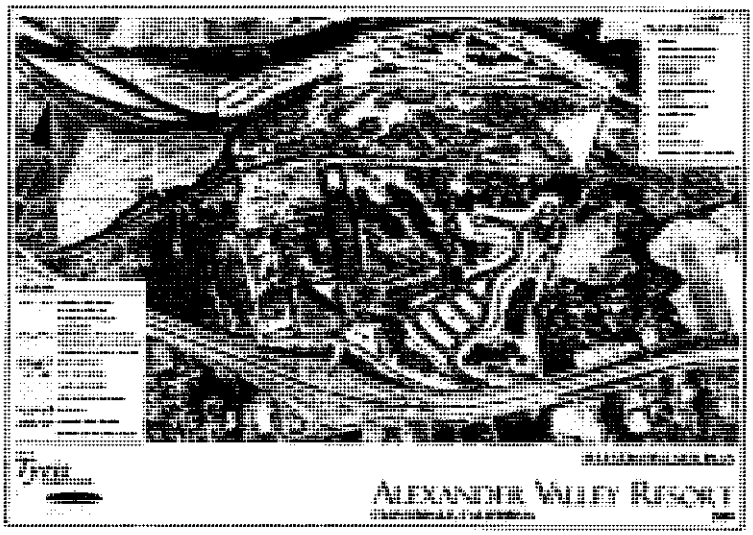
Marge Howser
PO Box 597
Cloverdale, CA 95425

Letter I-1

ALEXANDER VALLEY RESORT

Welcome to Alexander Valley Resort

Alexander Valley Resort (AVR) is located in Northern Sonoma County, California USA. AVR is a planned 254-acre destination resort in the heart of the Sonoma Wine country.



For the full story of AVR please view our AVR Information Package

Alexander Valley Resort Includes

A multi story 100-150 room resort hotel with restaurant

A full-service Spa

A Business Conference Center

Up to 40 attached Resort Residential fractional ownership units (Villas)

An 18-hole - 6500 yard, Par 70 regulation Golf Course with practice facilities, clubhouse, and related amenities

Up to 105 Single Family detached homes

Up to 25 Estate Residential homes

A 2.4-acre Gateway Commercial development

Open Space Preserves

Thank you for visiting

Alexander Valley Resort

Contact

Robert Sexton - President
Tyris Corporation
1220 Diamond Way #100
Concord, CA 94520
925-288-9200 Office
925-288-9202 FAX
rsexton@tyriscorp.com

Corporate Website

tyriscorp.com

© copyright 2009 Tyris Corporation

Howser
PO Box 597
Cloverdale, CA 95425

NORTH BAY CA 949
22 SEP 2020 PM 2 L

Dale Risling, Acting Regional Dir
Pacific Region
Bureau of Indian Affairs
2800 Cottage Way
Sacramento CA 95825

95825+1665

Letter I-2

COMMENT PAGE

Bureau of Indian Affairs – Draft EIS Public Hearing
Cloverdale Rancheria of Pomo Indians Fee-to-Trust and Resort Casino Project

Cloverdale Citrus Fairgrounds – September 16th, 2010, 6 p.m.

To submit a written statement, please complete the following information and comment below. Please hand to an attendant or submit to the address listed below by ***October 20th, 2010.*** *Please write legibly.*

Name: Gene Galliani Organization: Retired

Address: 540 PORT Circle, Cloverdale

I-2.1

I will support you fully but unfortunately I will move from upset to study for October the 20.

Sincerely

Gene Galliani

Comments may be mailed to Dale Risling, Acting Regional Director, Pacific Regional Office, Bureau of Indian Affairs, 2800 Cottage Way, Sacramento, California 95825 by **October 20th, 2010.**

Gene Galliani
540 Pork Cir.
Cloverdale, CA 95425-3679

NORTH BAY CA 949

20 SEP 2010 PM 2 L

Purple Heart

44

Bureau of Indian Affairs
2800 College Way,
Sacramento, CA 2010

95625$1646

Letter I-3

RECEIVED BY
2010 OCT -7 PM 2:16
PACIFIC REGIONAL
OFFICE

DEEMS NO

October 4, 2010

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

Diane Bartleson
228 University Street
Cloverdale, CA 95425

Subject: DEIS Comments-Cloverdale Rancheria of Pomo Indians' Fee-to-Trust and Resort Casino Project

Dear Mr. Risling:

I attended the public meeting to review the plans for the casino in our small town and was appalled at the scope of this proposed project. It was stated that the casino hopes to bring thousands of people to Cloverdale on a daily basis, an amount equal to the population of our town. Such an endeavor would forever change the rural charm and character of Cloverdale. If thousands of gamblers descend on our town, we'll have to forever say goodbye to Mayberry, USA. I-3.1

It was also stated that the pollution resulting from this casino would be substantial. Did the DEIS take into consideration that Cloverdale is situated in a "bowl," bordered by the Mayacamas Mountains and the Coastal Mountain Range? We are unable to get reliable radio reception here because of these physical features. Also, our climate of warm evenings here is different from the rest of Sonoma County because the heat becomes trapped in the bowl and contained. The same thing would happen with the pollution: It will linger; the quality of the air we breathe will be contaminated. I-3.2

Sincerely,

Diane Bartleson

PS My family, my neighbors, and I do not want to live in an environment filled with pollutants as a result of gamblers invading our small pristine town! NO to a casino in Cloverdale! I-3.3

328 University
Cloverdale CA 95425

NORTH BAY CA 949

05 OCT 2010 PM 1 T

USA 44

Dale Risling
BIA
2800 Cottage Way
Sacto, CA 95825

95825+1886

Letter I-4

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2010 OCT 13 PM 3:00
PACIFIC REGIONAL OFFICE

Reg Dir 10/5/10
Dep Reg Dir
Reg Adm Ofcr
Route DEEMS
Response Required NO
Date
Memo Ltr
Code

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

DEIS Comments, Cloverdale Rancheria of Pomo Indians' Fee-to-Trust and Resort Casino Project

Here follows our comments on the DEIS responses to our Scoping Questions I-4.1

Susan & Steve Nurse, 31400 Pine Mountain Road, Cloverdale, CA 95425

Re: Environmental Concerns Regarding Cloverdale Rancheria Proposed Cloverdale Casino

Our concerns regarding the social and economic impacts on the quality of life in our small town, as outlined below, have not been adequately answered by your DEIR – see our original background information and questions and *our responses to your DEIR responses below*:

- Cloverdale is in the process of a multi-year economic development plan to revitalize our downtown after the loss of our mainstay timber industry left the town with little discretional income and a depleted set of downtown businesses. A casino on the edge of our small town threatens to *subtract* a large part of this discretional local-area income from *existing* commercial and retail facilities, converting the local revenue stream into tribal income that is untaxed. Resulting in a tax loss to the local governments.

    1. What nationally accepted professional or scholarly data is the applicant using to evaluate the impact of an Indian gambling casino upon the foreseeable discretional income loss to adjacent commercial, retail, restaurant, recreational and lodging facilities, over the next ten years?

DEIR RESPONSE
The Innovation Group, Gaming, Entertainment and Hospitality consultants, were sited throughout the DEIS as the provider of much of the data.

Nurse Response: Although The Innovation Group provided much background data and revenue projections, no time-related projections were made to extrapolate effects over the next 10 years. The question about the next 10 years has not been answered. Additionally, the data credits show a range of 2007-2009, and given the severe changes in our national economy during this timeframe, the data used to formulate projections is unlikely to be reliable. We ask again, what is the impact of an Indian gambling casino upon the foreseeable discretional income loss to adjacent commercial, retail, restaurant, recreational and lodging facilities, over the next ten years?

2. How will our local businesses be recompensed for loss of business – both immediate and ongoing? I-4.2

DEIR RESPONSE

"The extent that future (casino complex related) sales would benefit the local economy depends on the extent that sales are net or "new" revenues for Sonoma County's economy. Sales that the project obtains from existing businesses within Sonoma County would have little, if any, economic benefit to the County's economy. However, future visitor spending at the casino that otherwise would not have occurred within the County would represent a net economic benefit. These new sales could be from out of county visitors or local residents that would otherwise have travelled out of Sonoma County for their entertainment purposes."

Nurse Response: Only retail and meal sales are subject to "Use Tax" of 7.25% (and nothing is subject to sales tax at the varying higher rates in-place throughout the county).
Note; 1% of this 7.25% is allocated to county and city use, while the remainder goes to Sacramento for state use.
DEIS estimates casino-complex retail sales of $1.8M – an insignificant proportion (1%) of the total estimated casino-complex revenues of $179.8M. Food and beverage are lumped together in the DEIS revenue projections – are beverages consumed with meals counted as meal sales? Since alcohol consumed with meals is often as much or more than the food, this could be significant if not subject to Use Tax. DEIS total estimates for food and beverage are $12.1M – 6.7% of the total projected revenues. If beverages consumed with meals are counted for use tax, what about beverages from bar sales, not tied to meals? What is the estimated breakout of beverages consumed as part of a meal, and beverages that are not considered meal-oriented?

Annual sales estimate: $179.8M Operating staff: 1,610

TABLE 4.7-3
PROJECTED SALES BY CATEGORY – ALTERNATIVE A

Revenue Category	Projected Sales
Casino Gambling	$155,900,000
Food & Beverage	$10,100,000
Retail	$1,600,000
Total Casino	**$167,600,000**
Hotel + Conference Center Lodging	$8,100,000
Food & Beverage	$2,000,000
Retail	$200,000
Total Hotel + Conference Center	**$10,300,000**
Entertainment Center	$1,900,000
Total Revenues	**$179,800,000**

SOURCE: Innovation Group, 2007 and 2008; ESA, 2009.

"Marketing analysis for the project estimates that approximately 23 percent of the casino's future gambling revenues would be generated from Sonoma County residents. This is equivalent to approximately $35.9M in annual gambling revenues (Innovation Group, 2008). In which case, the net gaming sales that would represent new revenues for Sonoma County would be at least $120M. If gambling related food and retail earnings are also included, the total gambling related net sales under Alternative A would be approximately $129.1 million per year. **Table 4.7-4** shows Alternative A's net casino resort sales by category. These portions of the future casino sales would represent new net revenues to Sonoma County's economy" I-4.3

*Nurse Response: We were told earlier in the DEIS that only retail and meals are subject to Use Tax, therefore we are looking at a financial gain to the county's tax coffers of 1% ($9.1M * 7.25%) =*

$6,597.50. And indeed, this must be offset by the loss of TOT tax on lodgings and the $35.9M lost revenues to county-wide businesses and the subsequent lost sales taxes (23% of the casino's future gambling revenues would be generated from Sonoma County residents, who will not be spending those $ elsewhere in Sonoma County on taxable items). Why is this $129.1M stated as a benefit to Sonoma County's economy? I-4.3 (cont.)

" As a conservative assumption for the impact analysis, it is assumed that all of the $38.5 million in casino spending by local residents' would in effect be "cannibalized" from the River Rock Casino or other local entertainment destinations' revenues. Under this assumption, these sales would not represent any new local revenues, and so would not add any new economic benefits to Sonoma County's economy. In actuality, a portion of the $38.5 million in potential gambling revenues from local residents spending would indeed be sales that currently may be spent outside the County at other casinos or entertainment destinations. Alternative A would have an even greater beneficial effect on local sales within Sonoma County if it could recapture this lost spending by local residents." I-4.4

Nurse Response: No benefit to recapturing lost spending by local residents will accrue to city or county other than an insignificant amount accruing from retail and meals. Why is it stated as a beneficial effect on local sales?

The DEIS estimates "approximately 58% of the lodging revenues would be derived from project visitors and only a very minor proportion would be from local residents (approximately 2 percent of sales). The Innovation Group analysis of the impact on local economy of the proposed hotel concludes that the new facility "would have a minimally dilutive impact on demand for other hotels in the market... (and) would reflect a cannibalization of approximately 70 rooms per night by the Cloverdale casino hotel." I-4.5

Nurse Response: 70 rooms per night at very conservative estimate of $100 night per room = $7,000 lost revenue per night, and $2,555,000 per year – a loss of > $2.5M to local businesses and $242,725 in lost TOT at 9.5%. We disagree that this is a minimally dilutive impact. Why is it stated as minimally dilutive? What ranges are you using to establish the boundary between minimal and major dilution? How ere these ranges established?

The DEIS then continues to state "it is conservatively assumed that 42 percent of the total hotel revenues for the proposed 275-room hotel and conference center development could be "cannibalized" revenues (i.e., casino revenues that represent "sales substitutions" from existing local businesses). This sales substitution effect is equivalent to the projected annual revenue earnings for 110 hotel rooms. Under this sales substitution projection, annual lodging-related revenues of up to approximately $4.3 million (including lodging-related food and retail sales) could be obtained from existing hotel businesses in Sonoma. In which case, Alternative A's net lodging-related revenues would be approximately $6 million." The DEIS also estimates "that 32% of the entertainment center's annual $1.9 million sales may be obtained from existing local entertainment business" and goes on to add all this up and say "$137.1 million of the casino's projected $179.8 million future annual sales would represent new net sales to the Sonoma County economy annually. This would be a beneficial economic impact. No mitigation is required." I-4.6

Nurse Response: Aside from the modest Use Tax from lodging-related retail and meals, we do not find the DEIS to explain how bringing $137.1M new sales to the county annually is in any way a beneficial economic impact. In addition, the acknowledged $42.7M cannibalized sales represent a significant lost opportunity cost for city and county tax bases, as well as a significant blow to the diverse businesses in operation today throughout the County, and in particular to the City of Cloverdale's economic development drive to attract a diverse range of new businesses to the City for the benefit of all local

residents. Why do you state that "this would be a beneficial impact"? How can it be that "no mitigation is required"? I-4.6 (cont.)

"The project's potential greatest tax impacts will be from lost transient occupancy tax revenues on the transferred lodging sales to Sonoma County and the other cities. Local transient occupancy tax rates vary within Sonoma County from 8 percent in Windsor to as high as 12 percent in Healdsburg and Rohnert Park. The transient occupancy tax rate is 9 percent in both Santa Rosa and unincorporated areas of Sonoma County. The City of Cloverdale has a 10 percent transient occupancy rate. Conservatively assuming a 10 percent average transient occupancy tax rate, the $4.3 million in projected lodging sales shift impacts would represent approximately $430,000 in lost transient occupancy tax revenues. This will represent a maximum transient occupancy tax estimate, since it is conservative in the extent of lodging substitution by the casino and it does not include any beneficial indirect transient occupancy tax gains from the spillover effects from the casino spending or its customers staying locally at non-casino lodging. The projected $430,000 tax impact would represent approximately a relatively minor 2.1 percent reduction of the $20.3 million in 2008 total annual transient occupancy tax receipts within the Sonoma County." I-4.7

Nurse Response:
DEIS goes on to state "if Cloverdale would experience a disproportionate degree of the lost lodging revenues, they would not be expected to be more than a 50 percent decrease in its transient occupancy tax receipts (i.e. approximately $86,000 and 20% of the maximum countywide impact)," and then surmises that since Cloverdale doesn't collect much TOT anyway, then the impact of lost TOT won't be much to the town, and will be greater for Sonoma County, Healdsburg and Santa Rosa. And since the loss will be shared across those towns, then no town will suffer that much. We disagree with the conclusion that this is not a major negative impact on local businesses – both immediate and ongoing. How are you establishing what is minimal and what is major? What ranges are you using to establish the boundary between minimal and major? How ere these ranges established? We have a localized economy across the county to consider so why is it OK that a loss shared across various towns is OK since no town is taking the entire hit?

"The potential for any sales tax impacts from the projected $38.5 million of sales shift for gambling revenues will depend on the source of the revenues. If majority of these sales are "cannibalized" from Red Rock casino then there would be minimal sales tax impacts. Similarly sales substituted from many alternative recreational spending activities (e.g. movie, sports, performances) will be non-sales taxes generating and therefore will not generate any sales tax losses. Project related sales tax impacts will only be associated with existing retail spending that would be redirected to gambling sales. Very conservatively projecting that only 50 percent of the sales shifts for gambling would be obtained from the Red Rock casino and other recreational spending, would translate to $19.25 million of taxable retail sales converted to gambling sales. Given that the total taxable sales within Sonoma County was $7,877M, the county sales loss would be comparatively negligible at a county level as the sales tax revenue loss would be at most $192,500 (i.e. 1 % of the taxable sales amount)." I-4.8

Nurse Response:

The DEIS goes on to summarize effects on Cloverdale as neutral: "The lost property taxes from the site's transfer into tribal trust lands for Cloverdale would be $8,000 per year. In addition, there could be some transient occupancy and sales tax losses for the City. Very conservative estimates project maximum transient occupancy tax losses up to at most $86,000 from potential sales shift to casino lodging. However, compensating spillover effects could offset the lodging occupancy decreases especially during peak periods. Cloverdale has a very small retail economy - in 2007 the total taxable retail sales at

businesses within the City were less than $56M. As a result, any sales shift impacts from the project would predominantly occur in Sonoma County, Santa Rosa and elsewhere in the County that have larger retail and residential uses. Consequently, retail sales shift impacts from Cloverdale will be limited and offset by additional incidental sales by project visitors." *What proportion of casino visitors are projected to also visit downtown Cloverdale, and for what purpose? What evidence is any projection based on? Additionally, the DEIS concludes that since some local people will be employed and can then spend money locally, then it's really no impact. We have to disagree on this – the City of Cloverdale has planned for several years now to grow and develop its economy significantly, and has taken several steps towards the execution of this plan – witness the branding project, recent purchase of land downtown next to Citrus Fair, Citrus Fair relocation assistance to name a few examples - the placement of this casino complex would make fruition of these growth and development plans impossible. How is the diversion of funds from other sources of entertainment to one source (gambling) anything other than a negative impact to our local and county community, most of whom seek a variety of entertainment options? How many providers of alternative entertainment sources are projected to close their businesses due to this loss of revenue? How many new providers of alternative entertainment sources are projected to move into Sonoma County after the casino begins to divert significant portions of the county's discretionary income into their facility?* I-4.8 (cont.)

3. How will our city be recompensed for sales tax dollars lost from local sales, dollars that are needed to pay for basic services? I-4.9

DEIS RESPONSE

During construction phase, construction workers throughout the county and the Bay Area region (estimated at approx 1,000 workers) will be employed and therefore provided with considerable purchasing power. It is claimed that new spending will be the result of tribal contracts with local construction and engineering firms. Additionally, the discussion on ongoing operations state "Downtown Santa Rosa is approximately 30 miles from the project site. Given Santa Rosa's accessibility from Highway 101, most future casino employees may be expected to be commuters from Santa Rosa and the other cities north of Santa Rosa along Highway 101." Also "labor force growth within mid and northern Sonoma County is expected to be a major source of potential employees for the proposed project."

Nurse Response: It is clearly stated that workers for both the initial construction then ongoing operation of the casino will come primarily from across the county. No priority is ever indicated for local (Cloverdale) workers. Cloverdale will bear the burden of this mammoth operation, while the county may reap some minimal financial benefit. Temporary spending in the Cloverdale area as pertaining both directly and indirectly to the construction phase would add some beneficial financial impact – this is a short-term gain. Please provide more specifics as to the nature and projected $-ranges of this projected spending.

"Although it is expected that the project would generate $179.8 million in total operating revenues, the DEIS also conservatively assumes that up to $43.8 million of these sales may be obtained from other existing Sonoma County business. Therefore, Alternative A is projected to generate at least net sales of $136.4 million annually. No net indirect or induced sales benefits would be gained on future casino sales obtained from other local businesses. As a result, it is estimated that the $136.4 million in net sales would generate at least $34.4 million in net indirect spending and $36.3 million of net induced spending for businesses in Sonoma County annually". I-4.10

TABLE 4.7-8

I-4.10 (cont.)

ESTIMATED INDIRECT AND INDUCED SPENDING FROM OPERATIONS BY ALTERNATIVE

Impact	Alt. A	Alt. B	Alt. C	Alt. D	Alt. E
Operations Spending					
Indirect	$34,429,000	$30,825,000	$26,586,000	$21,995,000	$30,673,000
Induced	$36,347,000	$31,045,000	$26,779,000	$22,136,000	$32,693,000
Total	**$70,776,000**	**$61,870,000**	**$53,365,000**	**$44,131,000**	**$63,366,000**

SOURCE: IMPLAN, 2009; ESA, 2009.

The total economic spending benefits generated by Alternative A operations would be $70.8 million annually. This would be a long term beneficial impact to Sonoma County that would last for the duration of the project's future operating period. No mitigation is required"

*Nurse Response: Indirect spending (goods and services related to building and operating the casino complex) are not guaranteed to be made locally – indeed the prevailing business partner (Sealaska) likely has many supplier relationships in other parts of the country that already provide financial incentives to expand use of those suppliers. The induced spending (from the wages of those employed) are not likely to outweigh the negative impact of deterring other, better-paying employers from locating to the area – many of these potential future employers will be deterred by the lack of family-oriented environment to attract workers, plus the significantly-reduced available labor force due to the dominance of this one monolithic employer. The DEIS claims no mitigation is necessary to offset our City's lost sales dollars, dollars that provide needed services for our citizens. We do not agree with this assessment - the numbers given do not support this "no mitigation" claim, and must be viewed both in the light of current economic downturn in Cloverdale (in line with national downturn) as well as current economic development plans to provide more tax base for the city from a diverse range of businesses and jobs at 2.5 * CA minimum wage. This "no mitigation" claim must be revisited.*

I-4.11

4. What research is being done to show how the loss of city tax dollars will not result in additional taxes on our community to make up for the tax revenues that are being diverted to the tribe and its business partners?

DEIR RESPONSE:

"Since the Tribe would pay Use Taxes for retail and meal sales in lieu of sales taxes, any retail or dining "sales shifts" between the local business and the tribe would not result in any net sales revenue losses to Sonoma County. However, local cities may experience some sales tax revenue decreases if food or retail sales by businesses within their jurisdiction relocate to the casino. In addition, the County of Sonoma and other local city governments could lose some net local sales tax revenues to the extent that the casino redirects taxable goods spending by local residents to nontaxable gambling purchases".

Nurse Response: There is no doubt that local Cloverdale customers will be cannibalized from other local dining and drinking establishments – the lure of low-cost food and drinks is a usual casino marketing tactic. Once developed, the property would no longer be subject to property tax or business taxes. The Use Tax on meals at the casino complex will provide a share of 1% (shared between Sonoma County and City of Cloverdale) to compensate for this loss from our city tax base. Additionally, new dining and retail establishments are likely to be discouraged from locating to Cloverdale due to this cannibalization of prospective customers. This question has not been answered – what research is being done to show how the loss of city tax dollars will not result in additional taxes on our community to make up for the tax revenues that are being diverted to the tribe and its business partners?

I-4.12

"Although little data is available on the source of gambling spending, casino spending will generally be a recreational and discretionary purchase. As such it is more likely to substitute for other recreational activities than for retail spending."

Nurse Response: This is an unsubstantiated claim. We agree that much retail spending is indeed discretionary, and we also know that both discretionary and non-discretionary spending is likely to be reduced when purchasing power is diverted to gambling – indeed we believe that non-discretionary spending, which almost always involves choices between a range of quality and price, will drop to the lower range of possibility – what research can you provide on this? Please state the financial impact on non-discretionary spending in terms of quality and price ranges. Furthermore, other recreational activities also support the well-being, quality of life, and diversity of our City – diverting spending from these other businesses to gambling at the casino will reduce the choices of all our residents – gamblers and non-gamblers alike. These areas require more analysis and response. I-4.12 (cont.)

The DEIS does not address the issue of the likely need for additional future taxes on our community to make up for the loss of tax revenues to the tribe and its business partners. This question still needs to be addressed.

- The size and scope of the proposed casino is not compatible with our small town environment and poses a strong threat of over-powering all other businesses as well as community and recreational assets, making us first and foremost "a casino town". I-4.13

    1. What nationally accepted professional research is the applicant providing on the impact on other towns of less than 10,000 residents where a casino has been placed less than 5000 ft from the heart of the downtown district? 1-5 years out? 5-10 years out? And beyond?
    2. What research has been done to show the impact on placing a casino less than 1/3 of a mile from a large number of residential neighborhoods?

DEIS RESPONSE

None was given, other than a discussion of noise

- an acknowledgement about construction noise (which would be limited to day-time hours),
- an acknowledgement that increased traffic will bring some noise
- a plan to place HVAC equipment at the furthest point from neighbors or find other ways to buffer the sound below 50 dba

Some general comments were provided about crime and gambling addiction in respect to the larger geographic area surrounding a casino:
"While results vary as to the degree of correlation between crime and casinos, impacts from crime are considered potentially significant."
"A very conservative estimate of the potential problem gambling service population can be estimated using OPG's prevalence rate of 1.3 percent with the more inclusive NORC estimate of 100 percent prevalence impact increase for all adults living within 50 miles of the casino. The potential customer base living within 50 miles of the Cloverdale casino in 2011 is 369,400 (Innovation Group, 2007) and consequently the increase in problem gamblers would be up to 4,800 individuals. Given the existing presence of the River Rock Casino is located 12 miles south of Cloverdale and closer to this customer market it seems reasonable to share any such new problem gambler impact equally between the two casinos. In which case, at most 2,400 problem gamblers might be associated with the proposed Cloverdale casino."

Nurse response: The two specific questions we asked still need to be addressed. I-4.13 (cont.)

1. *What nationally accepted professional research is the applicant providing on the impact on other towns of less than 10,000 residents where a casino has been placed less than 5000 ft from the heart of the downtown district? 1-5 years out? 5-10 years out? And beyond?*
2. *What research has been done to show the impact on placing a casino less than 1/3 of a mile from a large number of residential neighborhoods?*

- Cloverdale has a stated goal of attracting a number of employers offering multiple jobs paying at least 2.5 * CA minimum wage - industrial, professional, and commercial jobs. Many companies relocate with an eye to quality of life for employees and will likely see a small town dominated by one large entity (casino) as less desirable for relocation. I-4.14

  1. What nationally accepted professional research is the applicant providing on other small towns regarding the impact of a casino virtually adjacent to its downtown core on the number and diversity of newly relocating businesses over the course of the following 1-5 years, 5-10 years, and beyond?
  2. In the event that it is shown there is a negative impact on relocation to our city from a diverse set of businesses bringing an array of well-paying jobs to our community, how will our city be recompensed for the loss of this economic development opportunity?

DEIR RESPONSE
None was given.

Nurse Response: These questions still need to be answered.

1. *What nationally accepted professional research is the applicant providing on other small towns regarding the impact of a casino virtually adjacent to its downtown core on the number and diversity of newly relocating businesses over the course of the following 1-5 years, 5-10 years, and beyond?*
2. *In the event that it is shown there is a negative impact on relocation to our city from a diverse set of businesses bringing an array of well-paying jobs to our community, how will our city be recompensed for the loss of this economic development opportunity?*

DEIS did make general comments on employment opportunities as follows: I-4.15
"Under Alternative A, it is estimated that the proposed hotel and casino resort would employee a total of approximately 1,610 employees. The proposed project would offer a variety of new employment opportunities ranging from management to entry-level positions. The proposed casino and hotel operations will require staff for its gaming, lodging, entertainment, sales, marketing, security and food and beverage operations. The skills and experience requirements for these jobs will vary but it is expected that onsite training will be sufficient for the majority of positions. Consequently, most of the project's future jobs should be suitable for the region's labor force."

*Nurse Response: These aren't the mix of industrial, professional, & commercial jobs paying at least 2.5 * CA minimum wage ($8 * 2.5 = $20 per hour) that our City has stated as its goal: indeed, the chart below shows only 6% (Management) will pay 2.5 * CA minimum wage or more, while 94% hover around $12.50-$13.25 – little more than 1.5 * minimum wage and certainly not a living wage for Sonoma County*

*– these workers will likely need to take on 2nd' jobs and/or commute large distances to fill these positions. Furthermore, the DEIS states that entry-level wages will likely be lower than the average wages estimated in each job category – ie less than 1.5 * minimum wage – but states that overall, wages will be comparable to other local employment opportunities where a post-secondary degree is not required – this is a direct negative impact to our city whereby employers with jobs paying the minimum of 2.5 * CA minimum wage will likely be deterred from locating here due to the loss of a family-oriented environment and attractive mix of services and quality-of-life infrastructure for their employees. We would be forced to swap the probability of a diversity of well-paying positions for a monopoly of low-paying entry-level positions. Please provide specific data and research to show how the higher paying employers offering a diversity of positions offering a minimum of 2.5* minimum wage are likely to respond to relocating to Cloverdale in the presence of the proposed casino complex.* I-4.15 (cont.)

DEIS goes on to state "a wage rate of $14.15 per hour may be considered a "living" wage in Sonoma County given the past Living Wage Ordinances passed in Sebastopol, Sonoma, and Petaluma which mandate a wage of $11.70 an hour with benefits (or $13.20 without) for workers employed by the city, city contractors, and firms receiving economic development assistance." I-4.16

*Nurse Response: This is not an answer to the City of Cloverdale's stated goal of "offering multiple jobs paying at least 2.5 * CA minimum wage - industrial, professional, and commercial jobs". Cloverdale has set its goal as higher and has been working an economic development plan to attain this. Please respond specifically to our questions about Cloverdale's stated employment goals.*

The DEIS goes on to state that "given the high unemployment numbers, unemployed people will benefit from having these earnings as opposed to the no earnings they have now", and "Sonoma County will also benefit from reduced service demand as previously unemployed individuals will reduce their dependence on public assistance" I-4.17

Nurse Response: The presence of the casino complex has a high likelihood to remove the possibility of the higher-paying jobs we seek. We do not find the answer of the short-term gain of removing people from the unemployment roster and placing them into low-income jobs that have no progression to higher-income jobs to be at all compelling. How will the presence of the casino complex affect the possibility of attracting the higher-paying positions we have been working towards through our economic development plan? Please provide research data to substantiate your answer.

TABLE 4.7-5
JOB CATEGORY AND WAGE PROJECTIONS – ALTERNATIVE A

Job Category SOC Groups[a]	Est. %[b]	Est. Jobs	Alt A Average Wage[c] (2008 $)
Management	6.0%	97	$67,800
Office	10.0%	161	$27,760
Sales	10.5%	169	$23,640
Service	32.0%	515	$26,420
Food & Beverage	22.5%	362	$25,150
Security	7.0%	113	$27,980
Maintenance	12.0%	193	$26,230
Total	**100.0%**	**1,610**	**$27,850[d]**

- Other planned community facilities in the immediate proximity of the proposed casino include a recreation area accommodating a dog park and a skate park, as well as walking and biking paths to link our rail station with our downtown area. Increased traffic to and from proposed casino represents a danger to the community users of the I-4.18

recreation area, and an unpleasant backdrop to the bikers and walkers on the connector path. I-4.18 (cont.)

1. What measures will be taken to shield users of these community resources from the hazard and unpleasantness of heavy traffic?
2. What compensation will be offered to our community for the loss of quiet enjoyment of these community resources?

DEIS RESPONSE

DEIS estimates 9,553 vehicle trips a day to the casino complex and recommends that the project coordinate onsite access improvements with the SMART Rail and Pathway project to ensure safe and convenient access to and from the path for its employees and patrons. Mitigation Measure 5.8-5 is suggested, whereby "The project would install either an off-street path or sidewalk along Asti Road between the SMART track/multi-use trail crossing of Asti Road and the project site entrance.

Nurse Response: The offer to provide a path "to ensure safe and convenient access to and from the path for its employees and patrons" does not answer our concern regarding community users of our recreation areas, and bikers and walkers who are not intending to visit the casino. These non-patrons will be subject to the noise and unpleasantness of 9,553 vehicle trips per day – one or more vehicles in this currently quiet recreational area every 10 seconds. Visitors not interested in frequenting the casino will likely be deterred from using SMART to visit Cloverdale at all – the connector path leading from the already-existing railway station to walk and bike to downtown through quiet countryside offering views of hills and vineyards was planned as a big lure to entice visitors to frequent downtown businesses, as well as to attract new businesses to downtown. Outside of the issue of hazard from heavy traffic, our questions on this topic remain unanswered.

In conclusion, we still have concerns our small town will be heavily impacted by a proposed casino in such close proximity, and many of our questions from the scoping remain unanswered. We look forward to receiving additional information on the potential environmental impacts to address our unanswered questions. We also question the process whereby some information has been provided along with a statement that no mitigation is required, yet we do not agree that this conclusion is warranted, as stated earlier in this letter. How will these areas of mitigation will be further addressed? I-4.19

We remain understanding of the purpose and need of the Rancheria for financial stability and economic self-sufficiency, and believe they could meet their needs through business ventures that would have less environmental impact on the town. Some possibilities would be: I-4.20

- Destination resort with hotel, spa and conference center, no casino. This would have the benefit of reducing the continuous stream of visitors to a more manageable flow and permit substantial room rates to be collected as well as fees for ancillary spa services, and restaurant meals. While larger influxes of people would be the case when conferences were underway, this would be more sporadic, yet would bring large

revenues to the tribe while also providing some potential business for our downtown merchants. I-4.20 (cont.)

- Northern California Cultural Center. Could focus on the Indian history and culture. Museum, cultural performances, weddings, workshops, discussion groups. Could also include a hotel. Has the benefits of instilling Indian pride of heritage in the young and could draw both native and non-native visitors from across the nation. We know of no such facility anywhere in our region and we know of dozens of casinos already in operation within 50 mile radius. I-4.21
- High-end outdoor musical/performance venue – opera festival modeled on Santa Fe. Attracts sell-out crowds in Santa Fe paying high ticket prices and filling the town with overnight visitors. Cloverdale summer evenings are perfect for outdoor performance and no other town in Sonoma County has that. I-4.22
- Activity center – roller skating, bowling, boules, and other family-oriented activities. Include a family-style restaurant & ice-cream parlor. There are no such facilities available to Cloverdale and vicinity residents without a long drive. I-4.23

Sincerely,

S.E. Nurse (SUSAN ELIZABETH NURSE)

(Stephen Nurse)

Susan & Stephen Nurse
31400 Pine Mountain Road
Cloverdale CA 95425

Letter I-4

DIES Comments, Cloverdale Rancheria of Pomo Indians' Fee to Trust and Resort Casino Project"

Dear Mr. Risling,

We are writing to protest the building of this huge project in Cloverdale. Our reasons are many, including the fact that there are already two casinos within a twenty minute drive of here, the fact that we are a small town and it would ruin the character we are trying to build here, light pollution, noise pollution, air pollution, we don't have the water or sewage to support such an endeavor, casinos lower the value of surrounding real estate, local businesses will suffer, and so on. I-5.1

We will do all we can to stop this. Our city council has taken a stand against it. We do not support any of the smaller options either. Anything built that includes gambling is not acceptable.

Sincerely,

Carolyn Marcinkowski

Gene Marcinkowski

Gene and Carolyn Marcinkowski

309 West First Street

Cloverdale, CA 95425

Reg Dir KS 10/5/10
Dep Reg Dir T
Reg Adm Ofcr
Route Decrms
Response Required No
Due Date
Memo Ltr
Tele Other

Carolyn M. Marcinkowski
309 West First Street
Cloverdale CA 95425

SAN FRANCISCO CA 941
02 OCT 2010 PM 6 T

USA FIRST-CLASS FOREVER

RECEIVED BIA
2010 OCT -4 PM 3:21
PACIFIC REGIONAL OFFICE

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

95825+1886

Letter I-6

DEIS Comments, Cloverdale Rancheria of Pomo Indians
Fee-to-Trust and
Resort Casino Project

RECEIVED BIA
2010 OCT -7 PM 2:14
PACIFIC REGIONAL
OFFICE

10/5/10

To whom it may concern:

I live in a small town with a population of just 8,000 residents. I am concerned that a casino with the following specifications is not compatible with the close knit community we enjoy: 80,000 sq ft casino, 287,000 sq ft hotel with 244 rooms, 48,600 sq ft convention center, 28,100 entertainment center, 20,000 sq ft tribal government building, and 3,400 sq ft garage and surface parking spaces. I-6.1

Please consider protecting our town.

DECRMS
NO

Sincerely,

Toby Daly

Traditional Healing Arts
100 Commercial Street
Cloverdale, CA 95425
707.894.3114

健康

NORTH BAY CA 943

05 OCT 2010 PM 3 L

LOVE
44 USA

Dale Risling, Acting Regional Director
Pacific Regional Office, BIA
2800 Cottage Way
Sacramento, CA 95825

95825-1846

Letter I-7

October 6, 2010

RECEIVED BIA
2010 OCT 13 PM 3:05
PACIFIC REGIONAL OFFICE

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

DEIS Comments, Cloverdale Rancheria of Pomo Indians' Fee-to-Trust and Resort Casino Project

Dear Mr. Risling,

I am writing you regarding the proposed casino to be built in Cloverdale. I am most concerned to learn how you plan to be prepared for a disaster? I have an extensive background in this area as I am a volunteer with the American Red Cross and assisted with the City Council on developing Cloverdale's Disaster Plan. I am not speaking as a citizen of Cloverdale and not a Red Cross Volunteer as they are neutral in any types of these discussions. I-7.1

The US Geological Survey Organization has stated that we can expect an earthquake in the magnitude of 6.8 or higher in northern California in coming years, just to name one source of possible disasters we need to plan for.

I am prepared for this by having food, water and other disaster supplies for to support my family for a minimum of three days.

SeaAlaska and the Cloverdale Rancheria of Pomo Indians should be "good" citizens and provide food, water and shelter for the proposed thousands of people arriving in over 9553* vehicles which includes automobiles and buses.

The Cloverdale disaster plan is also based on the fact that the bridge which crosses highway 101 in Healdsburg, could fail and then we would be on our own to provide disaster services, such as police, fire, and food, and water, medical and housing needs.

Another issue I am aware of after having discussions with the Cloverdale water department is how many people the wells can support, I was told the maximum would be 14,000 and that is based on future wells not currently drilled. We have already experienced water shortages and have had to do water rationing. Where do you expect to obtain water for the expected 9,000 people a day? I-7.2

I understand you plan to obtain water is either from on-site groundwater pumping or municipal water supply from the City of Cloverdale, but either way involves there actually being a satisfactory water table to support this, and not just in times of usual rainfall but in years of drought too. What analysis has been done on the effect of your plans on the water table, and what kind of drought conditions have you accounted for? Also, in the possibility of extended years of drought, what is your plan?

I look forward in receiving your answers to these issues that I have raised in the near future.

Regards,

Harold Minkin
201 Chablis Way
Cloverdale, CA 95425

Reg Dir ✓
Dep Reg Dir
Reg Adm Ofcr
Route DECRMS
Response Required NO
Due Date
Memo Ltr
Tele

CC: Mayor of Cloverdale
Governor of the State of California
Ken Salazar, U.S. Department of Interior

* This data is from your DEIS report

Letter I-8

RECEIVED BY
2010 OCT 12 PM 3:
PACIFIC REGIONAL OFFICE

Reg Dir ad ✓
Dep Reg Dir
Reg Adm Offr
Route DECEMS
Response Required NO
Due Date
Memo Ltr
Tele

October 7, 2010

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

DEIS Comments, Cloverdale Rancheria of Pomo Indians' Fee-to-Trust and Resort Casino Project

Dear Dale Risling,

The recent Draft Enviroment Impact Study presented to the residents of Cloverdale revealed the size and scope of the proposed Casino Project.

I think that the size and scope of this project under CEQA requires a full EIR. I-8.1

Sincerely,

Roz Katz

Roz Katz

314 Laurel Court

Cloverdale, CA 95425

314 Laurel Court
cloverdale CA 95425

NORTH BAY CA 949
07 OCT 2010 PM 3 T

Dale Risling
Bureau of Indian Affairs
2800 Cottage way
Sacto CA 95825

95825+1846

10-9-10 ~~DEIS COMMENTS~~, CLOVERDALE RANCHERIA OF POMO INDIANS - Fee-to-TRUST + RESORT CASINO PROJECT

Dear Mr. Risling: Re: Cloverdale Casino

Negative impacts

Water Table:

- fragile + least predictable factor.
- fragile and ~~least~~ variable potential that effects the community and population

Lake Mendocino + Sonoma are extremely vulnerable to seasonal rainfall - an arid year or two is a real potential reality. I-9.1

Picturesque community I-9.2

Obvious blight or stigma on the community + landscape

The pathogenicity will someday erupt -

So for the sake of the current + future generations, the casino project should be aborted.

Reg Dir
Dep Reg Dir
Reg Adm Ofc
Route DECRMS
Response Required NO
Due Date
Memo Ltr
Info

Sincerely,
Edward A. Miller
EDWARD MILLER
224 N. WASHINGTON ST
CLOVERDALE CA 95425

Letter I-9

Edward Miler
224 N Washington St
Cloverdale CA 95425-3246

OAKLAND CA 946
11 OCT 2010 PM 8 T

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2010 OCT 15 PM 2:57
PACIFIC REGIONAL OFFICE

DAVID Risling
Acting Regional Director
Pacific Regional Office
Bureau of Indian affairs
2800 Cottage Way
Sacramento CA 95825

95825+1846

10-9-10

DEIS Comments COMMENTS Cloverdale Rancheria of Pomo Indians
CLOVERDALE CASINO

TO: Dale Rusling acting Regional Director
Pacific Regional Office
Bureau of Indian affairs
2800 Cottage Way
Sacramento CA 95825

Fee-to Trust + Resort Casino Project

Main Objection:

Water table - loss - Fragile

Loss of business in Cloverdale town proper with competing restaurants in casino

Tax payers will have raised taxes to pay for services for casinos: I-10.1

Please do not approve project. Two neighboring casinos already exist - River Rock & Sho Ka Wah within 30 minutes drive. I-10.2

Sincerely

Cheryl Miler
224 N. WASHINGTON ST
CLOVERDALE CA 95425

Letter I-11

Mitchell Benjamin
28710 River Road
Cloverdale, CA 95425

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2010 OCT 15 PM 2:36
PACIFIC REGIONAL OFFICE
Reg Dir
Dep Reg Dir
Reg Adm Ofcr
Route DECRUS
Response Required NO
Due Date
Memo Ltr
Edl

October 13, 2010

Dale Risling, Acting Regional Director
Pacific Regional Office
Bureau of Indian Affairs
Sacramento, CA 95825

RE: DEIS Comments, Cloverdale Rancheria of Pomo Indians' Fee-to-Trust and Resort Casino Project

Dear Mr. Risling,

I have serious concerns of the contents of the Draft EIS for the Cloverdale Rancheria of Pomo Indians' Fee-to-Trust Resort and Casino Project. The document lacks thorough research on planning and land-use issues. I-11.1

Daft EIS does not mention if the proposed project would follow Sonoma County planning requirements nor does it specify existing zoning for the property. The project is in direct conflict with zoning, in fact it is so incongruous to land use of the immediate area that one can only conclude that the Draft EIS does not attempt to describe any mitigation measures, as there are none. The various alternatives as described in the Draft EIS are incongruous with existing land use and completely out of scale with the built environment and natural landscape. The Draft EIS does not specify if the project would be LEED certified and at which level. LEED Gold (at a minimum) certification must be a requirement, as by meeting this level of certification many of the mitigation measures stated in the Draft EIS would be met conclusively.

Sonoma County existing zoning for the property:
Approximately half the property is zoned: Land Intensive Agricultural
Approximately half the property is zoned: Limited Industrial

Per the Draft EIS
<u>Section 4.9 Land Use</u>

"Impact 4.9.1-1 Consistency with existing land use policies (less than significant) – no mitigation required." I-11.2
<u>This is not correct</u>. See policies below as prepared by Sonoma County Planning Department.

"Impact 4.9.1-2 Compatibility with Surrounding Uses (Less than Significant) - no mitigation required". I-11.3
This is not correct. The vast majority of the surrounding area is agricultural with some small-scale industrial use.

"Impact 4.9.1-4 Effect on Agriculture (Less than Significant) – No mitigation required." I-11.4
This is not correct. This project would eliminate a significant amount of fertile agricultural land while also disrupting the use of the agricultural land of the immediate area. See Objective LU-11.1 of Sonoma County policies.

The proposed Casino project is in direct conflict of the Sonoma County Land Use Element for Cloverdale / Northeast County. See below Cloverdale / Northeast County Planning area policies as prepared by Sonoma County.: I-11.5

3.2 CLOVERDALE / NORTHEAST COUNTY

The Cloverdale/Northeast County planning area includes the city of Cloverdale and the community of Geyserville. The rugged Mendocino Highlands on the west and the Mayacamas Mountains on the east surround the fertile Russian River Valley, including Dry Creek and Alexander Valleys. The area is also rich in other resources, including geothermal steam, construction aggregates, and water for domestic and agricultural use. Lake Sonoma and the Russian River also provide many recreational opportunities. Lands outside of the valley floors are severely constrained and relatively inaccessible.

The land use plan provides for a population of 13,800, a gain of 4,820 residents. 87 percent of this is planned to occur within Cloverdale. Average household size would decrease from 2.62 to 2.46 necessitating a total 5,600 housing units. Employment is projected to increase to about 5,700. While agriculture, geothermal development, and manufacturing are the primary sources of employment major growth is primarily in the retail and service sectors.

Table LU-6 on page 58 shows the projected population, employment and housing units for the Cloverdale/Northeast County planning area.

Lake Sonoma and increased tourism related to the wine industry will create pressure for additional recreation and visitor serving uses.

Demand for rural residential uses may increase in the agricultural valleys due to their scenic value and proximity to urban areas. Resource production must be regulated to avoid conflicts with other land uses, damage to the river, and loss of agricultural land. Many of the hillside areas are subject to severe constraints, poor access and shortage of services.

Lands within Cloverdale's sphere of influence include large vacant commercial and industrial parcels which currently lack urban services. Also, some commercial and industrial uses have developed outside of Cloverdale's ultimate urban boundary. Lands within the city's sphere also need to be retained for urban residential development to meet housing needs. Clear policy is needed to guide the type and location of urban development around Cloverdale to assure that public services are provided.

Objective LU-11.1: Retain agricultural lands in Dry Creek, Alexander, Oat and Knights Valleys in agricultural production.

I-11.5 (cont.)

Objective LU-11.2: Accommodate new commercial uses primarily in Cloverdale and secondarily within Geyserville's urban service boundary.

Objective LU-11.3: Retain large parcel sizes within Cloverdale's urban expansion boundary to provide for efficient urban residential development. New industrial or urban residential uses within the expansion area may occur only after the full range of public services are available.

Objective LU-11.4: Allow expansion of the Geyserville urban service boundary only when adequate services are available to serve the additional lands.

Objective LU-11.5: Continue to regulate aggregate and geothermal resource development to minimize adverse impacts. Limit uses in the KGRA to those which do not conflict with geothermal exploration and production.

The following policies shall be used to achieve these objectives:

LU-11a: Use the following criteria for approving discretionary projects in the "Limited Commercial" and "General Commercial" categories within Geyserville's urban service area:

1) the use is in keeping with the scale and character of the community.
2) the proposed use specifically serves local area needs or the needs of visitors and tourism.
3) the design of any structure is compatible with the historic architecture of the community.

LU-11b: Use the following criteria for approving discretionary projects in the "Limited Industrial" category within the Geyserville urban service area:

1) the use is in keeping with the rural character of the community.
2) the use does not involve heavy manufacturing or heavy industrial uses and does not use or produce flammable, explosive, or noxious materials.
3) the site is adequately screened from the roadway and adjacent residential or commercial uses.

LU-11c: Additional development in the "Limited Commercial" category for the Alexander Valley Store, Dry Creek Store, and Jimtown Store shall not include lodgings or restaurants and will not adversely affect adjacent agricultural or resource uses.

LU-11d: The Chateau Souverain, Paulsen, Geyser Peak, and Astir wineries are designated as "Recreation and Visitor Serving Commercial" to allow existing or proposed wineries and associated restaurants or lodging facilities. Any uses on these sites must support the sale and production of Sonoma County agricultural products and not adversely effect adjacent agricultural or resource areas.

LU-11e: The KOA, Preston, and American Trails Campgrounds are designated as "Recreation and Visitor Serving Commercial" to recognize existing campground uses. Expanded uses must be campground related.

Table LU-6: Cloverdale/N.E. County
Selected Socio-demographic Data, 1985 to 2005

	Estimated 1985	1990	Projected 2005

I-11.5 (cont.)

TOTAL POPULATION	--	10,500	13,800
POPULATION DISTRIBUTION			
City of Cloverdale		5,300	8,200
Unincorporated Area	--	5,200	5,600
AVERAGE HOUSEHOLD SIZE	--	2.66	2.46
HOUSING UNITS			
City of Cloverdale			
Year-round	--	2,220	3,480
Total	--	2,260	3,529
Unincorporated Area			
Year Round	--	1,740	2,110
Total	1,805	1,870	2,260
Planning Area			
Year-round	--	3,960	5,590
Total	--	4,130	5,789
EMPLOYMENT			
Total Employment	--	4,680	5,730
Basic	--	2,590	2,960
Population Serving	--	2,090	2,770

Note: All numbers rounded to nearest 10.

Sources: (1) 1985 and 1990 total housing units for the unincorporated area: 1990 Assessor's Tax Roll.
(2) 1990 and 2005 data for cities, and 1990 and 2005 populations for the unincorporated area: Feb. 1989 edition of the Sonoma County General Plan.
(3) Average household sizes: based on 1980 Census and derived from sources in (1) and (2) above.
(4) Employment data: Angus McDonald Assoc./Economic and Planning Systems and Sonoma County Planning Department, 1986.

LU-11f: Avoid additional "General Commercial", "Limited Commercial" and "Limited Industrial" designations outside the urban service boundaries of Cloverdale and Geyserville. Consider proposals to designate single parcels as "Recreation and Visitor Serving Commercial" to allow small restaurants, lodgings, and related facilities only if:

1) the site is outside of Dry Creek and Alexander Valleys;
2) the use involves the restoration of a designated county landmark and does not require any new structures or major additions or the use is an improved campground or guest ranch near a major

I-11.5 (cont.)

recreation area.
3) the use will not adversely affect adjacent agricultural or resource uses;
4) traffic levels will maintain an acceptable level of service on existing roadways and will not interfere with the movement of farm vehicles;
5) adequate water supply is available for fire suppression and domestic use and;
6) adequate access is available for emergency vehicles.

LU-11g: Use the following criteria for approving discretionary projects within the "Limited Commercial" designation adjacent to Lytton Station Road.

1) the proposed use is specifically related to agricultural production or serves other resource related commercial needs.
2) the proposed use is compatible with adjacent residential and agricultural areas.
3) based upon a visual analysis, the proposed project is found compatible with the Highway 101 Scenic Corridor and any adverse visual impacts are mitigated.
4) buildings are flood proof and no filling of the flood plain would occur.

LU-11h: Prepare a specific or area plan for the community of Geyserville prior to any expansion of the urban service area. The update shall include an evaluation of the availability of services, impacts on adjacent agricultural uses, and impacts on the scenic corridor and shall include design guidelines.

LU-11i: Avoid extension of the urban expansion boundary for Cloverdale east of the Russian River or west of Highway 101 into the Oat Valley.

LU-11j: Use zoning to limit residential subdivisions within the urban boundary of Cloverdale to expansion of existing uses until annexation occurs or an assessment district is formed.

LU-11k: Use zoning to limit industrial development within the urban expansion area of Cloverdale, except for expansion of existing uses, until annexation occurs or an assessment district is formed. Use the following criteria for discretionary projects for expansion of existing uses:
1) adequate water supply is available for fire suppression.
2) frontage improvements meet city standards.

LU-11l: Use the Aggregate Resources Management Plan and Geothermal Resources Management Plan as the policy documents for development of aggregate and geothermal resources. Avoid terrace mining in the Alexander Valley.

LU-11m: The intent of the "Limited Industrial" land use designation for the gravel processing operation on APN 116-190-21 is to recognize the existing use. The designation shall not be used as a precedent for additional industrial uses in the area.

LU-11n: Proposed amendments of the land use map for properties subject to the Franz Valley Area Plan shall be considered in light of policies contained in that plan.

LU-11o: The Land use category designation for APN 140-070-24 shall be amended to the Recreation and Visitor Serving category or other appropriate category if the application presently in process for a motel and restaurant (File UP 88-611) is approved.

I-11.5 (cont.)

LU-11p: The existing use of APN 116-190-43, although a non-conforming use, shall be allowed to be maintained, restored, and undergo minor expansion consistent with policy LU-1f from page 31.

LU-11q: Notwithstanding policies LU-3c on page 35 and policies PF-1d and PF-1e on page 381, a connection to CSA #26 (Geyserville) may be considered for APN 140-180-12, 19, 38, 39, and 51, provided that the following criteria are met:

1. Sewer service facilities are designed to serve development consistent with the land use plan.
2. The district certifies that service capacity is available.
3. Connection is authorized by out-of-service area agreement.

Sincerely,

Mitchell Benjamin

Benjamin
28710 River Road
Cloverdale, CA
95425

SAN FRANCISCO CA 941
14 OCT 2010 PM 4 L

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

9582571846

Letter I-12

Mary Brugo
316 Rolling Hill Court
Cloverdale, CA 95425
October 14, 2010

RECEIVED BIA
2010 OCT 18 PM 2:57
PACIFIC REGIONAL OFFICE
Deputy Reg Dir
Admin Ofcr
Response Required NO
Date
Date

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

Subject: "DEIS Comments, Cloverdale Rancheria of Pomo Indians' Fee-to-Trust and Resort Casino Project."

After a review of the DEIS of August, 2010 I continue to be opposed to the construction of a casino in Cloverdale. As previously stated in my August 8, 2008 letter (DEIS scoping comments) the community harm it will cause will far outweigh the intended benefit for the local tribe. The scale alone of the proposed project reaffirms my belief this project is very wrong for Cloverdale. I-12.1

The proposed casino in Cloverdale is premised on the economic need of a reported 498 members residing within 50 miles of the Cloverdale Rancheria. "Table 3.7-1 Tribal Population and Labor Statistics" is insufficient information to justify this project. Why does the DEIS fail to provide an enumeration of the location of tribal membership and certify it with documentation? I-12.2

Data from the US Census of 2000 indicates that only 73 individuals (15% of 498) of all races and all locations self-reported membership in the Cloverdale Rancheria**. In light of the census data the DEIS needs to thoroughly explain the differences between its data and the census statistics. The disparity in numbers makes the membership data reported in the DEIS very questionable. Cloverdale residents have a right to know the true facts.

The architectural rendering shown in the DEIS looks nice but is likely misleading. Is it a realistic depiction of a casino complex with seven plus buildings, three of which will be five stories high and the remainder up to two stories? The total building sizes are around 500,000 square feet for all the proposed structures. The Cloverdale complex will dwarf the size of the very visible River Rock casino in Geyserville. The DEIS should include realistic renderings depicting true elevations from the four compass points as well as include the view from Highway 101. I-12.3

This century is a period of heightened environmental awareness and concern. The proposed casino complex does little to acknowledge environmental concern or the wise use of resources at the complex itself. Further it tends to understate the negative impacts caused by traveling to and from the casino. I-12.4

Water resources are among the most critical issues for the city of Cloverdale. Several DEIS sections address water resource needs for the casino. Section 4.3 states the casino will secure its water supply from groundwater pumping or from the "municipal supply from the city." Where is the discussion that relates to the casino's demand during critical water shortages experienced by the city during multiple drought years or seasonal shortages when voluntary rationing has been required? Will residents experience mandatory rationing to accommodate the casino? I-12.5

The city's current daily demand is about 2,500,000 gallons for a populace of about 8,500. DEIS Section 2 indicates the casino average daily water demand is about 92,000 gallons with a peak flow of 171,490 gallons. How can an estimated 7,000 visitors a day (82% of the resident population) have such a low daily demand in comparison to the city? Even including the use of recycled water for casino landscaping these numbers appear distorted. Please explain. Also explain how the groundwater table in the southern area of the city will not be impacted by continuous drawdown for the casino. I-12.6

The loss of the city's land for future economic development is another major issue minimized in the DEIS. The socioeconomic analysis fails to adequately discuss what the loss of this land will do to the city's economic base. I-12.7

DEIS 4.9-1 states "Sonoma County and City of Cloverdale land use regulations would not apply to land taken into the trust." Is this the reason the proposed casino fails to adhere to state and local standards for land use and, therefore, does not comply with visual resource codes including lighting and landscaping, or other standards applying to noise and other nuisance factors? The tribe has repeatedly said it intends to work with the city in the development of the casino—noncompliance with city standards does not demonstrate cooperation or good will and further fortifies the distrust of tribal communications or intent. I-12.8

The DEIS 4.8-1-2 estimates traffic flow of 9,553 vehicle trips per day. This equates to a daily average of 398 vehicles trips per hour, or 6.6 per minute entering or leaving the casino complex 24/7. This level of traffic will negatively impact all Cloverdale residents, but particularly daily commuters. Incessant nighttime noise and lights will be a major nuisance to residents. Explain how this traffic will not deter the city's future economic development potential. Businesses that rely on delivery of supplies or the shipment of product will likely view traffic congestion as a major deterrent. I-12.9

Where is the environmental and economic justice for the 8,000+ non-Indian residents of Cloverdale? The casino pays no property or state taxes; and less than 1% of its "use fee" remains locally. The casino will give little to the community but negatively impact many residents and businesses. I-12.10

The proposed casino will degrade the local environment and the quality of life for the average resident of Cloverdale. The negative environmental impacts to traffic flow, land use and economic development opportunities, water supply and quality, waste disposal, noise, air quality, and visual resources are enormous. The proposal to take 70 acres of land from Fee-to-Trust for the Cloverdale Rancheria should be denied. The proposed casino complex will impose more harm than good on the community. This region is already saturated with casinos! I-12.11

Mary Brugo

Mary Brugo

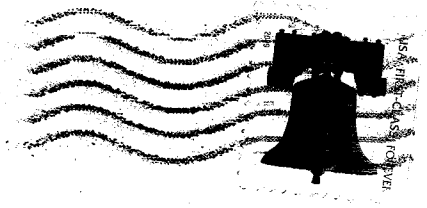
** *(See **US Census 2000 PHC T-18 American Indians and Alaska Natives Table by Western Region 2000,** Table 5, with Pomo Tribes enumerated starting on line 453 and Cloverdale Rancheria on line 472) Note: US Census 2010 detailed racial information will not be released until late 2011 or 2012.*

B

Ms. Mary Brugo
316 Rolling Hill Ct.
Cloverdale, CA 95425-5431

NORTH BAY CA 949

15 OCT 2010 PM 1 L



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

95825-1885

Letter I-13

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OFFICE

October 16, 2010

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

DEIS Comments, Cloverdale Rancheria of Pomo Indians' Fee-to-Trust and Resort Casino Project

Dear Acting Regional Director:

Prop 1A states that Tribes must make a "good faith effort" to comply with the polices and purposes of the National Environmental Policy Act. The recent DEIS presented to the city of Cloverdale was of such poor quality and left so many questions unanswered that it appears the Tribe did not make a "good faith effort" to comply with NEPA. The Bureau of Indian Affairs has an obligation to the City of Cloverdale to ensure that all requirements of the Tribe meet standard. I-13.1

How can you address this concern?

Prop 1A Off-Reservation Environmental Impacts: The Compact requires the Tribe to adopt an ordinance providing for environmental impact reports concerning potential off-Reservation environmental impacts for all projects. Further, the Tribe must make a "good faith effort" to comply with the policies and purposes of the National Environmental Policy Act ("NEPA") and the California Environmental Quality Act ("CEQA"). (Id. at § 10.8.1.)

Sincerely,

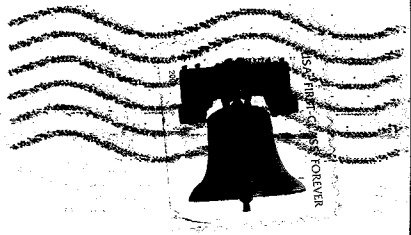
Roz Katz
314 Laurel Court
Cloverdale, CA 95425

Reg Dir ✓
Dep Reg Dir
Reg Adm Ofcr
Route DECRMS
Response Required NO
Date
Route Ltr
Ack

314 Laurel Court
Cloverdale, CA 95425

SAN FRANCISCO CA 941

16 OCT 2010 PM 4 T



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

95825+1885

Letter I-14

Reg Dir ✓
Dep Reg Dir
Reg Adm Ofcr
Route DECRMS
Response Required NO
Due Date
Project Ltr
Tele

COMMENT PAGE

Bureau of Indian Affairs – Draft EIS Public Hearing
Cloverdale Rancheria of Pomo Indians Fee-to-Trust and Resort Casino Project

Cloverdale Citrus Fairgrounds – September 16th, 2010, 6 p.m.

*To submit a written statement, please complete the following information and comment below. Please hand to an attendant or submit to the address listed below by **October 20th, 2010**. Please write legibly.*

Name: PAT DUNLAP Organization: NONE

Address: 318 ROLLING HILL CT, CLOVERDALE 95425

THE INDIAN GROUPS ARE TRYING TO FORCE CLOVERDALE TO OVER DOUBLE ITS POPULATION, IN VIOLATION OF OUR GENERAL PLAN TO PERHAPS BENEFIT LESS THAN 100 PEOPLE WHO ARE TRIBAL MEMBERS. I-14.1

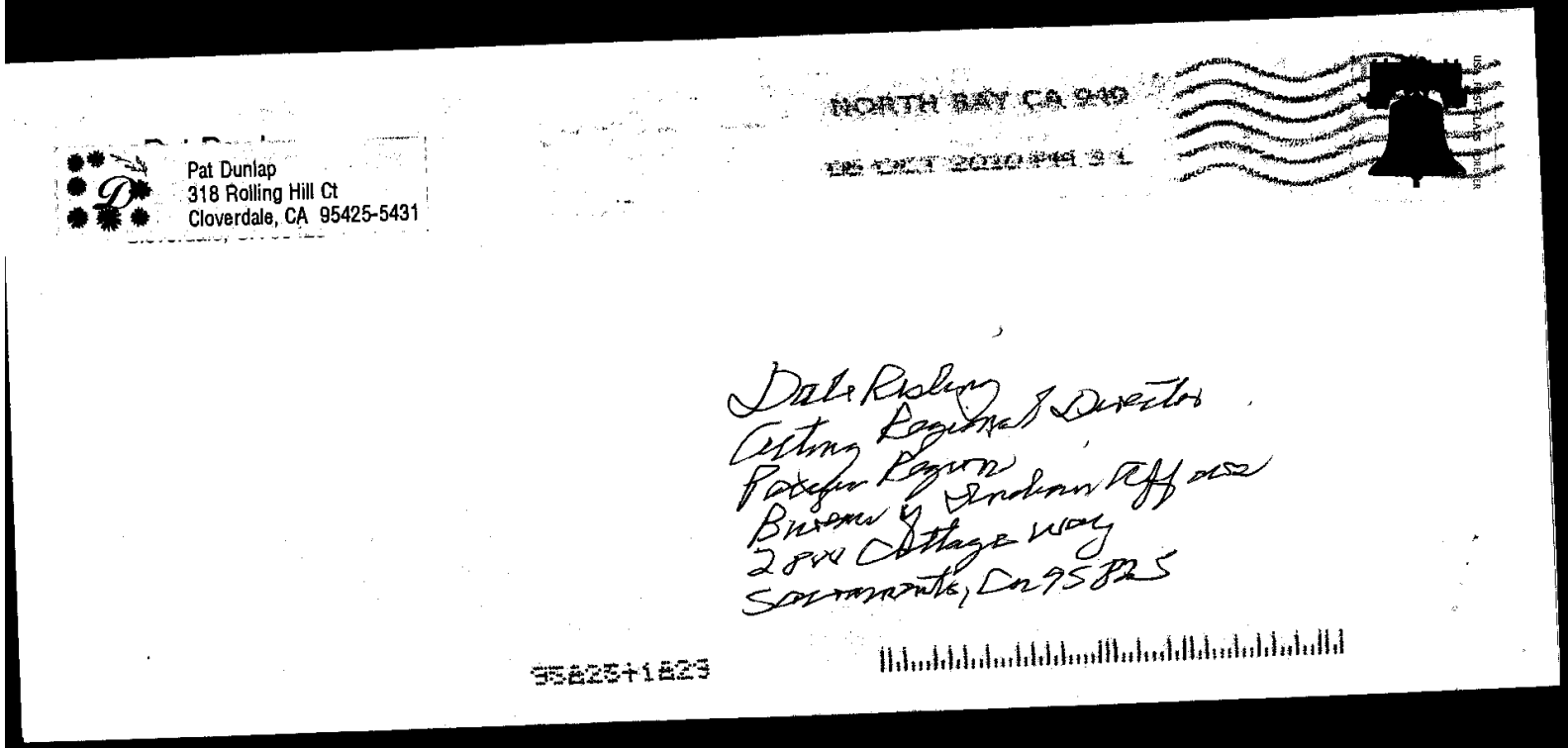
I KNOW THEY HAVE SAID THEY HAVE 400+ MEMBERS — MAKE THEM PROVE IT.

WE LIKE THIS CITY AS IT IS AND AS WE PLAN IT TO GROW - NOT SOMEONE'S IDEA THAT WE SHOULD BE A GAMBLING TOWN

P Z Dunlap

Comments may be mailed to Dale Risling, Acting Regional Director, Pacific Regional Office, Bureau of Indian Affairs, 2800 Cottage Way, Sacramento, California 95825 by **October 20th, 2010**.

Letter I-14


Pat Dunlap
318 Rolling Hill Ct
Cloverdale, CA 95425-5431
NORTH BAY CA 949
Dale Risley
Acting Regional Director
Pacific Region
Bureau of Indian Affairs
2800 Cottage Way
Sacramento, CA 95825
95825+1823

Tom and Diane Notti
149 Porterfield Creek Dr.
Cloverdale, Ca 95425
October 16, 2010

RECEIVED BI
2010 OCT 20 PM 3:
PACIFIC REGIONAL OFFICE
Reg Dir
Dep Reg Dir
Reg Adm Ofcr
Response Required
Date
Lic

Dale Risling, Acting Regional Diretor
Pacific Region, Bureau of Indian Affairs
2800 Cottage Way
Sacramento, Ca 95825

Subject: "DEIS Comments, Cloverdale Rancheria of Pomo Indians' Fee-to-Trust and Resort Casino Project."

After reviewing the DEIS of August 2010 I question the wisdom of constructing a casino in Cloverdale because adequate answers to questions addressing mitigation of the following issues have not been forthcoming: I-15.1

Environmental issues arising out of enormously increased traffic flow such as:

Increased air pollution in an area of relatively clean air.

Traffic to and from a casino will create incessant noise pollution as will the casino itself. I-15.2

24/7 lighting for safety and the neon advertising for the casino will destroy the Cloverdale skyline. How can subjecting the residents of an entire city to these nuisances for the sake of less than 500 members of the Pomo tribe be justified?. These things are not compatible with the aura of quiet, small town USA currently enjoyed by the residents of Cloverdale. I-15.3

Land use is an issue vital to the future development of Cloverdale. Obviously land taken into trust is exempt from any of the state, county and city codes applicable to land use and forever removed from the possibility of economic development by the city. I-15.4

Water resources are a prime concern to a city which has had serious water shortages in the past and the water needs of a casino which will virtually double water demand cannot feasibly be met by drilling additional wells into the same aquifer that has failed to support normal city needs and necessitated rationing in the past. I-15.5

There is a myriad of other concerns beyond those mentioned in this letter begging to be addressed. What will be done to mitigate the drain on fire protection, law enforcement, catastrophic emergency response capabilities, damage to local business, loss of tax revenues and the general negative impacts that generally follow casinos. Another casino in this area can only create more chaos than good. I-15.6

Tom and Diane Notti--Cloverdale Ca

Notti
149 Porterfield Creek Dr.
Cloverdale
CA 95425

NORTH BAY CA 949

16 OCT 2010 PM 1 L

USA FIRST-CLASS FOREVER

DALE RISLING, ACTING REGIONAL DIRECTOR
PACIFIC REGION, BUREAU OF INDIAN AFFAIRS
2800 COTTAGE WAY
SACRAMENTO CA 95825

95825+1885

Letter I-16

October 17, 2010

1081 Palomino Road, Cloverdale, CA 95425

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

Re: DEIS Comments, Cloverdale Rancheria of Pomo Indians' Fee-to-Trust and Resort Casino Project

Dear Mr. Risling:

This letter will amplify comments I made at the public hearing in Cloverdale in September. I-16.1

I oppose the casino project and urge the BIA not to go forward with it.

I believe that the EIS fails to account for the impact on the community of Cloverdale and on the Cloverdale Rancheria of the probable commercial failure of the proposed casino. I believe that there are already more casinos in business or in plan than can be supported by the market for gaming that the Cloverdale casino would serve. A Google search for "casino" near Cloverdale identifies five active casinos nearby, all but one of them apparently operated by Indian tribes. Several other casino projects are underway within the same market. I don't believe that the market potential for the proposed Cloverdale casino has been adequately assessed, and I believe the project will fail to meet its financial projections when the current gaming bubble bursts.

One negative environmental consequence of such failure would be incomplete, abandoned or badly-maintained structures littering the landscape near Cloverdale. These would be eyesores in themselves and would further discourage productive commercial development near Cloverdale.

I hope we can prevent such an outcome.

Yours truly,

Thomas A. King

Letter I-17

Reg Dir ~~10/18/10~~
Dep Reg Dir
Reg Adm Ofcr
Route DECRMS
Response Required NO
Due Date
Memo Ltr
File

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

DEIS Comments, Cloverdale Rancheria of Pomo Indians' Fee-to-Trust and Resort Casino Project

This report is authored by Stephen Nurse, and includes input from the following citizens of Cloverdale:

Donna Arnstien	Mary Brugo	Chris Haugsten
Robert Bauer	Ginny Bauer	Virginia Greenwald
Jerry Etcheverry	Jeff Bagby	Melanie Bagby
Mitchell Benjamin	Linda Lawrence	Dino House
Shay House	Jane Doroff	Susan Nurse

Scope of Report:

Up until the publication of the DEIS dated August 2010, the citizens who gave imput at the scoping stage based their input upon what they guessed might be proposed for this project. This was necessary because we had asked several times for more detail plans for this site , but no specifics were forthcoming. Even at the scoping meeting we were told that a project would be developed out of our comments, rather than comments collected on what was planned. The only information we had was gleaned from the little data released by the Rancheria. Therefore all the input at the scoping phase was based on very little information and no knowledge of real plans; this includes input from citizens, input from municipalities, and input from agencies – all were based upon a variety of assumptions, and no facts. I-17.1

Now, after years of enquiring, we are presented with plans to build a facility larger than anything we could ever have imagined, with traffic and environmental impacts worse than our wildest nightmares. A development of this magnitude begs many different questions and concerns than those expressed in the original scoping report.

We therefore ask that this process be abandoned and we restart at a new scoping stage to allow for complete scoping input and subsequently a complete and accurate Environmental Impact Study and Statement.

PACIFIC REGIONAL OFFICE

Following is our response to the 8-2010 published DEIS. I-17.2

3.2 Land Resources

3.2-1 Geologic Setting

3.2-3 Seismicity

1). There is inadequate discussion about physical damage and socio-economic impacts caused by recent seismic events on the San Andreas and other strike/slip faults common to California.

a) Lack of proximity to a nearby fault zone (Alquist-Priolo Earthquake Fault Zone) is an insufficient reason to diminish the potential hazard of a seismic event.

b) The 1989 Loma-Prieta earthquake, from a distance of about 40-50 miles of the epicenter, caused severe damage in less than a minute in Oakland and San Francisco (e.g. the Bay Bridge, Highway 880, the Oakland airport and port, other infrastructure and numerous residential areas.)

2) There is no reference or discussion about the discontinuity subduction zone off the northern California Coast. Subduction earthquakes can cause extreme damage, such as the 1964 Alaska event. This active zone also has a probability of a major event within 30+/- years. It is possibly "the big one" of major concern to the west coast.

4.2.1-3 Potential for Seismic hazard

1). There is no discussion about the impact on Cloverdale's emergency services caused by a seismic event.

a) Daily casino users are projected to reach 7,000 or more. The casino user population nearly approximates the current resident population.

b) Due to a small resident population (8,500+/-) and a small tax base the city funds modest emergency services.

c) Cloverdale emergency services will be unable to respond to nearly a doubling of the local population. The emergency response services are currently staffed by a sizable percentage of professionally trained volunteer response personnel.

d) The high density use of the casino puts not only the resident population, but also the visitor population, at major risk in the event of a seismic event.

2) Appendix N (letter of intent with Cloverdale Fire Protection District) indicates the tribe intends to develop a memorandum of understanding (MOU) with the fire district about protective services. Beyond routine protective services the MOU needs to also address emergency service for a seismic or catastrophic event. I-17.2 (cont.)

There is modest discussion about the loss of farmland, but none about the loss of economic development land as a land resource.. A considerable portion of Cloverdale's land zoned for economic development and the subsequent generation of tax income will be lost to a casino that will contribute no taxes to the city's economic base. This represents an enormous loss of funds for our city, funds that are used to pay for city services. What mitigation will be provided to offset this loss, such that our citizens will not be subject to increased taxes and / or loss of city services? I-17.3

3.2 & 4.2 Land Resources I-17.4

3.2.2 Soils - Potential for soil hazards (Potentially significant)

1) The dominant soil east of the railroad is classified as Cr4. The DEIS map and narrative indicates these soils are hydric and within the flood plain. Specifically they are most problematic for liquefaction during an earthquake.

a) The casino's water and waste water systems will be sited on these soils. The DEIS indicates "best practices" will be implemented to mitigate the potential soil hazard. Please define these best practices.

d) Should casino facilities experience liquefaction, the negative impact on the Russian River water quality would be significant. The river is the primary water source of downriver communities to its mouth at the Pacific Ocean. Additionally, portions of Marin County contract and obtain water from the river. What analysis has been done on this potential impact?

2) Under state, county and city laws and regulations the scale of the proposed casino would be denied on these soils. At best, approval might be granted to a much more realistically sized project that would conform to all aspects of governing environmental and other regulations. Please explain the grounds on which it is OK to circumvent these state county and city laws and regulations?

3) These soils are located in the flood plain and will be the site of the water and wastewater facilities. There is no discussion of how a major flood will affect these soils, (e.g. a 50 to 100 year flood incident such as the Russian River flood during the winter of 1964-65). What contingency is planned to manage the effects of such a flood while continuing to operate the casino complex?

3.3 Casino Water Resources

This data is taken from 1988 to 2003, with much of it badly out of date. Are you confident this old data is still relevant given more recent information? I-17.5

The drawdown is not discussed as to the affect on the wells in the area and more noticeable what would happen to those that now serve homes that are west of the freeway. How would these be affected?

Explain how recharging of the ground water would be effective given an 11 foot thick clay layer 4-12 feet below the surface.

Pollution due to plant care chemicals run off is not addressed.

There is an admission that if the plans are wrong the City of Cloverdale will supply the water needed to bail out the project. In the absence of a MOU with the City of Cloverdale this concern is not mitigated. Please explain.

3.4 Air Quality

52,000 tons per year of vehicle emission is estimated with mitigated plans given. This exceeds County of Sonoma Guidelines. Explain how this will be mitigated. California has stated goals to reduce greenhouse gas emissions and this will have a serious negative impact on our local ability to comply. How do you propose to mitigate such that we can comply? I-17.6

In section 4.4.1-1, paragraph #3 of the DEIS, the following statement is made: "NOx, ROG, PM10, PM2.5, CO and CO2 construction emissions were estimated based on default crew, truck trips and equipment."

The use of the term "default" is meaningless and unacceptable. What are the actual figures for crew, truck trips and equipment that were used in this formula, what are the levels of emissions that are expected to be produced by these figures, and how do these figures and their associated emissions affect the levels of abatement described in abatement measures 5.4-1 through 5.4-4?

In section 4.4.1-1, paragraph #3 of the Draft EIR, the following statement is made: "Emissions are based on criteria pollutant emissions factors embedded in the URBEMIS 2007 model."

What data factors were entered into the model that resulted in the emissions estimates presented in table 4.4-3? What standards and/or parameters were used to select the data factors entered into the model?

In section 4.4-1 of the Draft EIR, the statement is made that the project would not result in long term substantial source of TAC emissions.

What parameters/statistics/factors were used to come to the conclusion that the project would NOT result in long term substantial exposure to TAC emissions? Please include in your

response bus traffic to and from the completed casino, in addition to the emissions from construction equipment. I-17.6 (cont.)

Also, please explain in greater detail how mitigation factors 5.4-2 through 5.4-4 will result in an acceptable reduction in emissions. To simply say that this is a fact is not enough. Please support this statement with statistical facts and documented evidence that the emissions will NOT be significant, and that the mitigation factors discussed will actually alleviate the excessive emissions.

Also, please explain in detail how mitigation factors 5.4-2 through 5.4-4 will be monitored for compliance from the various contractors and transportation agencies associated with this project.

Mitigation factor 5.4-1 describes a "Progressive Odor Management Plan." What are the step-by-step specifics of the complaint response protocol? What arbitration process will be available if needed?

Please detail the specifics of the "progressive measures" to be taken. Throughout measures 5.4-1 through 5.4-7 many of the proposed abatement measures are focused on limiting idle time of construction vehicles, cars and buses. This seems insufficient, please explain what more will be done. Also please explain how this will be monitored for compliance.

Throughout mitigation factors 5.4-1 through 5.4-8 there are many references to the inclusion of shuttle buses for patrons.

Please explain in detail how many shuttle buses will be travelling back and forth from the casino, at what times they will be travelling, in what direction they will be travelling, and along what routes. Please explain where these shuttle buses will park while awaiting their next shuttle trip.

Also, given the answers to the above question, please explain in statistical detail how the proposed mitigation factors will abate the emissions from these bus trips.

In section 3.4-15 of the draft EIR, the statement is made that "the closest monitoring station is … in the San Francisco Bay Area Air Basin.

Please explain how monitoring data obtained from the San Francisco Bay Area Air Basin (SFBAAB) will be accurate and appropriate for measuring air quality in the Northern California Air Basin (NCAB).

3.5 Biological Resources

This area is known habitat for Bald Eagles, Golden eagles and Osprey. However, there is no recognition these birds exist in this area and therefore no mitigation discussed. Please explain. I-17.7

There is no discussion regarding replacing legacy trees that will need to be removed for the development. Please explain your plan, including specifically what the trees will be replaced with, including size at planting of replacement. I-17.7 (cont.)

Proposed landscape screening. It would be 15 years before the screening would effectively obscure the views of these structures from most vantage points. What measures will be taken to offset the visual impact of these large structures in the first 15 years?

In discussion of vegetative and wildlife habitats, it is stated that qualified experts will be consulted should unexpected effects occur. How will these qualified experts be selected? How will local agencies concerning vegetation and wildlife protection be included in the process of selection? How will these same agencies and the public be informed of the plans for protection and the progress of these plans? What will be the process of complaint should it be believed that insufficient protection measures are being decided or implanted?

3.6 Cultural and Paleontological Resources

I-17.8

The DEIS states "there are currently 498 Tribal members of the Cloverdale Rancheria and most reside within a 50-mile radius of the City of Cloverdale". However, The BIA published a tribal voting list, dated August 2008 that shows only 180 members, 17 of whom live within the Cloverdale zip code. Please explain this discrepancy and provide a list of current tribal members, date they were enrolled as a tribal member, and each member's current city of residence.

The DEIS states "In 2005, the Tribe had an unemployment rate of 28 percent and the percentage of employed Tribal members below poverty guidelines was 47 percent (BIA, 2005). Increased revenue and job opportunities from the project would improve the socioeconomic condition of Tribal members and reduce dependence on public assistance programs".

Please explain why the scope of the proposed casino complex is so large given the goal is to provide job opportunities to 139.4 people, and raise 234 people above the poverty guidelines (these numbers are based on your statement of 498 tribal members).

Given the recent 2010 law-suit Case No. CV-10-1605 RS, Javier Martinez et al, whereby plaintiffs sue yourself and other BIA officials for the right to be recognized as the tribal leadership, please explain why the DEIS is being prepared on behalf of disputed tribal leaders. I-17.9

Given unclear tribal leadership, please explain why the land detailed in the DEIS would be eligible for casino use (only under restored land status) since members of the other proposed leadership include Gerad Santana – the Santana family already have restored land (adjacent to this site, but of a much smaller size that could not accommodate the plans outlined in DEIS).

3.7 Socioeconomic Conditions

The Socioeconomics section of the DEIS dated August 2010 primarily notes general Sonoma County socioeconomic statistics and figures of the past 20 years (not all of which are thoroughly cited) in the following areas: I-17.10

- Cloverdale Rancheria of Pomo Indians
  - 2005 tribal population and labor statistics
- Socioeconomic Characteristics of the Study Area
  - Population
  - Housing
  - Employment
  - Income (personal earnings)
  - Property Tax (revenue)
- Community Infrastructure
  - Sonoma County Schools
  - Libraries
  - Parks and Recreation

The Socioeconomics section of the DEIS rarely discusses the actual Cloverdale Rancheria Fee-to-Trust and Resort Casino project and fails to address any impact the project will have on the sections noted above. Considering that the DEIS is an Environmental Impact Survey there are a great deal of unanswered questions and unaddressed concerns in regard to the Socioeconomic impact of the project.

Specific socioeconomic issues, comments and questions raised during scoping include:

- The EIS should analyze socioeconomic impacts and housing impacts (i.e. on the local housing markets).
  - The DEIS does not address this point (While DEIS does address vacancy rates and general home price trends, there are no specifics regarding how the impacts of a casino complex will impact these and other socioeconomic statistics in both the short-term and the long-term).

- Would the project have a long-term beneficial effect for the Tribe or community? What is the beneficial effect expected to be 15, 20, and 25 years out?
  - The DEIS does not address this point

- What is the project's long-term viability? Please detail 15, 20, and 25 years out.
  - The DEIS does not address this point

- The EIS should analyze the financial impacts of the project on the City's current marketing and branding efforts and the impacts of changing the marketing efforts on existing businesses. I-17.10 (cont.)
    - The DEIS does not address this point

- The EIS should analyze the impacts on the City if the project fails to perform as anticipated, including a discussion of options and alternative uses in the event of failure, to prevent blight from occurring.
    - The DEIS does not address this point

- The EIS should analyze the fiscal impacts on the City from removing the land from the City's property and sales tax base.
    - The DEIS does not address this point specifically
    - The DEIS notes the following:

    "The six parcels that comprise the project site have an appraised value of approximately $10.1 million. During the 2009-2008 tax years, the total annual property taxes paid on the land and buildings at the site were approximately $155,600. Of this, approximately $146,300 was collected as property taxes for the County. The City of Cloverdale only receives taxes for the one vacant parcel within the City limits. The City received approximately $800 in tax revenues."

- Beyond property tax, what are the financial impacts of removing this land from the city's commercial/industrial inventory?

- Would property values be affected?
    - The DEIS does not address this point

- Would mitigation include funding for treatment of gambling addiction?
    - The DEIS addresses this point in Mitigation Measure 5.7-1
    - ESA / 207737 August 2010
    - The mitigation proposed is very small, relying on educational signage and funding for 1.4 councilors – where is the research to support that this mitigation is sufficient? Over what time period is it deemed sufficient? What publically reviewable process will be implemented to examine sufficiency? How often will sufficiency be reviewed? What process will be implemented to increase mitigation if reviews show it is insufficient?

I-17.10 (cont.)

- Would the project result in less government tax income from increased sales on Indian land, and if so, how, would the City be compensated for lost tax income?
    - The DEIS does state that less government tax income will be the outcome of the increased sales on Indian land, yet does not address how the City and the County will be compensated for this loss. Instead the DEIS suggests that revenues may ve made up in other ways – these suggestions are not based in research. What evidence exists to substantiate these suggestions?

    - The DEIS notes general and undated City and County tax revenue policies in the following categories:
        - Business Personal Property Tax Revenue (BPP)
        - Transient Occupancy Taxes (TOT)
        - Business Permit Fees
        - Sales and Use Taxes
    - The only point in this section of the DEIS that specifically addresses tax liability of Tribal-owned businesses or projects is under the BPP (section 3.7-10) and states"

    "Tribal-owned businesses operating on trust land would be exempt from paying any BPP taxes. However, non-tribal businesses operating on trust lands are still fully liable for BPP taxes."

        - The DEIS does not specify how this point would impact tax revenue of the City or County (positive, neutral or negative).
        - The DEIS does not specify what constitutes a "non-tribal" business or if the project will allow or include "non-tribal" businesses to operate within the land-trust.
        - The DEIS does not specify if every person working within the confines of the land-trust be considered a land-trust employee.
        - The DEIS does not specify if independent contractors will be utilized (such as: construction, design, maintenance, landscaping, valet, restaurant, housekeeping, shuttle drivers, limousine drivers, security, gaming machine service, etc.)
        - If independent contractors will be used, the DEIS does not specify selection criteria and certainly does not indicate any local preference.

- Will there be research to show that loss of the City tax dollars will not result in additional community taxes?
    - The DEIS does not address this point

- What research would be provided on impacts of placing a casino less than 1/3 of a mile from a number of residential neighborhoods? I-17.10 (cont.)
    - The DEIS does not address this point

- Would employers see Cloverdale as less desirable for relocation due to the project and if so, how would this be mitigated?
    - The DEIS does not address this point

- What research would be provided on impacts to small towns where a casino has been built near the downtown core on the number and diversity of newly relocating businesses over the course of 1-5, 5-10 years and beyond? If there is a negative impact on relocation of the new businesses to the area, will there be mitigation? What research is available to support any intended mitigation level?
    - The DEIS does not address any these points

- The EIS should evaluate the impact on other area businesses and the related impact to governmental services that rely on revenues generated directly or indirectly by those businesses, including but not limited to sales tax, transient occupancy tax, and secured and unsecured property tax.
    - The DEIS does not address this point

- Would the casino/hotel/restaurant draw business from Cloverdale's downtown?
    - Other than statements about cannibalizing hotel rooms from both Cloverdale and the county, the DEIS does not address this point. In the case of cannibalized hotel rooms, there is a statement that no mitigation if required due to the suggestion that other benefits will make up for this loss – specific research and more explanation if needed to explain this "no mitigation" statement.

- What research will the EIS use to evaluate the impact of the project on foreseeable disposable income loss to adjacent commercial, retail, restaurant, recreational, and lodging facilities over the next 10 years.
    - The DEIS does not address this point

- How will local businesses be compensated for immediate and/or ongoing losses?
    - The DEIS does not address this point

- The EIS should evaluate the project's need for employees and the portion that would likely be from out of the local area. The EIS should describe the number of jobs to be

I-17.10 (cont.)

filled, wage levels and benefits offered, experience levels required, and training programs needed for non-tribal workers to fill the shortfall.

- The DEIS does not address this point in the detail requested. Beyond number of jobs and expected wage levels, there is no discussion of benefits offered. There is no discussion of experience needed for management-level jobs, and no discussion of experience levels required. There is a statement that most jobs will suffice with on-the-job training, but no discussion of training programs where more is required. What will be the promotion career path? What qualifications will be needed for the management –level jobs and what training and educational benefits will be in-place for lower-level personnel to progress?

- The EIS should examine the need for housing employees, and the impact on housing availability in the affected area, including housing for very low, low, and moderate income households and identify mitigation measures to keep local residents from being priced out of the market. The EIS should also evaluate the impact on the availability of child care.
  - The DEIS does not address either of these points

- The EIS should analyze the impact of population increase from casino workers relocating to the area, including impact on local schools.
  - The DEIS does not address this point

- The EIS should examine the economic viability of the project in light of other area casinos in the region.
  - The DEIS does not address this point

- The EIS should evaluate specifically the potential increase in crime that may result with the construction of the proposed project.
  - The DEIS does not address this point (only a vague statement regarding a general trend of increased crime after a casino has been established for a period of time)

- The EIS should examine the impact of acquisition of the project land on the potential for relocation of the Citrus Fair, which includes an analysis of the importance of the Citrus Fair to the City's economic development and marketing efforts.
  - The DEIS does not address this point

- Any market or feasibility study should contain an analysis of current market conditions and discuss the viability of each alternative in light of today's market conditions.
  - The DEIS does not address this point
  - This draft of the DEIS primarily sites statistics from 1990 through 2008

3.8 Transportation.

How have you taken into account that the area's projected population increases do not include a casino or the impact of such a huge project near Cloverdale? How do you account for the fact that any land taken into trust will short circuit the careful land use and economic development plans of the City of Cloverdale and prevent the development of a sustainable economy and community that could support population projections used in the DEIS? I-17.11

The report assumes gas prices will remain the same even if adjusted for inflation and that driving habits will remain unchanged. Gas prices and energy prices are likely to increase exponentially, if not by changes in energy policy at the national, state, and local levels, but by the volatility of the market and the increased scarcity of oil. How does the report account for the volatility of gas prices and how that will affect driving behavior?

4.8-1 Alt A

Project Trip Destination

The report expects 10% of visitors to divert to Cloverdale destinations when exiting the casino. How can this be assumed without a complete list of services at the casino site? Especially if everything patrons need is located on casino property: food, entertainment, gas. There is nothing in the plan that says the development won't include a gas station. If this is the case, it is doubtful that even 1% of traffic will divert to Cloverdale. Therefore, the South Cloverdale entrance to 101 will see a constant and much higher percentage of cars than indicated. How has the plan accounted for this? What businesses does the plan NOT plan to offer that are available in Cloverdale that would cause visitors to divert? Please state specific purposes that visitors are expected to divert to downtown Cloverdale for, along with revenue projections for these specifics.

If 27% of the trips are via Citrus Fair, there will be significant impact on the City of Cloverdale's planned transformation of Citrus Fair parkway into a linear park and the increased pedestrian bicycle traffic on Citrus Fair to serve a transit-oriented downtown. How will this significant impact be mitigated?

4.8.3.1-3

Bicycle, ped, public trans

The SMART rail line and bike path bisect the proposed project site. What happens to the NCRA right-of-way if land is taken into trust? Who has jurisdiction on the right of way? What allowances are planned for access to the railway property in the event of an accident on the train track or path?

I-17.11 (cont.)

If driving habits change and transit and pedestrian traffic increase, how will the project affect the ridership of SMART? Is SMART prepared for the increase in ridership and service to Cloverdale?

Asti Road is a popular touring bicycle destination and a source of tourism dollars for the area. How will the casino complex impact those riders and their interest in cycling in the area?

How will expected shifts in driving behavior in favor of public transit and cycling affect these projections?

How will shuttle service between the casino, station, and downtown be paid for? Casinos typically stay open longer than most small town businesses and amenities. How will off-peak Casino pedestrians get to shuttles and trains? What shuttle services are planned to take visitors from casino to downtown Cloverdale and back? What frequency and operating hours are planned for? Will there be a fee for using these shuttles? What is the expected fee range?

Currently, the SMART schedule is designed to serve commuters to and from Cloverdale. How will casino patrons displacement of commuters be addressed?

Although allowances were made for increased traffic due to "concert events" occurring "outside of the peak traffic period", how has the study accounted for the fact that due to Cloverdale's distance from job centers in Sonoma and Marin, "peak traffic periods" are often later in Cloverdale? In addition, how has the traffic study accounted for the increase in Friday evening traffic heading north to vacation destinations in Mendocino and beyond on 101 and 128, which causes increased traffic to route through Cloverdale?

Has Cloverdale's later peak times been taken into account due to its distance from job centers? There is a considerable morning commute south, how has that been accounted for? If traffic is backed-up on 101 to access the casino, how will this be handled? What affect will that have on Cloverdale surface streets? How will this be addressed by community and transportation authorities if the land is taken into trust?

4.8.1-5 Parking

What will happen when peak parking estimated at 3,182 spaces exceeds 3,400? Where will those cars park? How will overflow parking be handled? Where will buses bringing in casino visitors from other areas park? Will these buses be restricted to the casino complex parking area? Under what circumstances will they park elsewhere? Where else will that be?

4.8.2-3 Alternative B – Reduced Hotel and Casino

Public transit

Does the project include plans for shuttles/buses from outside the area? How will they impact traffic, pedestrians, bicycles?

4.8.2-5 I-17.11

Peak parking is estimated at 2,652 with proposed 2900 spaces. What happens when peak is exceeded? Where does overflow parking go? How will it be directed? If overflow parking ends up in Cloverdale, how will the City be compensated? How will overflow parking be managed? Shuttled?

4.8.3 Alt C – Reduce Casino

Project trip generation

Although allowances were made for increased traffic due to "concert events" occurring "outside of the peak traffic period", has the study accounted for the fact that due to Cloverdale's distance from job centers in Sonoma and Marin, that "peak traffic periods" are often later in Cloverdale? In addition, how has the traffic study accounted for the increase in Friday evening traffic heading north to vacation destinations in Mendocino and beyond on 101 and 128 traffic through Cloverdale?

The current city plan is to transform Citrus Fair Blvd. into a linear park with two lanes of traffic in each direction (down from the current four) as part of Cloverdale's downtown redevelopment and transit-oriented development plans. How will projected vehicle casino traffic on Citrus Fair Blvd. affect that project? Was this plan taken into account with these traffic projections?

It is likely that the casino facility will provide all the services that patrons will need so how can it by projected that they will visit other destinations in Cloverdale? What services that the casino plans to not offer are currently offered in Cloverdale that would allow you to assume 10% would go to Cloverdale destinations?

4.8.3-1 Peak hour intersection performance

How have changing driving habits due to increasing fuel costs and car maintenance cost been taken into account regarding the projected need for signaling and intersection improvements?

4.8.3-2 Freeway segment performance

Has Cloverdale's later peak times been taken into account due to its distance from job centers? There is also a considerable morning commute south, has that been accounted for? If traffic is backed up on the 101 to access the casino, how will this be handled? What affect will that have on Cloverdale surface streets? How will this be addressed by the community and transportation authorities if the land is taken into trust?

4.8.3-3 Bike, ped, pub trans

Asti Road is a popular touring bicycle destination and a source of tourism dollars for the area. How will the projects impact those riders and their interest in riding in the area? I-17.11 (cont.)

How will changing driving behavior in favor of public transit and bikes affect these projections?

4.8.3-5

With 2400 planned spaces and estimated peak at 2,355, that's a very small margin for error. What will happen to overflow parking and how will it be managed?

4.8.4 Alternative D – Casino only

Project Trip Generation

How was the use of the Graton Rancheria study (KHA 2007) adjusted for its closer proximity to population and job centers, the fact that it's located on rural roads and not next to Hwy 101, and near a small village as opposed to a small city of 8,500?

Project Trip Distribution

How have Cloverdale's plan to transform the eastbound lanes of Citrus Fair into a linear park linking it to the SMART station and plans to change the intersection at Citrus Fair/Cloverdale Blvd. and the other transit-oriented designs been taken into consideration regarding traffic and its impact on roadways and trip estimation?

In the light of Cloverdale's plans to increase residential and commercial density at the Citrus Fair/Cloverdale Blvd intersection, how will the increased traffic noise and air pollution affect this densely populated residential area?

How will increased traffic on 101 impact the densely populated transit-oriented neighborhoods bordering Citrus Fair exit and Citrus Fair/Cloverdale Blvd.?

If SMART train is delayed in coming to Cloverdale well past 2014, which is likely, how can public transportation for the project be described as adequate? What if the Sonoma County route 60 bus is further curtailed? How has that been accounted for?

What steps will be taken to ensure that the workforce is housed locally to reduce traffic impacts?

4.8.4-5 Parking

If parking peak demand is 1,945 exceeding proposed 1,900 spaces with additional 135 spaces recommended, what will happen to likely overflow? How will this be addressed?

4.8.5 Alternative E – Commercial Retail – Office Space

4.8.5-3

I-17.11 (cont.)

How have Cloverdale's plans for increasing downtown residential density been incorporated into the projected number of pedestrians and bicycles to the site?

If SMART service is delayed (likely) past 2014 and bus service is further cut, how will the public transportation needs be addressed?

4.9 Land Use and Agriculture

I-17.12

Draft EIS does not mention if the proposed project would follow Sonoma County planning requirements nor does it specify existing zoning for the property. The project is in direct conflict with zoning, in fact it is so incongruous to land use of the immediate area, that one can only conclude that the Draft EIS does not attempt to describe any mitigation measures, because there are none. The various alternatives as described in the Draft EIS are incongruous with existing land use and completely out of scale with the built environment and natural landscape. The Draft EIS does not specify if the project would be LEED certified and at which level. LEED Gold (at a minimum) certification must be a requirement, as by meeting this level of certification many of the mitigation measures stated in the Draft EIS would be met conclusively.

Existing zoning for the property is as follows:

- Approximately half the property is zoned: Land Intensive Agricultural
- Approximately half the property is zoned: Limited Industrial

Impact 4.9.1-1 Consistency with existing land use policies (less than significant) – no mitigation required. This is not correct. See policies below as prepared by Sonoma County Planning Department.

Impact 4.9.1-2 Compatibility with Surrounding Uses (Less than Significant) - no mitigation required. This is not correct. The vast majority of the surrounding area is agricultural with some small-scale industrial use. See policies below as prepared by Sonoma County Planning Department.

Impact 4.9.1-4 Effect on Agriculture (Less than Significant) – No mitigation required. This is not correct. This project would eliminate a significant amount of fertile agricultural land while also disrupting the use of the agricultural land of the immediate area. See **Objective LU-11.1 of Sonoma County policies.**

The proposed project is in direct conflict of the Sonoma County Land Use Element for Cloverdale / Northeast County. See below Cloverdale / Northeast County Planning area policies as prepared by Sonoma County Planning Dept.

3.2 CLOVERDALE / NORTHEAST COUNTY Planning Area Policies as prepared by Sonoma County Planning Dept.

I-17.12 (cont.)

The Cloverdale/Northeast County planning area includes the city of Cloverdale and the community of Geyserville. The rugged Mendocino Highlands on the west and the Mayacamas Mountains on the east surround the fertile Russian River Valley, including Dry Creek and Alexander Valleys. The area is also rich in other resources, including geothermal steam, construction aggregates, and water for domestic and agricultural use. Lake Sonoma and the Russian River also provide many recreational opportunities. Lands outside of the valley floors are severely constrained and relatively inaccessible.

The land use plan provides for a population of 13,800, a gain of 4,820 residents. 87 percent of this is planned to occur within Cloverdale. Average household size would decrease from 2.62 to 2.46 necessitating a total 5,600 housing units. Employment is projected to increase to about 5,700. While agriculture, geothermal development, and manufacturing are the primary sources of employment major growth is primarily in the retail and service sectors.

Table LU-6 on page 58 shows the projected population, employment and housing units for the Cloverdale/Northeast County planning area.

Lake Sonoma and increased tourism related to the wine industry will create pressure for additional recreation and visitor serving uses.

Demand for rural residential uses may increase in the agricultural valleys due to their scenic value and proximity to urban areas. Resource production must be regulated to avoid conflicts with other land uses, damage to the river, and loss of agricultural land. Many of the hillside areas are subject to severe constraints, poor access and shortage of services.

Lands within Cloverdale's sphere of influence include large vacant commercial and industrial parcels which currently lack urban services. Also, some commercial and industrial uses have developed outside of Cloverdale's ultimate urban boundary. Lands within the city's sphere also need to be retained for urban residential development to meet housing needs. Clear policy is needed to guide the type and location of urban development around Cloverdale to assure that public services are provided.

Objective LU-11.1: Retain agricultural lands in Dry Creek, Alexander, Oat and Knights Valleys in agricultural production.

Objective LU-11.2: Accommodate new commercial uses primarily in Cloverdale and secondarily within Geyserville's urban service boundary.

Objective LU-11.3: Retain large parcel sizes within Cloverdale's urban expansion boundary to provide for efficient urban residential development. New industrial or urban residential uses within the expansion area may occur only after the full range of public services are available. I-17.12 (cont.)

Objective LU-11.4: Allow expansion of the Geyserville urban service boundary only when adequate services are available to serve the additional lands.

Objective LU-11.5: Continue to regulate aggregate and geothermal resource development to minimize adverse impacts. Limit uses in the KGRA to those which do not conflict with geothermal exploration and production.

The following policies shall be used to achieve these objectives:

LU-11a: Use the following criteria for approving discretionary projects in the "Limited Commercial" and "General Commercial" categories within Geyserville's urban service area:

1) the use is in keeping with the scale and character of the community.

2) the proposed use specifically serves local area needs or the needs of visitors and tourism.

3) the design of any structure is compatible with the historic architecture of the community.

LU-11b: Use the following criteria for approving discretionary projects in the "Limited Industrial" category within the Geyserville urban service area:

1) the use is in keeping with the rural character of the community.

2) the use does not involve heavy manufacturing or heavy industrial uses and does not use or produce flammable, explosive, or noxious materials.

3) the site is adequately screened from the roadway and adjacent residential or commercial uses.

LU-11c: Additional development in the "Limited Commercial" category for the Alexander Valley Store, Dry Creek Store, and Jimtown Store shall not include lodgings or restaurants and will not adversely affect adjacent agricultural or resource uses.

LU-11d: The Chateau Souverain, Paulsen, Geyser Peak, and Asti wineries are designated as "Recreation and Visitor Serving Commercial" to allow existing or proposed wineries and associated restaurants or lodging facilities. Any uses on

these sites must support the sale and production of Sonoma County agricultural products and not adversely effect adjacent agricultural or resource areas. I-17.12 (cont.)

LU-11e: The KOA, Preston, and American Trails Campgrounds are designated as "Recreation and Visitor Serving Commercial" to recognize existing campground uses. Expanded uses must be campground related.

I-17.12 (cont.)

Table LU-6: Cloverdale/N.E. County
Selected Socio-demographic Data, 1985 to 2005

Total Population	Estimated 1985	1990	Projected 2005
	----	10,500	13,800
Population Distribution			
City of Cloverdale		5,300	8,200
Unincorporated areas		5,200	5,600
Average Household size		2.6	2.46
Housing Units			
City of Cloverdale			
year –round		2,220	3,480
Total		2.260	3,527
Unincorporated Areas			
year –round		1,740	2,110
Total	1,805	1,870	2,260
Planning Areas			
year –round		3,960	5,590
Total		4,130	5,789
Employment			
Total Employment		4,680	5,730
Basic		2,590	2,960
Population Serving		2,090	2,770

Note: All numbers rounded to nearest 10.

Sources: (1) 1985 and 1990 total housing units for the unincorporated area: 1990 Assessor's Tax Roll.

(2) 1990 and 2005 data for cities, and 1990 and 2005 populations for the unincorporated area: Feb. 1989 edition of the Sonoma County General Plan.

(3) Average household sizes: based on 1980 Census and derived from sources in (1) and (2) above.

(4) Employment data: Angus McDonald Assoc./Economic and Planning Systems and Sonoma County Planning Department, 1986.

LU-11f: Avoid additional "General Commercial", "Limited Commercial" and "Limited Industrial" designations outside the urban service boundaries of

Cloverdale and Geyserville. Consider proposals to designate single parcels as "Recreation and Visitor Serving Commercial" to allow small restaurants, lodgings, and related facilities only if: I-17.12 (cont.)

1) the site is outside of Dry Creek and Alexander Valleys;

2) the use involves the restoration of a designated county landmark and does not require any new structures or major additions or the use is an improved campground or guest ranch near a major recreation area.

3) the use will not adversely affect adjacent agricultural or resource uses;

4) traffic levels will maintain an acceptable level of service on existing roadways and will not interfere with the movement of farm vehicles;

5) adequate water supply is available for fire suppression and domestic use and;

6) adequate access is available for emergency vehicles.

LU-11g: Use the following criteria for approving discretionary projects within the "Limited Commercial" designation adjacent to Lytton Station Road.

1) the proposed use is specifically related to agricultural production or serves other resource related commercial needs.

2) the proposed use is compatible with adjacent residential and agricultural areas.

3) based upon a visual analysis, the proposed project is found compatible with the Highway 101 Scenic Corridor and any adverse visual impacts are mitigated.

4) buildings are flood proof and no filling of the flood plain would occur.

LU-11h: Prepare a specific or area plan for the community of Geyserville prior to any expansion of the urban service area. The update shall include an evaluation of the availability of services, impacts on adjacent agricultural uses, and impacts on the scenic corridor and shall include design guidelines.

LU-11i: Avoid extension of the urban expansion boundary for Cloverdale east of the Russian River or west of Highway 101 into the Oat Valley.

I-17.12 (cont.)

LU-11j: Use zoning to limit residential subdivisions within the urban boundary of Cloverdale to expansion of existing uses until annexation occurs or an assessment district is formed.

LU-11k: Use zoning to limit industrial development within the urban expansion area of Cloverdale, except for expansion of existing uses, until annexation occurs or an assessment district is formed. Use the following criteria for discretionary projects for expansion of existing uses:
1) adequate water supply is available for fire suppression.
2) frontage improvements meet city standards.

LU-11l: Use the Aggregate Resources Management Plan and Geothermal Resources Management Plan as the policy documents for development of aggregate and geothermal resources. Avoid terrace mining in the Alexander Valley.

LU-11m: The intent of the "Limited Industrial" land use designation for the gravel processing operation on APN 116-190-21 is to recognize the existing use. The designation shall not be used as a precedent for additional industrial uses in the area.

LU-11n: Proposed amendments of the land use map for properties subject to the Franz Valley Area Plan shall be considered in light of policies contained in that plan.

LU-11o: The Land use category designation for APN 140-070-24 shall be amended to the Recreation and Visitor Serving category or other appropriate category if the application presently in process for a motel and restaurant (File UP 88-611) is approved.

LU-11p: The existing use of APN 116-190-43, although a non-conforming use, shall be allowed to be maintained, restored, and undergo minor expansion consistent with policy LU-1f from page 31.

LU-11q: Notwithstanding policies LU-3c on page 35 and policies PF-1d and PF-1e on page 381, a connection to CSA #26 (Geyserville) may be considered for APN 140-180-12, 19, 38, 39, and 51, provided that the following criteria are met:

1. Sewer service facilities are designed to serve development consistent with the land use plan.

2. The district certifies that service capacity is available.

3. Connection is authorized by out-of-service area agreement. I-17.12 (cont.)

3.10 public services

3.10.1 This data is out of date and inaccurate. I-17.13

Refer to City of Cloverdale report dated September 8th 2010

"Water operations staff has for years noted that during periods of high demands that the water storage reservoirs located in the southerly portion of the City (Southcrest and Hot Springs #1 and #2 tanks) do not refill during a typical diurnal cycle. This situation has become more pronounced following build-out of the residential developments in the southwest portion of the City and staff is now concerned that during extended high demand periods that available storage in the area could be less than that required for fire protection. This concern was substantiated by the hydraulic model of the existing water system developed as part of the Master Water Plan Update. When the performance of the Southcrest and Hot Spring reservoirs were analyzed under peak day demand conditions, the hydraulic model indicated that storage in all three reservoirs would drop over the 24-hour simulation period and would not refill for an extended period of time indicating that the hydraulic capacity of the distribution system associated with conveying peak demands southerly from the production facility to the Hot Spring reservoirs is inadequate. Increasing the transmission capacity of the distribution system in a southerly direction from the production facility would allow a larger portion of peak demands"

How will emoving very large quantities of water from the very same water table not have a detrimental impact on water availability for the City of Cloverdale?

DEIS Appendix regarding public services

City of Cloverdale water report dated September 8th 2010 states:

"During the first half of the current decade it became increasingly difficult for the water supply wells to satisfy the City's peak demand. Peak demand is coincident with periods of low river stage which reduces the available drawdown in the wells. Excessive drawdown results in air entrainment due to water cascading into the wells through the well perforations that are exposed due to the excessive drawdown. The entrained air negatively impacts the water treatment plant operation by upsetting and degrading the treatment plant filter media. The problem has been mitigated by restricting withdrawals from the well field, primarily by the temporary de-activation of two of the four wells. This action reduces the facility's ability to meet peak water demands."

This appendix does not address this issue. There is no evidence of any studies showing the impact of removing large amounts of water from the aquifer used by the city of Cloverdale and downstream Russian River users. Please produce these studies.

3.10.5 Public Health and Safety

I-17.13 (cont.)

The Sonoma County sheriff's department currently has its closest facility serving the town of Windsor, 20 miles to the south. Current response times to emergencies in the county properties outside of Cloverdale is already inadequate. Please show how an additional 7000 people at a gambling and entertainment facility will not further degrade Sherriff's response time to emergencies

Cloverdale Police Department.

In this section it states 'the projected site is regularly patrolled'. This is an inaccurate statement. Cloverdale police Department cars drive the frontage road getting from one end of town to the other. Since this land is not City of Cloverdale land no 'patrolling' takes place. Please explain how patrolling will be implemented, and by whom, and how this will expanded service will be mitigated.

Water Table

II – A- Estimated total monthly water supply demand

It defies logic that a facility, that will expect a daily attendance of 7000 people, will have only a 60000 -70000 gallon per day water demand when the city of Cloverdale – population approx 8500 people - has a daily water demand of approx 2.5 million gallons per day. Please explain

Fire Protection Services

In this section it is stated that "the nearest ladder truck is in Healdsburg approximately 17 miles from Cloverdale". Given Healdsburg's need for a ladder truck this is clearly inadequate. What contingency is there for a ladder truck required in an emergency in Cloverdale?

3.11 Noise

I-17.14

Specific Noise issues, comments and questions raised during scoping include:

The EIS should evaluate the direct, indirect and cumulative noise impacts associated with the construction and operation of the project on sensitive receptors.

The Draft EIS report does not specifically address the issue of construction noise, instead discussing that construction will be limited to certain hours.

The report in Table 3.11-1 only addresses the current noise levels in the current configuration of farms and fields.

The EIS should describe the applicable local, state, and /or noise criteria that will be utilized in the impact analysis.

The Draft EIS report does not state what the local or state criteria are. I-17.14 (cont.)

The EIS should evaluate how project design and sighting will address on-site noise impacts from existing passenger and freight rail service.

This was not addressed, however it should be as SMART is planned to be up and operating by 2014.

Scope

The EIS report only includes the existing noise environment of farms, fields and Highway 101. The Leq Maximum Sound Level during a 24 hour day is in the 50 to 75 dBA range. On April 13, 2008 the Lmx went up to 95+ at the Long Term Measurement #1and up to 89 on Sunday April 13, 2008 at the Long Term Measurement #2.

During construction this dBA range could go as high as 100+ dBA. Compare this level to a Rock Band whose dBA level is 110.

After construction the dBA level will be much higher than the current one of farms and fields.

What will be the estimated noise level of the proposed casino with more buses and cars than are currently the norm?.

What is the procedure for surrounding residences that need to complain when the noise level becomes uncomfortable? How will the agreed upon level of discomfort be established? What will be the criteria for "uncomfortable"? What is the escalation process for such complaints? What is the procedure for appeal if noise level is not reduced under the publically-stated allowable discomfort level? How will the public be educated about "allowable discomfort levels" and their process of complaint?

What are the permanent location(s) of the sensitive receptors?

3.12 HAZARDOUS MATERIALS

There is a discussion related to construction and hazardous materials used during this phase – 'with a potentially significant impact'. Mitigation to reduce this effect is not totally clear in that the only course discussed is to 'halt all work until a qualified individual can assess the extent of the contamination.' I-17.15

Who is this qualified individual? Who chooses this individual? In what capacity will this individual be performing this assessment? What is considered significant? How will the public be informed as to the occurrence of this process of mitigating "potentially significant impact"? How will the public be able to remain informed during this process and be able to participate?

Further hazardous material identification is needed, including a description of the chemicals and other hazardous materials that will be used in the construction phase. I-17.15 (cont.)

What chemicals (and other hazardous materials) will be used in the construction phase of this project? Along with an itemized list of said chemicals (and other materials), how will these chemicals (hazardous materials) be handled, stored and disposed of during this construction phase?

Records search and initial site analysis has revealed concentrations of chlorinated solvents in the area, due to a spill at the MGM Brake Facility – across the Highway (#101) from the proposed building site. MGM Brake is still under regulatory cleanup oversight by the Regional Water Quality Control Board. Although the site analysis done indicates that shallow bedrock, underlying the proposed building site, does not appear to be affected, there is an "unknown status of deeper groundwater contamination."

What mitigation measures are in place to check on contaminants found in deeper areas of wells? There is currently no mitigation shown for this. Along with Water Resources necessary for the acquisition of potable drinking water, are there mitigation measures to ensure that the status of both the acquisition of water and the lack of contaminants in deeper wells is adequate and safe for a development of this magnitude?

Samples taken from the Sirrah site indicate the detection of metals, in concentrations exceeding the ESLs. Total coli form (bacteria) detected in the groundwater wells on the Sirrah site indicate an impact from the City of Cloverdale's Wastewater Treatment Facility. Although this is not considered an impediment to development, it IS an issue if a potable water system is going to be developed.

Is there a plan for further investigation into the concentrations of contaminants in and around not only the existing wells, but future drill sites (for potable water)? What if samples indicate higher concentrations than allowable by law? Have other parcels been tested for possible contamination? Where will the treatment facility for the development be located? How will this location affect the groundwater wells that are a possible necessary source for potable water?

The property in question borders the existing treatment facility. With the additional impact of this land use, as well as the growth of Cloverdale itself, what measures will be taken to ensure that further contamination (from all sources) will be minimized? What is the plan to minimize contamination should a 'spill' occur at the Cloverdale Wastewater Treatment Facility or the treatment facility for the project itself? If contamination occurs (i.e. - a spill or flooding) is there a plan in place to mitigate the effects of the contamination as well as having another source for potable water, should the wells be contaminated?

3.13 Visual Resources

Impact 4.13.1-1 Changes to Scenic Character: "The proposed facility, including parking facilities, casino, and hotel, would be visible from Highway 101, and would result in a change from the existing rural residential uses of the area. Views from northbound Highway 101 towards the project site would consist primarily of the hotel (Figure 4.13-1). Views from southbound Highway 101 towards the project site would consist primarily of a parking structure (Figure 4.13-3)." I-17.16

Please explain why there is no intent to comply with the City of Cloverdale's Draft General Plan Update (2009), Goal CDO 3, Policy CDO 3-9 which states "...freeway visible uses should de-emphasize freeway-oriented signage and designs with parking as a main visual element from the freeway..." which is printed in section 3.13-6 of the report. The only mitigation item addressed under 5.13-1 Visual Resources is to seek a color of paint on the proposed building that is not bright or reflective.

Impact 4.13.1-2 Night Lighting: "With the addition of new lighting features, the proposed project has the potential to significantly increase the intensity of nighttime lighting on the project site." and "Despite the measures taken within the project design to minimize light or glare, the potential exists that nighttime lighting would still impact night skies."

The mitigation items addressed under 5.13-2 Light and Glare say they will comply but will also have spot lights and flood lights aimed no higher than 45 degrees from straight up. This will not comply.

Explain why project lighting with not comply with the City of Cloverdale's Draft General Plan Update (2009), Goal UL 1, Policy UL 1-1, 1-2, and 1-4 which state "...maintain night time lighting levels at the minimum necessary to provide security and safety...", " ...with height and power limited to minimum necessary...", and "...eliminate excess lighting from illuminated signs..." which is printed in section 3.13-6 of the report. What will be done to bring this casino complex lighting plan into compliance?

Comments: There are many, many pages in this document that point out the problems addressed above, but the mitigation offered to reduce impact is brown paint, trees that will take 15 years to grow and they will point the huge amount of lights located on the property downward. The report does not address the huge impact of car lights from the proposed thousands of extra cars each night that will be using their headlights. Stargazing in Cloverdale, is an essential element of the quality of life in this remote town. It will now be severely disrupted no matter what night of the year it is as the casino will be open 24/7. How can mitigation is limited to paint, trees, and pointing lights downward when the potential impact is so large?

There is also little to no discussion on the lighted signs they plan to use to advertise, or the blight of 5 story parking garages which is to be the main view from the southbound freeway side of Highway 101 and the Russian River. For example; the parking garage of River Rock Casino in Geyserville is brightly visible from the freeway even though it is located almost 3 miles away I-17.16 (cont.)

Please show studies of the impact of the light glare of a casino this size would have on such an area as Cloverdale.

The report says trees will be planted and bushes that will cover most of an 80-acre facility. However they will not mature for 15 years. Further there is no description of a solid watering plan for such huge amounts of greenery. The only in depth reports attached were about soil quality and grading.

Please explain more fully how the visual blight will be mitigated in the short term and how water will be available to support the planned mitigation.

3.14 Environmental Justice

Review of Environmental Justice report finds that Cloverdale does not qualify either as a minority population or a low-income community. I-17.17

Description of Affected Environment Areas of Concern

Use of 2000 census report 10 years out dated therefore later surveys may change the % of population identified in table 3.14-1. Please site statistics from more current surveys.

Nowhere in the section does it state total population of Cloverdale, only percentages of the total.

Sincerely,

Stephen Nurse

10/18/2010

Stephen Nurse
31400 Pine Mountain Road
Cloverdale CA 95425

REGIONAL OFFICE

Letter I-18

October 20, 2010

1081 Palomino Road, Cloverdale, CA 95425

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

Re: DEIS Comments, Cloverdale Rancheria of Pomo Indians' Fee-to-Trust and Resort Casino Project

Dear Mr. Risling:

I am writing to express my opposition to the planned Casino near Cloverdale east of Highway 101. My opposition is based on the water needs of our community which will be severely negatively impacted by the proposed casino complex. This letter will amplify comments I made at the public hearing in Cloverdale in September. I-18.1

This complex is planned for an agricultural area. Indeed the wine industry is the financial backbone of the area and it depends on water from the aquifer of the Russian River. The National Marine Fisheries have already imposed restrictions on the farmers due to danger to the endangered species of salmon found in the Russian River. Residents of the 139-year-old city of Cloverdale are under voluntary water restrictions and the 40 year old community of Palomino Lakes with 108 homes just east of the Russian River, were yet again under severe water restrictions in 2009. Many wells belonging to residents and businesses on the east shores of the Russian River have run dry in the last few summers.

Adjacent to the proposed casino a mega resort, the Alexander Valley Resort, has been approved and is scheduled to begin construction in 2011. It will have a golf course and restaurant which together will require no less than 123,415,625 gallons of water per year. Additionally, the resort will feature 170 homes, conference facilities, a spa, and wine tasting, all of which will require a continuous supply of large amounts of water. The Tyris organization and the City of Cloverdale negotiated for more than 7 years to reach terms that were mutually acceptable and that would serve the interests of both the Cloverdale area and the Tyris organization.

Barely a mile south of the proposed casino is the 100 year old Asti winery, bonded for 1,000,000 cases of wine per year which requires 14,280,000 gallons of water per year for wine production alone.

The casino would require at a minimum 38,033,544 gallons of water per year just for its proposed hotel, restaurant and auditorium. Not calculated in this is

the water requirement for the gaming rooms, offices, and grounds maintenance. The Cloverdale region of the Russian River cannot be expected to provide water to serve the current users and approved new businesses, let alone the casino complex proposed. There is simply not enough water available. I-18.1

The wells serving Cloverdale and surrounding areas are shallow, with no water coming from aquifers west of the hills behind Cloverdale. The California Department of Public Health has determined that the wells providing water to this city and surrounding areas are utilizing ground water that is under the direct influence of surface water in the Russian River. Simply stated, all businesses, recreation, homes, farms, and wineries get their water from the same Russian River aquifer. And in times of drought, which are inevitable, there is not enough water to go around. Water restrictions are in force in many areas in California as well as in our neighboring states. Population pressure and climate change assure us that water shortages are only going to get worse. Until some technology is developed to desalinate water with much greater speed and efficiency than is currently possible, water will remain an essential commodity in short supply. According to the report of the Eldorado Irrigation District in Drought Preparedness in Northern California, the state's water supply is riddled with many challenges and uncertainties and is subject to naturally occurring droughts that can extend close to a decade in duration. The production of 'gray water' for irrigation still lags far behind the amounts required with no improvement in sight. Indeed, in many states it is not legal, and even in California it is illegal for use in residences.

In these conditions it is untenable to build a casino complex requiring water that is even now in such short supply that well-established communities, businesses, and farmers are having to restrict their water use. I urge you to look into the not too distant future and make a decision that is good for all Californians living here now, and for our children and grandchildren in the future. Please do not permit a casino to be built to the east of Highway 101 near the South Cloverdale Exit.

Yours truly,

Dobie Edmunds

Letter I-19

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

RECEIVED-BIA
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PACIFIC REGIONAL OFFICE

Sept. 22, 2010

ad ✓
DECRMS
NO

Dear Mr. Risling

We thank you for the meeting on the Draft EIS public hearing.

I would like to add to the items that I last wrote to you about what I think will be the result of building a Casino here in Cloverdale. I look at the numbers and believe that they are very over stated. The number of autos would translate to around 10,000 visitors, this would over run the ability of the facilities to handle this increase. If these people came to the city it would inundate the facilities completely but I don't think that this will happen No, it is not reasonable to think that any of these customers will leave the casino to come to the city. Quite the opposite will most likely happen. People from the city will go to the casino to eat, gamble, etc. and thus draw away what little business we have now. A large hotel would be likely to draw customers from our motels as well. I-19.1

Just how Cloverdale would be able to deal with the needs of the casino water and waste treatment is not addressed in this EIS. This would be a major expense for the Cloverdale residents. I-19.2

No, this would not be good for our city in spite of what the backers of this project say. It would be detrimental to our life style and would indeed drain our ability to exsist. Why do indians need to have gambling as a way to make a living. I would much rather and could support a better way for them to make a good living. I-19.3

Sincerely,

Robert C. Haugsten
204 Albertz St.
Cloverdale, CA 95425
707-894-0410

Robert C. Haugsten
204 Albertz St.
Cloverdale, CA 95425

NORTH BAY, CA 940

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USA FIRST-CLASS FOREVER

Bureau of Indian Affairs
2800 Cottage Way
Sacramento, CA 95825
attn: Mr. Dale Risling ARD

95825+1846

Reg Dir ✓
Dep Reg Dir
Reg Adm Ofcr
Route DECRMS
Response Required NO
Due Date
Memo Ltr
Date

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

Comments Re: Draft Environmental Impact Statement For The Cloverdale Rancheria of Pomo Indians' Proposed 70-Acre Trust Acquisition and Resort Casino Project, Sonoma County, California

Submitted By: Stephen Gallenson
1400 Trimble Lane
Cloverdale, California 95425

At the outset it is emphasized that BIA failed to follow its own rules and guidelines in commencing this process. As the BIA is aware, the guidelines set forth in 40 CFR 1501.7, 1508,22 and 1508.25 were not followed in this matter. The notice of intent published by the BIA regarding the Cloverdale Rancheria's project provided little information as to the size and scope of the project. In fact, at the scoping hearing held in this matter, representatives from the BIA asked the public for input to assist the BIA in defining the project and possible alternatives. I-20.1

The BIA's failure to follow its own rules and regulations by identifying the size and scope of the project along with alternatives made the scoping process a sham and a farce and did not comply with the mandatory scoping process. The transcript of the scoping hearing makes it clear that the public was unable to have meaningful input at that hearing. The DEIS fails to address why it was unnecessary for the BIA to have been required to comply with its own rules and regulations. The BIA should be required to go back to square one, publish a new notice of intent and hold a scoping hearing concerning the proposed project of which public was made aware for the first time in the DEIS.

General Comments Re: DEIS

The DEIS assumes, without discussion, that the project is eligible for restored lands pursuant to 25 USC sec 2719(b)(1)(B)(iii) based on a letter dated December 12, 2008 from George Skibine to Patricia Hermosillo. The DEIS goes on to summarize the history of the tribe and notes there are 498 members. I-20.2

What investigation was done to determine the accuracy of the Rancheria's claims regarding the number of members in the Tribe and the percentage that reside within a 50 mile radius of the location of the land proposed to be taken into trust? I-20.2

How did a Tribe that had approximately 20 members in 1921, and no more than that living on Rancheria land in 1958 when it was terminated, become 498 members?

What effect will the lawsuit filed by Javier Martinez et al against Kenneth L. Salazar et al in United States District Court For The Northern District For California Case No. CV-10-1605-JF/PVT have on the project proposed by The Rancheria?

Given that the lawsuit claims that Martinez et al are the true tribal leaders for the Cloverdale Rancheria and not Hermosillo et al, how can the BIA move forward with the process of taking land into trust for the Cloverdale Rancheria?

What effect will this lawsuit have on Skibine's restored lands determination? According to the lawsuit, the restored lands determination was made based upon information provided to the BIA that was at a minimum incorrect and in some cases fraudulent (see Document 1-7 filed with lawsuit on April 14, 2010). How does the BIA know that the "newly acquired lands" meets the test for restored lands pursuant to 25 CFR sections 292.7 and 292.11?

The lawsuit claims that when the Tribe voted for its constitution in 2008, it did not vote to expand the members of the Tribe or the Tillie Hardwick Class. In other words, it did not vote to increase the size of its membership to 498, the number of members claimed in the DEIS. If this turns out to be true, then the analysis of the DEIS regarding "purpose and need" and "socioeconomic conditions" is incorrect and fatally flawed. How will the DEIS determine whether the allegations in the lawsuit are correct? What mitigation will take place if the allegations in the lawsuit are correct?

Why did the BIA make the DEIS available for public comment beginning August 6, 2010 and hold a public hearing September 16, 2010, when it knew that a lawsuit, which claimed that the Tribal Council with whom the BIA was dealing was not the true Tribal Council for the Cloverdale Rancheria, was filed against it on April14, 2010?

What impacts will there be from going forward with this project if in the future the Court awards plaintiffs the relief they seek in the above-mentioned lawsuit? How will these impacts be mitigated?

Comments Re: Specific Sections Of DEIS

Section 3.9.1 Land Use (Airport Regulation and Policy) : The DEIS fails to address how the projected runway lengthening will affect the project site. How will the land-trust action affect future improvements to the airport? Has the City of Cloverdale been contacted to discuss the future plans for the airport? What mitigation measures have been discussed with the City? I-20.3

Section 4.3.1,Impact4.3.1-5 Groundwater Levels: The wells for the Rains Creek Water District (RCWD) are located close to the southern portion of the parcels proposed to be taken into trust. RCWD presently serves the Cloverdale Airport and approximately 50 households. The City of Cloverdale presently has plans to acquire the District and to use the water for city hookups. What impact will there be on the water supply of RCWD? What impact will there be on the City's ability to use the RCWD to supply water to the City? What impact will there be to the City if the City elects to expand RCWD to allow for more water hookups to residents of the City? What conversations have been had with the City of Cloverdale regarding the Rains Creek Water District? What mitigation measures are available to alleviate the potential as set forth above? I-20.4

Section 4.3.1 Water Resources, Impact 4.3.1-6: The sprayfields will be located in the Cortina Very Gravelly Sandy Loam (Hydric within Floodplain). Can this soil accept the proposed quantity of treated effluent on a long term basis? What studies have been conducted in this regard? If the soils cannot accept the proposed quantity of treated effluent, what mitigation measures are in place? What alternatives are available? I-20.5

Section 4.10, Public Services: In this section the DEIS seems to assume that the Tribe will enter into an agreement with the City to obtain municipal water and sewer. What discussions have been held with the City in this regard? I-20.6 What will be the effect of a private well on water availability in the aquifer? What effect will a private well have on the City's ability to carry out its General Plan? Will area agriculture be affected? I-20.7

Submitted by,

10/18/10

Stephen Gallenson

RE: CLOVERDALE RANCHERIA BAND OF POMO INDIANS, FEE-TO-TRUST ACQUISITION AND CASINO/ HOTEL PROJECT,

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PROCEEDINGS - Vol. 1

September 16, 2010

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BUREAU OF INDIAN AFFAIRS

PUBLIC HEARING

DRAFT ENVIRONMENTAL IMPACT STATEMENT

RE: CLOVERDALE RANCHERIA BAND
OF POMO INDIANS, FEE-TO-TRUST
ACQUISITION AND CASINO/ HOTEL PROJECT,

~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~

REPORTER'S TRANSCRIPT OF PROCEEDINGS

CLOVERDALE CITRUS FAIRGROUNDS

CLOVERDALE, CALIFORNIA

SEPTEMBER 16, 2010

ALESIA L. COLLINS-HUDSON, CSR No. 7751

Job No. 430737
~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~

Appearances:

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REPORTER'S TRANSCRIPT OF PROCEEDINGS
BUREAU OF INDIAN AFFAIRS
PUBLIC HEARING
DRAFT ENVIRONMENTAL IMPACT STATEMENT
THURSDAY, SEPTEMBER 16, 2010
ALESIA L. COLLINS-HUDSON, CSR No. 7751

P R O C E E D I N G S

6:04 P.M.

--o0o--

MR. RYDZIK: Good evening. It's a little bit after 6:00, and we'd like to begin the public hearing. Thank you.

My name is John Rydzik, an I am an environmental scientist with the Bureau of Indiana Affairs in Sacramento.

The Bureau of Indian Affairs is part of the Department of the Interior. I will be your facilitator this evening, and -- for the public hearing. And representing Environmental Science Associates -- ESA -- our consultants who drafted the Draft Environmental Impact Statement, we have Erich Fischer on my left, Jaime Galos here at the PowerPoint, and Jennifer Wade in the back with the sign-in sheet.

We also have Alesia Collins, our court stenographer, that will be recording your comments this evening.

Let me first recognize the Cloverdale chairman,

Patricia Hermasillo --

MS. HERMASILLO: Hermasillo. Hello.

MR. RYDZIK: And I would also like to recognize the mayor of Cloverdale, Nina Regor --

(Audience discussion)

MR. RYDZIK: Oh, I'm sorry. City manager, Nina Regor. Sorry. I was misinformed.

Okay. And also, if you have your speaker cards, please turn them in.

The purpose of tonight's meeting is to receive public comment on the draft EIS for the federal action of acquiring 70 acres of fee land into trust status for the Cloverdale Rancheria proposed casino resort project. We have asked ESA to provide you with a brief PowerPoint presentation, and Eric will start.

MR. FISCHER: Thank you.

(Powerpoint presentation narrative follows:)

MR. FISCHER: Good evening. Wanted to give you a brief presentation on the Environmental Impact Statement, the Cloverdale Rancheria band of Pomo indians fee-to-trust resort casino project.

The draft EIS was released in August 2010. The lead agency is the Bureau of Indian Affairs. Cooperating agencies -- these are the agencies that are cooperating with the preparation of the EIS -- include

the National Indian Gaming Commission -- or the NIGC -- pardon me. Cloverdale Rancheria -- how about if I stand over here. All right. Cloverdale Rancheria Band of Pomo Indians, U.S. Environmental Protection Agency -- or the EPA -- and the California Department of Transportation -- or CalTrans -- Sonoma County, and the city of Cloverdale.

This overview is just going to briefly go over a couple of items, including the project location, the purpose of the project, the alternatives we evaluated -- we will spend a little bit of time on that -- the environmental issues that we're evaluating, and then kind of a brief overview of what the NEPA process is -- or, the National Environmental Policy Act Process. And then lastly, again, give you information in terms of contact information.

In terms of the project location -- and, again, there is a map in the back there that depicts the project layout -- we're looking at six parcels. Five of those are located in the unincorporated portion of Sonoma County, and one within the city limits of Cloverdale, which amounts to about 70 total acres.

Access to the site is from the south side via 101, and it's bordered by Asti Road.

There is a brief overview showing the site

access and the railroad that kind of bisects those two parcels -- or two sets of parcels.

Here is a closeup showing it on the aerial photo so that you can see that there are four parcels on the west side that are being evaluated in terms of being brought into federal trust, and then two parcels on the east side of the railroad.

The proposed facility would be located on the west side -- or, on the three main parcels that front Asti Road. That is where the majority of the -- or, all of the resort facility would be built.

In terms of the purpose and need...

Number one...very important part of the purpose is to restore the Tribe's trust land base. Also, we would be looking at strengthening the tribal government through achieving economic self-sufficiency, improving the socio-economic status of the tribe, providing opportunity for employment for both tribal members and non-tribal members of the community, and then providing funding for administrative health, welfare, housing, education, social and other tribal services.

Alternatives. This is an important piece. Alternative A, which is the proposed action that evaluates a max build out, if you will, or a larger facility. But we definitely evaluated through scoping

the need to look at different sized facilities, so we looked at a skilled approach.

We have three additional alternatives which step down the development, ranging from a reduced hotel, casino, further reductions down to a casino only. We also evaluated a non-gaming alternative, which looks at retail space, and then the no-action alternative, which is not building anything. Not bringing it into federal trust.

Alternative A, which is the proposed action. That is looking at 70 acres being brought into trust. Obviously, this piece is common to most alternatives. Bringing the land that's up into federal trust for the benefit of the tribe, and then approval of a gaming management contract by the NIGC. Those two pieces are common to most of the gaming alternatives or all of the gaming alternatives.

This alternative would include a casino, hotel, convention center, entertainment center, a tribal government building, and garage and surface parking.

What each alternative also evaluates is water and wastewater service, and it looks at either providing a municipal connection to the city water/wastewater services or developing it privately.

And as you can see on each of the development

maps, you can see if it was private development of water/wastewater, the additional parcels that are on the east side of the railroad tracks would be used for those purposes.

Here is an architectural rendering of the facility.

Alternative B. Again, we look at stepping down the size and magnitude of the facility compared to Alternative A. Both the hotel and casino would be reduced, and the convention center would not be constructed under Alternative B.

Alternative C. Again, we're further reducing. And, again, the convention center would not be constructed. This is mainly due to reducing, again, the gaming space and number of hotel rooms.

Alternative D evaluates just a casino and no hotel. There would also be no convention center or entertainment center.

Alternative E evaluates retail space and office center, light industrial warehouse space.

Again, all of these alternatives look at bringing the lands into federal trust. Now, this one wouldn't require the gaming management contract to be approved by NIGC.

The no-action alternative looks at no action.

So, we're looking at no lands being brought into trust, the land forecasting out, being developed in accordance with local land use development plans, which means it could be developed into a business park, industrial uses, quasi public, et cetera, in accordance with the general plans.

In terms of environmental issues we evaluated, we took a broad array of environmental issues and, again, based on scoping we looked at a variety of issues. In particular, I will just point out a couple, including biological resources, cultural resources, traffic, air quality, socio-economic conditions, and then those cumulative impacts as well. So, all those were fully evaluated in the EIS.

And after that evaluation we made determinations on the potential significance and if there was mitigation necessary to reduce those environmental impacts. Most impacts were determined to be less insignificant after mitigation.

In addition to that process, the BIA has consulted with agencies such as the U.S. Fish and Wildlife Service and the State Resource Preservation Office and received concurrence on the impacts of the project from those agencies.

There were a few impacts we determined to be

significant and unavoidable. Those include impacts on air quality. On air quality, we looked at the air quality impacts associated with traffic generation, and those emissions from traffic would exceed some local air quality standards. It does not exceed federal standards.

In addition, we also looked at greenhouse gas emissions and found that that was a significant unavoidable impact as well in terms of carbon.

Next... Traffic we also looked at as a significant impact. Most of the traffic impacts can be addressed through paying a fair share of traffic improvements that would be required as part of the project, including intersection improvements.

However, we did look at three intersections all on the south side of the project, where it would be accessed from 101, where we would see impacts there under the cumulative scenario.

So, looking out to 2030, we would see impacts at those intersections that would result in unacceptable levels of service.

It should be noted that those impacts happen regardless of the project due to population growth but, nevertheless, the project would contribute towards those significant impacts.

So, where are we at in the NEPA process? Right now, got it highlighted up here. The public review of the draft EIS.

So, we have done the steps above that, which was including the scoping process. I know a lot of you were here for the scoping piece of this, and I very much appreciated your comments in the scoping meeting, and it helped focus how we would do this analysis, especially alternatives.

The draft EIS has been published. It was published in the federal register, and it is out for your review and comment. And that period today statutorily it needs to be out for 45 days. The BIA has already granted, or included, a 30-day extension to that period, so it's being reviewed -- it's out for public review for 75 days.

Go ahead and go to the next slide. Get into a little more specifics.

There is opportunity for you here today to give us your comments. You can write on the comment cards, you can come up and give us your comments vocally, and we have the court reporter here to take those comments, record those comments. You can also put in your comments in writing at any time before the end of the comment period, and we will make sure we are reviewing

all of those comments brought in.

Once the comment period ends, we would -- BIA will be reviewing all of those comments and responding to significant comments in the final EIS, including any revisions necessary to the final EIS. We will then be publishing a final EIS that will include all of the comments, and the response to the comments, and it will include any revisions in the EIS, and that will be available for another 30 days.

And once that period has been completed, it would -- the BIA would go into a record of decision process where we consider the proposed action and look at evaluating the record of decision.

So...contact information. Right here on the board here -- we will keep this up while you guys are speaking so you can write it down. Again, it's on the front table, the materials there. But we ask you to please include your name, return address, and "DEIS Comments, Cloverdale Rancheria," on the first page of your comment. That is important so the BIA can sort those comments, get them to us, and we can review them properly.

And, with that I will turn it back over.

MR. RYDZIK: Thank you, Eric. I will now commence with a few procedural matters, and then I will

invite individuals for public testimony.

Again, the purpose of tonight's hearing is to receive input as to what you, the public, believe are the substantive issues that you feel have or have not been addressed in the draft environmental document. With that in mind, there will be no question and answer period, no forum for debate.

You will have the opportunity to inform us of your comments regarding the environmental issues presented in the draft document and/or state what you feel needs to be discussed and analyzed more completely in the draft document prior to it being published in its final stage, what NEPA calls the final environmental assessment.

The final EIS will be mailed to everyone that is on the mailing list. You can receive a copy by being here this evening and signing up, or sending a letter requesting to be on the mailing list, or by giving public testimony and stating your name and address.

Substantive comments received during the comment period, which includes this hearing tonight, will be addressed in the final document as an appendix and noted in the record of decision. After a 30-day review period of the final, the record of decision will be prepared.

Members of the public will be given three minutes each to provide verbal comment. We will be using timecards to help rule -- to ensure that everyone has -- that wishes to comment on the document has the opportunity to do so.

Please be respectful when making your comments. Your name will be called in the order we received your speaker cards. If you wish to speak and have not yet filled out a speaker card, please do so, and then hand it to the nearest attendant -- Jennifer.

When you're called up to speak, please state your name and spell it for the stenographer. If you have written comments, we well accept them here tonight, otherwise please mail them to the address on the notice so that they arrive on or before October 20th.

To best participate in the hearing process, I offer the following ground rules:

Please summarize/state your main points within your three-minute public comment period. Be as specific as you can. Only substantive comments will be reviewed and responded to in the final EIS.

In other words, if you tell me that you do not like the project, but give no specific rationale, there will be nothing that we can further analyze and respond to.

Please avoid personal attacks. We understand there may be strong feelings for and against this project. The best opportunity to state your views convincingly is through a brief and factual presentation. It is okay to disagree. The key to it is to do it in a manner of mutual respect.

I would request that there be no interruptions that would distract the stenographer's ability to accurately record anyone's comments. In addition, if I cannot hear a speaker's comment because of sidebar conversations or other disturbances in the room, I may have to stop the hearing until order is restored.

I'll ask you to address us specifically with your comments so that we can hear what you are saying and so that our stenographer can accurately record your words.

Following completion of the public comment, all comments received during this process will be considered by the BIA and will be addressed in the final EIS. The final EIS will be available on the Internet and in CD format, a copy of which will be mailed to everyone on the mailing list which has been compiled during the past scoping and the current comment periods.

And the Powerpoint that Eric just went through a little earlier, that will be on that Internet site

also.

And, one final reminder. When you're called up to speak, please restate your name for the stenographer.

And our first speaker is Jeff Brax, deputy counsel for Sonoma County.

MR. BRAX: Good evening. My name is Jeff Brax. I'm a deputy county counsel with the County of Sonoma. T-1.1

Historically, the Sonoma County board of supervisors has expressed strong concerns and even opposition to other gaming facilities in Sonoma County due to their adverse environmental affects, impacts to public services, inconsistency with the Sonoma County general plan, and other issues.

The board of supervisors and county staff have also identified a need to look at each site and each project individually and to mitigate, wherever possible, adverse impacts to the maximum extent feasible, just as private developers in public projects are required to do.

We have worked with the tribes to mitigate impacts and to develop relationships based on mutual respect and to ensure an environmental review process for future projects.

As was noted during the PowerPoint presentation, we are a "cooperating agency," which is a

T-1.1 (cont.)

term of art meaning that we reviewed and had an opportunity to provide comments on an administrative draft version of this document.

We had -- as part of that process we had productive meetings with the EIS preparer, the tribe, and other interested parties, and we appreciate those efforts and hope that they will continue.

We have not had sufficient time yet to fully review the entire document. I suspect that's true for a lot of people here tonight. And we will submit substantive comments after a board hearing at our board and closer to the comment period.

Our concerns would be the extent to which our comments -- our previous comments -- and especially in more areas of substantive concern, have or have not been addressed in the now public draft EIS.

Based on more cursory review, it appears that some of our smaller comments have been incorporated, and whenever that is true, we appreciate it. To the extent they have not, I think it's likely we will express those concerns as well.

By way of one example... The project as alluded to during the presentation would produce 52,000 tons per year of greenhouse gas emissions every year, which is a massive number, and it would exceed the

threshold for several other air pollutants. T-1.1 (cont,)

I think we may -- I'm not sure it's fair to categorize these impacts as unavoidable. I think there are measures to reduce those impacts through technological solutions, purchase of offsetting credits, and other measures, some of which are being done in the EIS or for other tribal gaming projects.

We appreciate the time -- the extension of time that's already been granted or that is incorporated into the final comment period. We may find that we don't have sufficient time. If others feel that way, I hope the agency is responsive to requests for additional time.

And, we look forward to working with the EIS preparers, and the tribe, and members of the public to help ensure that the final EIS more accurately reflects and mitigates any adverse impacts from the project. Thank you.

MR. RYDZIK: Thank you, Jeff. Our next speaker is Mary Brugo. T-1.2

MS. BRUGO: Thank you for this opportunity. My name is Mary Brugo. The last named spelled B as in Bob, R-U-G-O.

I would like to address the land resources Section 4.2, potential seismic hazards, that -- I am

T-1.2 (cont.)

1 going to read this to get through it within three
2 minutes.
3 Okay. Number one. There is no discussion
4 about the impact on Cloverdale's emergency services
5 caused by a seismic event. Daily casino users are
6 projected to reach 7,000 or more. The casino user
7 population nearly approximates the current resident
8 population.
9 As a small city of 8500 residents, with a small
10 tax base, Cloverdale can fund only modest emergency
11 services. In a serious earthquake, Cloverdale's
12 emergency services will be unable to respond to nearly a
13 doubling of the local population. Emergency response
14 services are currently staffed by a sizable percentage
15 of professionally trained volunteer response personnel.
16 The high density use of a casino puts not only
17 the resident population but also the visitors at major
18 risk in the event of a seismic occurrence.
19 Number two. The Cloverdale Fire Protection
20 District Letter of Intent indicates the tribe intends to
21 develop a Memorandum of Understanding with the fire
22 district about protective services. Beyond routine
23 services, the MOU also needs to address emergency
24 services for a seismic or catastrophic event.
25 Section 3.2, also land resources -- and this is

for the geological setting and seismicity. T-1.2 (cont.)

Number one. There is inadequate discussion about physical damage and socioeconomic impacts caused by the recent seismic events of the San Andreas and other seismic faults common to California. The lack of proximity to a nearby fault is an insufficient reason to diminish the potential hazard of a seismic event.

In 1989, the Loma Prieta earthquake from a distance of about 50 miles from the epicenter caused severe damage in less than a minute in Oakland and San Francisco, specifically the Bay Bridge, Highway 880, the Oakland airport, and other infrastructure.

Number two...and last. This is -- there is no reference or discussion about the discontinuity subduction zone off the Northern California coast. Subduction zone quakes, such as the Alaska 1964 quake, can cause severe damage. This active zone also has a probability of a major event within 30 years, and it is possibly the "Big One," a major concern to the west coast. Thank you.

MR. RYDZIK: Thank you, Mary. Our next speaker is Mike Villa.

MR. VILLA: Good evening. My name is Michael Villa. V-I-L-L-A. I'm the attorney for the South Cloverdale Water Corporation, which is a non-profit T-1.3

T-1.3 (cont.)

corporation in Cloverdale representing approximately 40 homeowners between South Cloverdale Boulevard and -- excuse me.

South Cloverdale Water Corporation is a non-profit representing -- or, comprised of approximately 40 homeowners between South Cloverdale Boulevard and Highway 101.

I came tonight on behalf of the corporation to express my clients' concern that the draft environmental impact statement doesn't even mention my client at all. Several years ago, in March 2008, I wrote letters to the Bureau of Indiana Affairs and the State Water Resource Control Board in Sacramento.

My client has a four-inch water main that runs the entire length right smack down the middle of this proposed development site that has been there for over 60 years. The -- we have been in sporadic communications with representatives of the developers for two and a half years. We still have not reached a resolution as to what is going to be done if my clients' water main, which is the sole and exclusive source of water for my clients, via -- no matter which alternative is considered or ultimately adopted by the developers. You went through them all at the beginning of this presentation.

The pipeline is right down the middle of the development site, and we feel that we cannot -- we feel we might be forgotten or ignored by the developer. T-1.3 (cont.)

We're still here. Our concerns still have not be addressed. Thank you.

MR. RYDZIK: Thank you, Mike. Our next speaker is Chris Haugsten.

MR. HAUGSTEN: My name is Chris Haugsten. H-A-U-G-S-T-E-N. T-1.4

I want to thank you folks for coming and presenting this. And, you have heard all of the pros and cons, except that was a new one for me what we just heard, so I won't go through all of those.

It is just the fact that this project, and the size of it -- except F, and that is not defined. That may be even bigger than what the project is -- if it's going to be all kinds of retail or possibly other types of buildings.

I am totally against having this structure, and/or structures, built over there close to Cloverdale because I firmly believe not the rosy things that are being said it will do for Cloverdale. I believe it will suck a lot of our livelihood and suck the blood right out of Cloverdale. Thank you.

MR. RYDZIK: Thank you, Chris. Our next

speaker is Donna Artze.

MS. ARTZE: I pass at this time.

MR. RYDZIK: Next speaker is Roz Katz.

MS. KATZ: My name is Roz Katz. R-O-Z, K-A-T-Z. T-1.5

Alternative E, which is the retail complex. I'm not sure that that is a viable alternative because there is a question of taxes. If retail products are sold in that land, would Cloverdale get taxes? Would the taxes go to the County, or would they be exempt from paying tax? I would like more information about that.

Also, in addition to the county having a mandate to reduce greenhouse gases, the city of Cloverdale has the same mandates. And I would like to know how Cloverdale will be compensated for having additional greenhouse gases due to this project. Would it be financially, or is there a way to mitigate the greenhouse gas, by the way?

MR. RYDZIK: Thank you, Roz. Our next speaker is Jeanne Cox.

MS. COX: My name is Jeanne. J-E-A-N-N-E. Cox. C-O-X. T-1.6

I have more of a direct question to the BIA concerning the functions that you provide for the tribes. Is the only available action for you approving

the linkage of the tribes to professional casino establishments, some of which may be of questionable background, who will determine on their own how much, if any, money funnels down to the tribal members? Or does the BIA have the capability of taking the tribes, possibly grouping tribes throughout the country, into their own developmental entities where they can work amongst themselves throughout the country taking tribal land, developing it into specific purposes? T-1.6

I'll say in Cloverdale we have had a lot of suggestions what might be developed here concerning such things as even miniature golf, a bowling alley, indoor facilities, paintball, anything like that that will bring people throughout the northern Sonoma County, Lake County, to our town.

As a taxpayer, I would love to see my tax dollars go for that purpose. But just to see the tribes directed into, let's build another casino, even though there is one 15 minutes to the south and one 15 minutes to the north, and those tribes -- those casinos are struggling...? We're going to add more to that, and the tribal members probably are going to get diddlysquat? Or let's do something that is going to benefit the tribe and our city. Thank you.

MR. RYDZIK: Thanks, Jeanne.

Our next speaker is the city manager of the city of Cloverdale, Nina Regor.

MS. REGOR: Thank you. Good evening. I'm Nina Regor, city manager for the city of Cloverdale. I wanted to make a couple of comments on behalf of the city. T-1.7

First of all, the city appreciates the positive working relationship we have with the Cloverdale Rancheria and their role in the community.

The city of Cloverdale city council approved a resolution in the spring of 2008 recognizing the Cloverdale Rancheria's right and appreciating its desire to establish its economic viability; however, the city expressed -- opposed gaming as a means to do so.

In August of 2009 the city council directed city staff to work with the Rancheria to mitigate the effects on the community of a casino, should that casino be built.

As was mentioned in the PowerPoint presentation, the city was a cooperating agency, and through that process we have provided extensive comments on the earlier versions of the EIS.

We are in the process of further analyzing the EIS and will provide substantive comments to the EIS before the deadline of October 20th. Thank you.

MR. RYDZIK: Thank you, Nina. Our next speaker is Mitchell Benjamin.

MR. BENJAMIN: Good evening. Mitchell Benjamin. B-E-N-J-A-M-I-N. T-1.8

The various alternatives are grossly out of scale with the buildings and landscape of the area. The shear size -- the various alternatives are grossly out of scale with the buildings and landscape in the area.

The shear size of them are inconsistent with anything found in a rural setting. There is nothing beyond three stories found in Cloverdale or any neighboring towns. Essentially, this project proposes to remove prime agricultural land and replace it with structures that are completely incompatible with the neighboring land uses.

All of the proposed alternatives state that they would be constructed per California building code but never mentioned complying with any Sonoma planning codes, possibly because none of the alternatives would come close to following general planning guidelines.

There is no mention of meeting LEED status either. We know that LEED platinum is out of the question as the prime requirement would not be met by turning agricultural land into a built-up environment.

The environmental impact statement -- draft

T-1.8 (cont.)

environmental impact statement states...Implementation of the development would assist the tribe in meeting its objectives...which we heard earlier.

I am at a loss. With a project of the scale and magnitude as proposed, you are required per your own calculations to achieve economic self-sufficiency and improved socio-economic status of the tribe. At present, per the data included in the draft EIR, 498 tribal members, with an unemployment rate of up to 28 percent, that -- that would live -- that would leave at most 140 members unemployed within 50 miles of the proposed project.

I'm sure that development in a more appropriate scale and type of the existing surroundings would be -- more than meet the needs of the tribe while also contributing in a positive manner to the community and county at large.

I ask, why are all the alternatives proposed all of essentially the same makeup, casino, hotel, convention center, except obviously the last, shopping? Why has there not been any alternative studies that would fit into the community and landscape cohesively? Thank you.

MR. RYDZIK: Thank you, Mitchell. Our next speaker is Susan Nurse.

MS. NURSE: Good evening. Susan Nurse. N-U-R-S-E. T-1.9

Our community asked before the scoping meeting two years ago what we might expect from the proposed project in -- specifically in terms of job creation and the impact on revenues to our downtown businesses.

I have been looking at the results provided in the DEIS, and I see that regarding the jobs, the DEIS states that the casino complex would employ 1600 people. These jobs would range from management level to entry level positions.

Now, our city has an economic development plan with a stated goal of attracting a mix of industrial, professional, commercial jobs paying at least two and a half times the California minimum wage. This would currently equate to $20 an hour. These casino jobs are not at all in line with this goal.

Indeed, the DEIS states that 94 percent of these jobs would be around $13 an hour, little more than one and a half times the minimum wage, and certainly not a realistic living wage for Sonoma County.

This is a direct negative impact to our city's plan to attract employers with a minimum of $20 an hour jobs. They would likely be deterred from locating here due to the loss of what we plan to offer them, which was

T-1.9 (cont.)

a family-oriented environment, an attractive mix of services and quality of life infrastructure for their employees.

The casino complex would force us to swap the probability of a diversity of well-paying positions for a monopoly of low-paying, entry-level positions.

Moving toward the impact on revenue to downtown businesses. The DEIS projects annual revenues of $118,000,000 for the casino complex, with 23 percent of the gambling revenues generated from Sonoma County residents, and that equates to $36,000,000. $36,000,000 is currently being spent in a variety of businesses across the county that will be lost to those local businesses. All gambling revenues are, of course, tax free.

We are told in the DEIS that revenues equating to approximately 110 hotel rooms per night will be cannibalized from local businesses. Under this cannibalization, annual revenues of approximately 4.3 million, including lodging related food and retail sales, could be obtained from local businesses in Cloverdale and other cities throughout Sonoma County. And, of course, these lost revenues are not subject to TOT tax, which is currently 10 percent in Cloverdale, so we lose business and the tax.

The DEIS concludes that since our lodging establishments could pick up spillover from the casino hotel during busy times, it might not be such a loss to us at all. I totally disagree. I do see it as a big loss. T-1.9 (cont.)

When it comes to retail, the DEIS projects 1.8 million in retail sales, another source of loss from our local businesses. Restaurants, then. With five or more restaurants within the casino, and 12 million dollars going there, we have lost our restaurants too.

I'm out of time. I could go on. I think we're losing a lot, and I don't think our concerns have been answered. Thank you.

MR. RYDZIK: Thank you, Susan. Our next speaker is Steve Nurse.

MR. NURSE: Good evening. I am Stephen Nurse. Same spelling.

I want to speak about the scope of this project tonight. This is the second meeting we have all attended with you. However, the first time the citizens gave input to you, our input was based upon what we guessed was being planned for Cloverdale. T-1.10

We have asked several times for more details over the past several years, and nothing has ever been forthcoming. We have asked for specifics and never seen

T-1.10 (cont.)

1 plans, never seen anything until now. In any event, we
2 did our best to express ourselves and our concerns
3 regarding what we guessed was going to be built, and
4 that was our input to the DEIS.
5 So, the input from those of us not closely
6 familiar with the plans, this includes input from
7 citizens, input from municipalities, input from
8 agencies, is based upon a variety of assumptions.
9 Now after years of asking we know how huge this
10 development will be. We now have plans to build a
11 casino three times larger than River Rock, with two
12 five-story garages, a five-story hotel building, an
13 entertainment center, a conference center, and the
14 smallest of all of the buildings -- at ten times the
15 size of the room we are currently in -- will be the
16 administrative center, at 20,000 square feet.
17 This facility will attract over 9,500 vehicle
18 movements per day. That's one vehicle every eight and a
19 half seconds, 24 hours a day, 365 days a year. This
20 will double the population of this area as we currently
21 know it.
22 This, of course, speaks to only Alternative A
23 because, one, that's the alternative most favored in the
24 DEIS. And, B, it's disingenuous to believe that
25 Sealaska would accept anything less than the maximum

T-1.10 (cont.)

return on their investment.

When you first asked for input, we had no idea this was being planned. A development this large has many different questions and concerns. We don't really understand yet what these concerns and questions are. Despite the 30-day extension, we haven't had time to discuss them and analyze them.

One example that may illustrate my point follows: The city has an aging population. In fact, hundreds retired here knowing it was a bucolic area, even though we are 40 minutes away from the Santa Rosa hospitals on a good day. Many people in this room literally know people who have died between here and the emergency rooms in Santa Rosa. This is not a mute point.

What will be the impact of this huge increase in vehicle traffic and the very life expectancy and health of the citizens of this town?

Before this report, this question didn't come up because we had no idea we would be living at the end of a crowded freeway. I'm sure there are many other questions and concerns this report asks. As a consequence, I believe we need to abandon this report and return to the scoping process and revise our questions anew. Thank you.

MR. RYDZIK: Thank you, Steve. Our next speaker is Thomas King.

MR. KING: Thank you. Yes. My name is Thomas King. K-I-N-G. And, I'll be brief. T-1.11

I would really like to know how this planning process accounts for and expresses a hope that it does account for the quality of life impact of a failed or largely unsuccessful project.

In particular, I am concerned about the tawdry and visible skeletons of partly built or, built and unsuccessful, projects when the gaming -- the current gaming bubble crashes.

I think there is a good example in the south end of Cloverdale of a tawdry business that has come and gone in a very short period of time, and it supposedly capitalized on economic leverage available to indian pipe businesses. And, I -- I have a very great concern that we're going to end up with a -- just a wreck of another casino in Cloverdale. Thank you.

MR. RYDZIK: Thank you, Thomas. Our next speaker is Dobie Edmunds.

MS. EDMUNDS: Thank you. And, Dobie. T-1.12
D-O-B-I-E. Edmunds. E-D-M-U-N-D-S. Thank you for the presentation and for the opportunity to talk to you.

As a resident of Cloverdale, I am very

T-1.12 (cont.)

1 concerned about the context in which you plan your
2 massive development. As you may know, the Alexander
3 Valley resort was recently approved, and it will be just
4 down the road from your proposed development.
5 That resort has plans for a golf course. It's
6 going to have 100 -- 150 rooms in a hotel, conference
7 facilities, spa, restaurant, 40 fractional ownership
8 villas, and 105 detached single-family homes, estate
9 homes, et cetera.
10 It's going to be a large project, and it has --
11 the annexation for the land that is going to be built on
12 has been approved by Lafco. It went through -- the
13 people who are developing this resort went through many
14 years and worked hard with our hard-working city council
15 to make this something that has the best chance to be
16 very beneficial to Cloverdale itself.
17 On the other end, moving south on Asti Road we
18 are looking at a UGB which may include Asti as an
19 exception area. This is, as everybody knows, a
20 million-case-per-year winery. And if Cloverdale annexes
21 that as an exception area, it is going to be providing
22 water to that as well.
23 So, we have water all coming out of the same
24 aquifer that is providing water for all of the
25 agriculture around here. It is going to be now asked to

provide for not only our city, the surrounding homes and developments, but the Alexander Valley resort, Asti, and this very, very large proposal that you have. And I am greatly concerned that this has not been looked into. Thank you very much. T-1.12 (cont.)

MR. RYDZIK: Thank you, Dobie. Our next speaker is Ray Fleming.

MR. FLEMING: My name is Ray Fleming. F-L-E-M-I-N-G. My comments will be brief. T-1.13

First, I believe the DEIS is well put together and very thorough. I support the proposed project by the Cloverdale Rancheria. Self-sufficiency is extremely important for any group of people.

In this time of economic stress, short of strip mining and pornography, I would support almost any business or enterprise that would assist the city of Cloverdale economically, specifically by adding job opportunities.

I also believe that earning $13 an hour is better than being unemployed. Thank you.

MR. RYDZIK: Thank you, Ray. Our next speaker is Darlene Marsh.

MS. MARSH: I'll pass and submit a written statement.

MR. RYDZIK: Okay. Our next -- our next

speaker then is Melanie Bagby.

MS. BAGBY: My name is Melanie Bagby. T-1.14

M-E-L-A-N-I-E. Bagby. B-A-G-B-Y. Thanks for reminding me that I need to spell my name.

And I want to express my appreciation for the first line, the comments about why we're here and why we're talking about this subject, which is about economic development and self-sufficiency and the strengthening the self government of the tribe.

And I think everyone in the room supports that; however, I will say in the interest of full disclosure, that I am a Cloverdale planning commissioner.

I am not here representing the city. I am certainly not representing the planning commission, but I can't help but review the DEIR -- at least begin to review it -- without the eyes of a planning commissioner. And the first thing that strikes me is that if this project were under the auspices or under the jurisdiction of the city of Cloverdale -- or even under the jurisdiction of the County of Sonoma -- it would never make it out of the planning office.

And the problem is, is that we have public policy where casinos are concerned that has completely run amuck. And I am very concerned about -- well, the dismissive referral to the impact on the greenhouse gas

T-1.14 (cont.)

emissions and how those won't -- all those just can't be helped.

The fact is, is that you're in Sonoma County, and everyone else who does business in Sonoma County has to do business according to our rules and regulations. And when the public policy of the federal government and the state government supersedes that, it makes it really impossible as a planning commissioner, anybody who is working within their community, to make a decision.

I mean, the -- the scope of plan A is just -- it would never make it. In fact, it would be laughed out of the planning office, and it would never come before the planning commission. Those are just the facts.

The other thing that I am very concerned about, and I am probably going to run out of time because it's really a complex issue, is the complete inconsistency with our general plan and trying to develop our downtown and create a sustainable local economy.

Talking down a huge casino complex is completely out of -- it's completely inconsistent with what it is that we're trying to accomplish in this community and in the county where we're working very hard, as far as economic development is concerned, and our transportation policy and our land use policy, to

create a -- a sustainable community. T-1.14 (cont.)

The fact is that in Sonoma County 60 percent of our greenhouse gas emissions come from cars, and this is just a gross disregard for our land use and our transportation quality and that we're trying to decrease those numbers for future generations.

And, I will be sending a detailed review of the transportation section to your office as well. So, thank you.

MR. RYDZIK: Thank you, Melanie. Next speaker is Karnig Beylikjian.

MR. BEYLIKJIAN: I'm Karnig Beylikjian, Honeysuckle Court, Cloverdale. The name is spelled K-A-R-N-I-G, B-E-Y-L-I-K-J-I-A-N. T-1.15

Good. Thank you. I will make it short.

I know some people have said what I am going to say, but I think you're looking for comments, and if they're repetitive, well, that's how a lot of people feel.

I am going to start out by saying that I think that we all wish the Cloverdale Rancheria to prosper. That's really a premise that I am on, anyway. With that, my -- my issue is, I do attend the city council meetings. Recently there was a presentation by the city engineer on the water situation and the wells in

T-1.15 (cont,)

Cloverdale, and he addressed -- I think we have four wells. I'm not 100 percent on this. But about four wells. We draw all our water from the wells. We're not on the -- we're right next to the Russian river, but we don't draw from it. The aquifer is affected.

And part of his comments -- and this is an approximate quote, was...Our water situation is not dire, but it needs to be addressed. And this was like projecting out five to 10 years. So, these were his comments about the city, without taking into consideration the Rancheria and the possibilities there.

So, I have a huge concern. I mean, I have got my whole house on drip irrigation. We're all concerned about water. It comes and goes, as we know. And, so, I think that you need to look at the city of Cloverdale's water situation. And I don't know if you did. Honestly, I haven't read the whole -- this report. Anyway, that's one point.

Second point. And someone else raised it very well. The height of these projected buildings. I know whenever you propose a project, you propose the maximum. You propose the maximum so that then you can go to the lesser if you need to. But you can always expand to the max, if you can. That's a good business principle. But the height of these buildings is totally out of hand.

T-1.15 (cont.)

On the location it's at, it's going to be this huge -- hopefully not -- eyesore as you come in on the south end of town on the right-hand side of the freeway.

Five-story buildings? I don't think there is anything higher than three stories in all of Cloverdale. I think they're two stories. I don't even know if there is a three-story. To go five stories on a slight rise off the freeway? Man. Anyway, that seems really unacceptable to me.

Thirdly, the business plan. And I am not sure how much of that is being addressed. Maybe that's not the issue.

Okay. I'm good. Sealaska is the partner on this. Sealaska, as I understand it, recently was in default on a mortgage in Sonoma County. I'm not sure which one or how much. I think they might have cured it. It didn't show a great deal of integrity to me that that was happening, and it doesn't make me feel good that they are going to complete this project at all. They're in it for the money. That's their deal.

Hopefully, the Rancheria would prosper from this deal. But what if it doesn't? Are we building it on the principle...If we build it, they will come? That was good for a movie. But ten miles north is the Shokawa. Ten miles south is the River Ranch. Huge,

1 already well-established casinos. You want to go to T-1.15
2 Ukiah, you got Coyote Valley. Go to Lakeport and
3 Middletown, you've got more casinos. I mean, they're
4 all over the place. Suddenly, this is the panacea for
5 all difficulties, and I don't think it's going to work,
6 necessarily. Who says it's going to be a success?
7 All right. Last comment. I don't want to look
8 at eyesore buildings that are incomplete on the -- here
9 also. We have seen enough defunct projects. Thank you.
10 MR. RYDZIK: Thank you, Karnig. Our next
11 speaker is Dino House.
12 MR. HOUSE: My name is Dino House. Last name T-1.16
13 H-O-U-S-E.
14 I am here in opposition to the casino. I
15 support the tribe and their economic viability, but I
16 believe that a -- a large casino complex will siphon
17 financial resources from our town.
18 Like was said before, a five-story parking
19 garage will dwarf anything in the town, any building,
20 any structure. Not just the size, but also the size and
21 scope of the -- of the business will dwarf any business,
22 any group of businesses in the town, and that will
23 bring, I think, serious economic damage to the town.
24 As said before, there are several other casinos
25 in the area. I don't believe that the casino itself can

T-1.16 (cont.)

and will be financially successful. I think it will probably have to pull the bulk of its income from people in the town.

I do not believe they will bring substantial visitors from either the north or the south, or east or west, for that matter. As said before, there are several other casinos, and more proposed in Rohnert Park and another proposed in Petaluma, that would stop the flow of visitors from San Francisco, which I think is their proposed -- their hopeful primary source of people.

I think that the -- that the wishes of the residents of the town -- and I don't know how many of the tribe members actually live in Cloverdale. I hear a 50 mile radius, which I think goes actually down to Novato. I'm not sure where the 50 miles stops. But the people who actually live in this town would be most affected by this town.

Looking tonight, I think it's like 15-to-1 in opposition. I believe that the wishes of the residents of this town should be prominent.

I understand that many of the tribal members are residents of this town, but they are not the town. I believe that the whole town should have its say, moreso than a handful of residents. Thank you.

MR. RYDZIK: Thank you, Dino. Our next speaker is Jane Doroff.

MS. DOROFF: Thank you. My name is Jane Doroff, spelled D-O-R-O-F-F. T-1.17

I appreciate the opportunity to go on record, but I will also be filing a written comment after going through the whole process. And I am not going to say anything new, but I want to express my concerns regarding wastewater and water.

We here in Cloverdale struggle regularly trying to have enough water from our wells. With a project of this magnitude, it will only compound our concerns for it. It cannot be ignored.

I have to concur with Steve Nurse. When we were brought into this project and made aware of this project, the magnitude of this project was not clear to the residents of Cloverdale. I am appalled, literally, at the size of this project for a size of town even in Sonoma County.

As mentioned before, there are a number of casinos locally. I have lived in Nevada. I have driven through the United States, through the Dakotas. I have seen fledgling casinos boarded up because of lack of interest. I don't want to see this for our community. It is not what we want.

I agree with the gentleman prior to me. It is the community's wishes, not the tribe's. I wish them success in other endeavors, but not this project. It is not appropriate for this city. Thank you. T-1.17 (cont.)

MR. RYDZIK: Thank you, Jane. Our next speaker is Jeff Bagby.

MR. BAGBY: Jeff Bagby. I will be submitting written comments as follow-up as well. T-1.18

Lacking from most discussion has been the role of the for-profit shareholder, beholding corporation, Sealaska. Sealaska Corporation has a documented history of clearcutting lands leased to them by the U.S. Department of Forestry in Alaska and shipping the harvested, unprocessed logs to Japan, depriving local lumbar operators of any revenue.

My question as always...follow the money. Define the relationship and the intention of the money source both to the local tribe and on their designs on California's resources. Thank you.

MR. RYDZIK: Thank you, Jeff. Our next speaker is Terry Smith.

MS. SMITH: Terry Smith. S-M-I-T-H. T-1.19

We hear a lot about the greenhouse gases that this casino is going to provide, but noone mentions the greenhouse gases that the wineries produce when they

burn all the vines. And we talk about the impact on the wastewater. Now, I have the disk, and I have seen it all, and they want to do their own wastewater. They want to recycle their own water, which I think is a wonderful idea. And I am going to state here emphatically, I am for the casino. Thank you. T-1.19 (cont.)

MR. RYDZIK: Thank you, Terry.

That concludes our speaker cards. Is there anyone else that would like to express by filling out a speaker card and has anything new to add to the testimony tonight?

MS. FORWARD: Hi. My name is Priscilla Forward. I am a member of the Cloverdale Rancheria. And the comments tonight, I -- you know, I agree with everyone and all their comments because, you know, they don't know exactly what is going on. T-1.20

And...our ancestors have been here almost 100 years, and -- since 1921, or around there. Now, my dad was born in Cloverdale. I was born in Santa Rosa, California.

As far as pollution goes in greenhouse gases, the SMART train has not been mentioned here. The SMART train is scheduled to come to Cloverdale and bring a lot of people here -- perhaps a lot -- from Larkspur. So, that is something to note on this greenhouse gas issue.

T-1.20 (cont.)

As far as earthquakes. California is an earthquake state. It is throughout the whole state, not just here in Cloverdale. And there is plenty of casinos in California and all throughout the state.

Water. I am not too sure about that. I haven't talked to my tribal council about that. I am just one of the members.

Let's see. Sealaska. They are our financier, and we are really happy to have them and proud of them for helping us, especially in this depression, you know, because there are no jobs. We are all trying to look for jobs, and we would bring jobs to this city, and we would help the people here who need jobs.

And as far as the $13 an hour. That is a lot of money today. Because I have seen jobs as low as $8 an hour in Santa Rosa, even in Marin County. That is a good pay today in the depression. We're losing all of our jobs. They're going overseas.

As far as the size of the building. I think we could probably negotiate that. I mean, it doesn't have to be five stories. We talked in our tribe about, you know, it's a possibility to negotiate size. So, that's a possibility.

See what else was said. Oh, Alexander Valley resort. Okay. They have been trying to get that resort

for a long time, but we have, too. We have been trying for many years to get the -- to get our project going. We have gone along with the city. We have not tried to take matters into our own hands. We have gone along with the people of Cloverdale. And I am proud of our tribe for doing that, for waiting patiently. T-1.20 (cont.)

What else? I just took notes on comments. Okay. Anyway, the main thing I wanted to say was that we would bring jobs to the businesses in Cloverdale, as well as our casino.

I mean, although our casino may have restaurants, you know, we won't serve probably what the rest of the city would serve. There is different meals, different types of restaurants. So, I haven't covered that with our tribe -- or, we haven't even talked about it.

But I appreciate the people of Cloverdale, and just thank you for everything.

MR. RYDZIK: Thank you, Priscilla. I see another speaker card. Eileen Booker.

MS. BAKER: My name is Eileen Baker. T-1.21 B-A-K-E-R. And I haven't read the report. I apologize. I have the disk.

But, I am concerned about light pollution. Has that ever been addressed? It's a real serious issue

T-1.21 (cont.)

with River Rock Casino. For all of the residents that aren't near as numerous that we have, one of the lovely things we have in Cloverdale, we can see stars at night. And a five-story building and -- several five-story buildings and several parking structures are going to completely remove the stars from our skies.

And, also, one of the reasons many of us came here is to be in a rural atmosphere. This is what we love about Cloverdale.

When we first heard about this project, many of us stood in front of Ray's market and got people to sign saying that we don't want a casino in Cloverdale. We had no idea of the scope that's been proposed now. And at that time we presented about half the population of Cloverdale, a number of people had signed our petition that they didn't want a casino. Just the casino, without any other idea about any other project or the scope or the size. They just did not want a gambling casino in Cloverdale.

The Cloverdale people signed the petition. I'm sure it's been submitted to the city, and they still have it. I just wanted to say that.

MR. RYDZIK: Thank you, Eileen. Is there anyone else that might want to give public testimony? Anything that maybe a previous speaker didn't address?

(No response received.)

MR. RYDZIK: Okay. Well, that concludes our public hearing, and thank you very much for attending and for your input.

(Public hearing concluded at 7:13 p.m.)

CERTIFICATE OF REPORTER

I, ALESIA L. COLLINS-HUDSON, a Certified Shorthand Reporter, hereby certify that the foregoing proceedings were taken in shorthand by me at the time and place therein stated, and that the said proceedings were thereafter reduced to typewriting, by computer, under my direction and supervision.

Dated: October 5, 2010

_____

ALESIA L. COLLINS-HUDSON
CSR No. 7751

Appendix S

Response to Comments on Draft EIS

ESA

RESPONSE TO COMMENTS ON DRAFT EIS

Comment Letter G-1 National Park Service

G-1.1 Comment noted.

Comment Letter G-2 National Indian Gaming Commission

G-2.1 The earliest date of construction would now be Spring/Summer 2012. Section 2 has been updated.

G-2.2 Section 2 has been revised as suggested.

G-2.3 Sections 2 and 4.10 have been revised to show corrected numbers.

G-2.4 The statement has been revised based on the City's latest documents regarding water improvements. A new well is currently planned but construction has not begun as of the date of this publication.

G-2.5 Figure 4.2-1 has been added which shows the referenced maps.

G-2.6 Section 4.4 has been revised as suggested.

G-2.7 Section 3.5.3 has been revised as suggested. The Bureau of Indian Affairs (BIA) initiated Section 7 consultation with the National Oceanic and Atmospheric Administration (NOAA) Fisheries regarding potential effects to California Coastal Chinook salmon, Central Valley Coastal steelhead, and Central Valley Coast Coho salmon. A site visit was conducted on February 22nd, 2011 with NOAA Fisheries and ESA's fisheries biologist to review the project location and the existing stream channel habitats. Informal consultation regarding potential effects to federally listed NOAA Fisheries species was completed on July 18th, 2011, with the appropriate NOAA Fisheries letter included within **Appendix P**.

Project designs avoid direct impacts and have incorporated appropriate setbacks to jurisdictional stream channels within the project area, thereby minimizing disturbance to anadromous salmonids potentially present in the project area. Vegetative buffers and stormwater treatment areas would minimize potential off-site stormwater effects to these species. Mitigation Measures 5.5-6 and 5.5-7 have been added to the project (Section 5.0) to further minimize potential adverse effects to federal and State-listed

anadromous salmonids.

Informal consultation regarding potential effects to federally listed United States Fish and Wildlife Service (USFWS) species was completed on November 30th, 2009; the USFWS concurred with a finding of "may affect, not likely to adversely affect" for potentially affected species (**Appendix P**).

G-2.8 Mitigation Measure numbering has been updated in Section 4.11.

G-2.9 Section 4.11 was revised to reference Table 3.11-1.

G-2.10 Section 4.12 has been revised to cite Occupational and Safety Health Administration (OSHA) standards. It is likely that the anticipated Tribal-State Compact would include provisions for compliance with California public health and safety codes (Title 19 and 24 of the California Code of Regulations).

G-2.11 Section 4.15 has been revised.

Comment G-3 National Marine Fisheries Service

G-3.1 See Response to Comment G-2.7.

Comment G-4 Environmental Protection Agency

G-4.1 See Response to Comment G-4.3 through G-4.15.

G-4.2 See Response to Comment G-4.3 through G-4.5.

G-4.3 The Water Resources section of the Draft EIS (3.3.2 Regulatory Setting, Page 3.3-9) has been revised to include a more detailed discussion of Executive Order (EO) 11988. Mitigation Measure 5.3-2 has been revised to include additional mitigation for flooding hazards (Mitigation Measures 5.3-2 b, c and d). The mitigation stipulates that that a hydraulic model consistent with FEMA floodplain hydraulic modeling requirements shall be developed, the Tribe shall seek participation in the National Flood Insurance Program, and the Tribe shall establish a Tribal Mitigation Plan in accordance with 44 CFR 201.7, which addresses flood hazards and mitigation of those hazards.

In accordance with EO 11988, if development within the floodplain at the project site would cause a base flood elevation increase of more than one foot in the 100-year floodplain, more than zero feet in the floodway, or revisions of the floodway boundary, then a Conditional Letter of Map Revision (CLOMR) must be obtained prior to implementation of a project. A Letter of Map (LOMR) Revision request must be submitted to Federal Emergency Management Agency (FEMA) within 6 months of completion of a project. Compliance with EO 11988 would require the Tribe to

complete a CLOMR, which involves a floodplain analysis using an accepted flood flow modeling methodology, to determine how the proposed project activities (i.e., placement of a wastewater treatment plant, detention pond, protective levees and other facilities) would change the flow characteristics and boundaries of flood waters during a 100-year flood.

The Draft EIS presented results of a spreadsheet calculation (see Draft EIS, Section 4.3, Water Resources Impact 4.3.1-2) to preliminarily estimate the magnitude of change in floodwater height due to changes to the floodplain caused by the proposed project. The spreadsheet calculation, referred to in the Draft EIS as a model, was a mass balance calculation that estimated the change in the existing 100-year flood height (obtained from the Flood Insurance Rate Map [FIRM]) that could occur if flood protective levees were placed on the floodplain around the 33-acre wastewater treatment facilities. The calculation did not predict resultant flood flows or velocities. The calculation used in the Draft EIS estimated that flood heights in affected areas would increase by a maximum of 0.67 feet as a result of implementing Alternative A and concluded that a 100-year flood height increase of this magnitude would remain within existing available freeboard for the levees along the City's wastewater treatment plant as well as other levees or berms located to the east and west of the affected parcel. Based on the accuracy of this preliminary estimation and methodology used in the spreadsheet calculation, it may be more reasonable to expect, as a conservative estimate, that the floodwater height could increase up to 1 foot as a result of proposed development in the floodplain at the project site. However, it should be reiterated that the estimated 0.67 foot increase of flood water height was only a preliminary calculation for purposes of the Draft EIS; development on the floodplain would not be permitted to begin until the Tribe has demonstrated to FEMA that the proposed facilities and properties upstream and downstream would not be adversely affected by the proposed activities on the floodplain and the CLOMR is completed and approved. The text in Section 4.3, Water Resources, has been changed to clarify that the calculation is considered a preliminary estimation of potential flood height and that development within the floodplain would be subject to approval by FEMA.

At the time this Final EIS was prepared, the Tribe and the City of Cloverdale were in discussions regarding the municipal water supply and wastewater options. Until an option is chosen, both the municipal and private options for water and wastewater are considered feasible and would be evaluated equally. As stated in the Draft EIS (Section 4.10 Public Services), under the municipal option, the Tribe would contract with the City of Cloverdale for water and wastewater service. As the Tribe does not currently have an agreement to obtain water or wastewater service from the City, the Draft EIS found this a significant impact. Mitigation of this impact would require the Tribe to enter into a service contract with the City of Cloverdale for water and wastewater service. If municipal water and wastewater service cannot be provided the Tribe would choose the private option for these utilities.

If the private wastewater option is chosen for the project, the eastern side of the property adjacent to the Russian River remains the most practicable location for the wastewater treatment plant (WWTP), spray field, and groundwater well facilities. No other alternative sites for these uses are available within the project site. The proposed project was sited so that the casino and resort building would be placed as far as possible from the potential flood water inundation area. While the WWTP, spray field and groundwater well are located within the 100-year floodplain, levees are proposed to protect the WWTP from the 100-year flood event and mitigation is provided in the Draft EIS that would require the Tribe to raise existing groundwater wells and pump facilities above the expected flood height. The analysis also documents that the effects on the floodplain would not impact existing flood protection structures or neighboring properties.

The Clean Water Act Section 402 National Pollutant Discharge Elimination System (NPDES) permit for treated discharge would not be required because application of tertiary-treated wastewater to the 14.6-acre spray field would occur during the dry season only and would avoid a discharge into waters of the U.S., either directly or indirectly. Application rates would be regulated at levels and amounts that would allow for soil absorption, with no off-site, surface run-off or indirect discharge to the Russian River. Treated water would be contained/held within the storage pond during the wet season with proper bank elevations above the 100-year flood mark.

G-4.4 The alternatives have been proposed in response to the underlying purpose and need discussed in Section 1. An alternative site is not reasonable as it would not meet the purpose and need of restoring the Tribe's trust land base. The proposed trust parcels are adjacent to the Tribe’s historic Rancheria location.

G-4.5 The western-most portion of the project site is separated from the east side by Porterfield Creek and the Northwestern Pacific Railroad berm and is not within the 100-year or 500-year floodplain (see Draft EIS, Figure 3.3-3). Grading for the proposed development would achieve the desired grades and construction pad elevations but filling the land for flood protection purposes is not necessary or proposed. A wetland area in the southern portion of the project site adjacent to Asti Road would remain undisturbed by the project thereby preserving the only water feature on the project site proposed to occupy the casino/hotel.

G-4.6 See Response to Comment G-4.7 through G-4.9.

G-4.7 A preliminary Stormwater Quality Management Plan (SQMP) has been prepared and is included in the Final EIS (**Appendix Q**). The SQMP supplements the Preliminary Drainage Study that was provided as **Appendix B** in the Draft EIS. In general, the objectives of the SQMP are to 1) specify the regulatory framework for establishing a stormwater management strategy, 2) identify and protect beneficial uses of the Russian River, 3) develop a tiered approach to stormwater management that results in project-

wide water quality benefits, 4) develop sizing parameters and locations for proposed Best Management Practices (BMP), and 5) provide reasonable assurance that the proposed stormwater management approach meets the goals of NPDES and the Clean Water Act.

Under the SQMP, treatment BMPs would be designed to treat the 85th percentile storm, as described in the Santa Rosa Standard Urban Stormwater Mitigation Plan (SUSMP) and Sonoma County NPDES permit. In addition, treatment BMPs would be designed to detain runoff from the 2-year, 24-hour storm event and discharge at a rate at or below the existing 2-year, 24-hour rate.

G-4.8 The preliminary SQMP (**Appendix Q**) discussed in Response G-4.7 was completed at the Final EIS stage of the NEPA process to supplement the Preliminary Drainage Plan that accompanied the Draft EIS as **Appendix B**. Completing a comprehensive design-level drainage plan at the EIS stage is not practical or appropriate because an alternative has not been selected. It would not be efficient or cost effective to prepare a design-level drainage plan for each of the five alternatives considered in the EIS, nor are design-level drawings necessary for an assessment under NEPA. The Preliminary Drainage Plan (**Appendix B** of the Draft EIS) adequately considered the project site limitations and informed initial site planning. The preliminary SQMP enhances the understanding of how the proposed project would accommodate stormwater flows and provide assurance that the project site plans can meet the requirements of the NPDES permit and the Santa Rosa SUSMP. As determined in the Final EIS, based upon these assessments, impacts related to storm runoff would be less the significant after mitigation. A more comprehensive design-level drainage plan would be prepared that addresses details of the drainage and site constraints of the final development alternative if one is selected.

G-4.9 The recommendations and measures to manage stormwater runoff and quality that are included in Preliminary Drainage Study (**Appendix B** of the Draft EIS) are considered part of the proposed project and would be implemented in addition to the mitigation measures prescribed in the Draft EIS. As such, there is no need to include them with the mitigation measures in Section 5.

G-4.10 Site improvements in the vicinity of preserved wetland areas would be designed and constructed to avoid potential indirect impacts to jurisdictional waters of the U.S. through the use of retaining walls and stormwater protection measures. Development under the proposed alternatives would include grading and construction of facilities and paved areas that would provide rain water surface flow to the wetland mitigation area through slope design (see also **Appendix A** Preliminary Drainage Study). Drainage from the existing culvert providing flow to the project site from the west and crossing under Asti Road would still enter and drain into the proposed avoidance area. This designed system would continue to provide adequate wet weather flow to the seasonal wetlands. The wetland area would also include a storm drain system to drain

flow east from the project site and maintain a hydrologic connection (please also see **Appendix H** Preliminary Utilities Study). The proposed wetland avoidance area would maintain its current elevation and would be protected from project development by construction of retaining walls. Habitat quality in the wetland area and adjacent areas would be enhanced through plantings of native wetland species. The use of 100-foot buffer zones from existing and avoided stream channels and wetlands is not feasible in many areas of the proposed development due to physical size constraints, but appropriate buffers and treatment measures associated with the project design and the Preliminary SQMP (**Appendix Q**) would minimize potential adverse effects to adjacent wetland and stream channel features. In addition, Mitigation Measures 5.5-6 and 5.5-7 have been added to the project (Section 5.0) to further minimize potential adverse indirect impacts to jurisdictional wetlands and stream channels.

G-4.11 Comment noted. The municipal option is an alternative to the private option. The Tribe is in discussions with the City regarding the municipal option. These are the two feasible options for water supply and wastewater treatment.

G-4.12 Comment noted. Also see Response to Comment G-9.76. The source of drinking water for the proposed project would be either groundwater extracted from an onsite well under the private option or treated water supplied by the City of Cloverdale under the municipal option. These are two feasible options for drinking water supply and the Tribe is in discussions with the City of Cloverdale regarding the municipal option. Given the proximity of the onsite water supply well to the Russian River, the Tribe recognizes the necessity to comply with provisions of the Safe Drinking Water Act and develop baseline data for nutrients and pathogens and other constituents that would indicate groundwater under the influence of surface water. This would be completed prior to approving the well for use under the private option. Water analysis conducted after the well was installed indicated that water from the well did not contain pathogens or nutrients and appeared consistent with the quality of local groundwater used for drinking water in the community.

G-4.13 A supplemental groundwater pumping analysis was conducted and is included with the Final EIS. Section 4.3, Water Resources, has been revised to reflect the supplemental analysis. The limited groundwater analysis completed for the Draft EIS (Limited Groundwater Pumping Analysis, Amonos and Sirrah Sites, Cloverdale California, dated August 18, 2009) modeled the response of "simulation well" located on the south end of the property. A supplemental groundwater pumping analysis was completed in April 2011 to evaluate the effects to groundwater flow on an existing groundwater supply well near the southeast corner of the property. The well is located approximately 500 feet east of the hypothetical location of the "simulation well".

The supplemental analysis considers a constant pump rate of 64 gallons per minute (gpm), which is the pump rate that, as the comment suggested, does not include the use of recycled water for irrigation and toilets. In general, the results of the 2011

supplemental analysis indicated that the much higher groundwater transmissivity (ability for a material to transmit water) of the existing well has the effect of reducing the drawdown and lessening the potential impacts from the well. The recent model showed that the deep capture zone does not intercept the Russian River while the shallow capture zone does and therefore, some water is extracted directly from the river and some water is intercepted before it discharges to the river. For a proposed constant production rate of 64 gpm from the newly installed onsite well, the groundwater model predicts that the river experiences a flow reduction of approximately 0.13 cubic feet per second (cfs). Considering the recent Biological Opinion (BO) issued by the National Marine Fisheries Service (NMFS), a reduction of 0.13 cfs is 0.1 percent of the flow considering the 125 cfs flow dictated by the BO. Similar to the results of the 2009 analysis, groundwater pumping from the newly installed supply well would have a less-than-significant effect on Russian River flows or ecological habitats.

The supplemental groundwater analysis also showed that the estimated drawdown from the onsite groundwater supply well is less than 0.5 feet and does not extend beyond a radius of 500 feet. If 0.1 to 0.5 feet of drawdown due to project pumping occurred in a neighboring groundwater supply well, it would be within the expected seasonal fluctuation of the well and would not adversely affect its functionality or production capability. Effects on neighboring groundwater supply wells, the City of Cloverdale wells, and wells west of the project site across U.S. 101 would not be impacted from pumping at the project site at the maximum rates proposed in the project alternatives.

G-4.14 See Response to Comment G-2.7.

G-4.15 The Tribe acknowledges the environmental benefits of a Leadership in Energy and Environmental Design (LEED) certified facility, and would continue to work to incorporate energy efficient green features into the final project design, where economically feasible. The Tribe would still consider developing a facility that would be LEED certified.

Comment Letter G-5 Regional Water Quality Control Board

G-5.1 Reference responses below.

G-5.2 Please see Response to Comments G-4.7 and G-5.3 and refer to the preliminary SQMP, **Appendix Q**. The preliminary SQMP recommends BMPs to manage stormwater quality and flow control focus on three tiers of application. In order of effectiveness, these are: limiting directly-connected impervious area, controlling the sources of pollutants, and treating stormwater. This tiered approach to stormwater management has been shown to be most effective in controlling non-point source pollution, and is the approach advocated by the California Stormwater Quality Association, the Bay Area Stormwater Management Agencies Association, and the

Regional Water Quality Control Board (RWQCB). The proposed project has incorporated this approach into the design.

G-5.3 The preliminary SQMP described in response G-4.7 and RWQCB G-5.2 is a low-impact development (LID) drainage plan that considers minimizing impervious surfaces and mimicking the natural hydrograph thorough BMPs. The preliminary SQMP adequately addresses concerns regarding LID and green infrastructure. The preliminary SQMP has been prepared with consideration of the North Coast RWQCB Basin Plan and is specifically designed to protect the beneficial uses of the Russian River, and has been incorporated into the proposed project under all alternatives.

G-5.4 As discussed in the Draft EIS, (Section 4.3.1-3, Water Resources) the Tribe would prepare a Storm Water Pollution Prevention Plan (SWPPP) to address control of stormwater runoff and protection of surface water quality during the grading and construction stage of the project. Construction of the project would be subject to regulation under the Clean Water Act and would be required to comply with the NPDES General Construction Permit prior to the initiation of construction and grading. As the Environmental Protection Agency (EPA) would be the permitting authority for the project site if transferred to federal trust, the SWPPP would be prepared and administered to be consistent with current EPA standards.

G-5.5 Also see Response to Comment G-4.3. At the time of Final EIS preparation, the Tribe was in discussions with the City of Cloverdale regarding the municipal water and wastewater option. Until a final determination is made, both the municipal and private options for water and wastewater are considered feasible and are equally evaluated. If the private wastewater treatment option is implemented, water would be tertiary treated and discharged to a 14.6-acre cultivated spray field. Consistent with federal water quality standards that include an antidegradation policy and implementation method, the Tribe would be required to establish an antidegradation program for surface water protection. Antidegradation implementation procedures identify the issues that must be addressed when regulated activities are proposed that may affect surface water quality.

Wastewater application rates and schedules (with consideration of nutrient requirements) would be determined as part of the final spray field design. Preliminary spray field application rates were based on a 14-acre crop of alfalfa, which is irrigated from May to October.

Based on groundwater flow modeling, groundwater flows beneath the project site from west to east, towards the Russian River. Mitigation Measure 5.3-3 (2) specifies that the Tribe would monitor groundwater beneath the spray field using at least three monitoring wells. The final number of wells required for adequate groundwater quality monitoring would be established after the Tribe determines final spray field operation scenarios and optimum application wastewater rates.

G-5.6 As stated in Response to Comment G-4.3, a Clean Water Act Section 402 NPDES permit for treated discharge is not anticipated because application of tertiary-treated wastewater to the 14.6-acre spray field would occur during the dry season only and treated wastewater would be contained within the storage pond during the wet season, protected by proper bank elevations above the 100-year flood mark.

G-5.7 The Biological Resources chapter of the Draft EIS (Section 3.5) describes Heron Creek (aka channel I-3) as entering the eastern portion of the proposed project site from the north and being strongly influenced by storm drain flows from Highway 101. Drainage patterns associated with I-3 have been altered approximately 500-feet northwest before entering the project site at the northern boundary. Heron Creek flows through the project site as a ditch within a vineyard area. The Water Resources chapter (section 3.3) describes Heron Creek as a drainage with a watershed area of over 1,000 acres. Neither is an incorrect description of Heron Creek; given the urban setting in Cloverdale and changes to the creek resulting from the construction of US 101. Within the project site, Heron Creek functions as an irrigation ditch with an unvegetated bed/bank and soil/sediment substrate. The project proposes to redirect channel I-3 on the project site east and then south to avoid the proposed Wastewater Treatment facility under the Private Wastewater Treatment option. Any realignment of Channel I-3 would be completed in compliance with Clean Water Act Section 404 permitting requirements.

G-5.8 RWQCB recommended setbacks and buffers from existing and avoided stream channels and wetlands are not feasible in many areas of the proposed development due to physical size constraints. Project designs have avoided direct impacts and have incorporated appropriate setbacks to jurisdictional stream channels within the project area, thereby minimizing disturbance to riparian buffer zones. Vegetative buffers and stormwater treatment areas would minimize potential off-site stormwater effects to these species. The Tribe has completed a preliminary SQMP (included in the Final EIS as **Appendix Q**) to address issues with site runoff and water enhanced water quality protection. Mitigation Measures 5.5-6 and 5.5-7 have been added to the project (Section 5.0) to further minimize potential adverse effects to sensitive riparian habitats and stream channels. In addition, Mitigation Measure 5.5.-1 mitigates the loss of sensitive habitats adjacent to Coyote Creek and Porterfield Creek by the proposed development through the creation, restoration, or enhancement of coast live oak woodland and north coast riparian scrub habitat on the project site.

Comment Letter G-6 California Department of Transportation

G-6.1 Should the proposed project be approved, the Tribe would coordinate with the appropriate local agencies so that improvements proposed at the intersection of the US 101 Northbound (NB) ramps / South interchange are programmed and implemented.

G-6.2 Signal warrant worksheets are provided in **Appendix G** (Transportation Backup

Documentation).

G-6.3 Text has been added to Final EIS.

G-6.4 The trip generation estimates did not make allowances for potential alternative travel modes (e.g., Bicycle and Walking to/from SMART Station), providing a conservative analysis of potential traffic impacts. See Response to Comment Letter G-11 SMART about multi-use trail and projected use of public transit and other modes.

Transportation and motor vehicle design, operation, and programs as part of Mitigation Measure 5.4-5 would be implemented by the Tribe. Mitigation Measure 5.8-5 would be funded by the Tribe as part of the project design and construction.

See Bicycle and Pedestrian recommendations presented under Impact 4.8.1-3.

G-6.5 The analysis focused on the weekday p.m. and weekend midday peak periods because those time periods reflect the worse case conditions for proposed project as well as for the circulation system surrounding the study area. Based on available trip rates for casinos, the project would be expected to generate approximately 40% fewer trips during the a.m. peak hour than during the p.m. peak hour. In addition, traffic studies conducted in the Cloverdale area over the last 10-plus years indicate that weekday a.m. peak hour volumes are substantially less than p.m. peak hour volumes.

G-6.6 The internal capture rates for multi-use developments and suburban activity centers in the Institute of Transportation Engineers (ITE) *Trip Generation Handbook* do not include studies at casino sites, and therefore, application of these internal capture rates would not be appropriate. The internal capture rate of 67 percent applied to non-gaming facilities was based on the following factors: (a) data and research of other gaming facilities in the 2007 Graton Rancheria Casino and Hotel Traffic Impact Study suggested a 67% reduction for non-gaming uses; (b) the non-gaming uses would be integrated into the facility to “capture patrons.”; (c) hotels associated with casinos generally structure the facility and pricing to favor a link between guests and use of the casino; (d) the non-gaming facilities would be isolated from the rest of the Cloverdale community and contained within the casino so as to not generally be a draw for a single purpose trip; (e) rates for the restaurant uses were based on a more intense high turnover type restaurant, which generates substantially more trips than may actually occur in this case; and (f) no other deductions were made for pass-by and diverted link trips. Lastly, if a lower internal capture rate had been used, the recommended roadway improvements likely would be the same as already included in the study.

G-6.7 The trip generation rates for “Casino/Video Lottery Establishments” provided by ITE’s *Trip Generation* do not apply to full-service casinos or casino/hotel facilities. The referenced land use is inconsistent with the proposed project description, and application of the higher PM peak hour rate (13.43) would drastically overestimate the expected trips associated with the proposed project. For the other alternatives, the

proposed project has different trip rates because the rate is variable based on the floor size of the facility. As the floor area decreases, the trip rate increases, which is similar in concept to retail land uses. These rates were obtained from the 2007 *Graton Rancheria Casino and Hotel Traffic Impact Study* and the research on casino trip rates from that study.

G-6.8 As provided by ITE's *Trip Generation*, the directional distribution for the "Hotel" land use equals 49 percent entering and 51 percent exiting. The Draft EIS is correct.

G-6.9 Estimated queuing conditions are contained in the appendix within the Intersection Level of Service (LOS) results. The 95th percentile queue length is the first line on the lower portion of the page under "Level of Service Module."

G-6.10 The cumulative analysis year (2030) matches the City's General Plan Update year, which is a standard approach to take for planning documents.

G-6.11 Comment noted.

G-6.12 The Traffix reports provide Green time / Cycle time (G/C) ratios, and Average Queue Lengths for all scenarios. Traffix, instead of Synchro, was used for the LOS analyses.

Commenter Letter G-7 Governor's Office

G-7.1 Comment noted. See Response to Comment G-7.2 through G-7.17.

G-7.2 "Specialty Retail" is the standard ITE Land Use used for general retail not in a shopping center, and no significance should be assigned to that term.

G-7.3 The Tribe would commit to its fair share, and if necessary, can commit to fully fund the construction of the necessary roadway improvements (i.e. the installation of traffic signals at the intersection of U.S. 101 Northbound Ramps / South Interchange and the intersection of Asti Road / South Interchange, or construction of a roundabout that encompasses the intersections of U.S. 101 Northbound Ramps / South Interchange and Asti Road / South Interchange) with the condition that all future unrelated developments that would benefit from these improvements would provide its fair share of the costs to the City. It is assumed the City would transfer those costs as reimbursements to the Tribe at that time. The construction timing of the above stated roadway improvements should be complete prior to operation of the proposed project.

G-7.4 Refer to Response to Comment G-5.4. The SWPPP would be prepared, as required, prior to the onset of construction. The SWPPP would be prepared in accordance with federal NPDES regulations to effectively address potential construction-related water quality issues. It is not practical to prepare a site specific SWPPP to address construction before an alternative has been selected. Also refer to Response to Comment G-4.7. The Tribe has completed a preliminary SQMP (included in the Final

EIS as **Appendix Q**) to address issues with site runoff and water quality protection.

G-7.5 At the time the Final EIS was prepared, the Tribe and the City of Cloverdale were in discussions regarding the municipal water supply and wastewater options. Until an option is chosen, both the municipal and private options for water and wastewater are considered feasible and would be evaluated equally. As stated in the Draft EIS (Section 4.10 Public Services), under the municipal option, the Tribe would contract with the City of Cloverdale for water and wastewater service. As the Tribe does not currently have an agreement to obtain water or wastewater service from the City, the Draft EIS found this as a potentially significant impact. Mitigation of this impact would require the Tribe to enter into a service contract with the City of Cloverdale for water and wastewater service. If municipal water and wastewater service cannot be provided the Tribe would choose the private option for these utilities.

Refer to Response to Comment G-4.13 for additional discussion on the groundwater analysis and refer to the Final EIS, Section 4.3, Water Resources, for text revisions regarding the groundwater analysis.

G-7.6 Please see Response to Comment G-4.3.

G-7.7 Discussions regarding the municipal option are ongoing. Private wastewater facilities remain a feasible option. Impacts to the groundwater table and Russian River are discussed in Response to Comment G-9.74. Enough information is available regarding the type and scale of wastewater facilities to adequately determine impacts.

G-7.8 See Response to Comment G-2.7.

G-7.9 The cultural resources report is a confidential appendix due to the sensitive nature of these resources. The report can formally be requested from Pat O'Mallan at the Bureau of Indian Affairs, Pacific Region (916) 978-6055. To reiterate the Draft EIS, the State Historic Preservation Officer has concurred with the BIA's finding of no effect to historic resources. No archaeological resources are located within the area of potential effect.

G-7.10 Mitigation Measure 5.7-1 includes similar measures to those requested: 1) The involuntary exclusion measure is the third bullet point. 2) Prominent display of problem gambling resources is included in bullet point five. 3) The Tribe is committed to a responsible gambling message and would adopt a policy statement on problem gambling as discussed in bullet point one.

G-7.11 Comment noted.

G-7.12 The Traffic Study has analyzed the impacts of traffic and the resulting LOS after mitigation as summarized in Table 5-1. The measures are considered feasible. Caltrans has submitted a letter on the Draft EIS. See responses to comment letter G-6. The

Tribe plans to coordinate with the appropriate local agencies so that improvements proposed are programmed and implemented.

G-7.13 The project as proposed is not consistent with the existing zoning. If the lands were not transferred into trust it would require a conditional use permit or general plan amendment/rezone. Local land use regulations however are not applicable to federal tribal trust land. Inconsistency with existing zoning does not in and of itself constitute a significant impact. The EIS has analyzed the effects of the development on surrounding lands and the project would not affect the ability for off-site lands to be used for their current purposes. The proposed project is compatible with the existing off-site zonings/designations, in that it would not preclude existing or future designated land uses in those areas.

G-7.14 Section 4.9 of the EIS has been revised to clarify that any existing Williamson Act contracts would be filed for non-renewal status or cancelled prior to the trust acquisition. The State's thresholds for significant agricultural impacts are not the same as those of the Federal government. Agricultural impacts were assessed pursuant to NEPA and the Farmland Protection Policy Act. The analysis considered the Williamson Act status of the parcel as one of several factors in determination of significance.

G-7.15 The EIS acknowledges that there would be an increased need for law enforcement and emergency services. The service agreements recommended as mitigation are subject to final negations between the Tribe and service providers.

G-7.16 The EIS acknowledges there would be an increased need for law enforcement services. Indirect impacts to California Highway Patrol (CHP) are anticipated to be the similar to other entertainment venues. The CHP is funded primarily through the Motor Vehicle Account and is not the responsibility of individual projects to contribute to providing these services.

G-7.17 See above responses to comment letter G-7. In addition, additional mitigation has now been proposed for some impacts, including those deemed significant and adverse after implementation of mitigation (air quality). Please see Section 5 of the Final EIS for a complete list of the revised and added mitigation measures.

Commenter Letter G-8 California Department of Fish and Game

G-8.1 The BIA initiated Section 7 consultation with NOAA Fisheries regarding potential effects to California Coastal Chinook salmon, Central Valley Coastal steelhead, and Central Valley Coast Coho salmon. As part of this consultation and during a project site visit with ESA’s fisheries biologist, NOAA Fisheries has reviewed the proposed project layout as related to sensitive stream channel habitat. Informal consultation regarding potential effects to federally listed NOAA Fisheries species was completed on July 18th, 2011, with the appropriate NOAA Fisheries letter included within

Appendix P. California Department of Fish and Game's (CDFG) recommended setbacks and buffers from existing and avoided stream channels and wetlands are not feasible in many areas of the proposed development due to physical size constraints. Project designs have avoided direct impacts and have incorporated appropriate setbacks to jurisdictional stream channels within the project area, thereby minimizing disturbance to anadromous salmonids potentially present in the project area. Vegetative buffers and stormwater treatment areas would minimize potential off-site stormwater effects to these species. In addition, Mitigation Measures 5.5-6 and 5.5-7 have been added to the project (Section 5.0) to further minimize potential adverse effects to federal and state-listed anadromous salmonids. In addition, Mitigation Measure 5.5-1 from the EIS mitigates the loss of sensitive habitats adjacent to Coyote Creek and Porterfield Creek by the proposed development through the creation, restoration, or enhancement of coast live oak woodland and north coast riparian scrub habitat on the project site.

G-8.2 See Response to Comment G-2.7.

G-8.3 Proposed Alternatives avoid direct impacts to stream channel resources within or in the vicinity of the project site. For potential jurisdictional waters of the U.S., impacts (wetlands and an agricultural ditch), the project applicant would be required to obtain a Corps Section 404 permit and an EPA Region IX Section 401 permit. Because the parcels would be transferred into federal trust status under the action alternatives, the project applicant would not be required to obtain a Lake and Streambed Alteration Agreement from CDFG for stream channel activities located on federal tribal trust land.

Comment Letter G-9 Sonoma County

G-9.1 The visual renderings provided in Section 4.13, and descriptions of building area and heights in Section 2.0 are adequate to determine impacts. Signage and lighting are not finalized, however they must adhere to the restrictions outlined in Mitigation Measures 5.13-1 through 4. Preliminary grading and drainage plans are provided in **Appendix A and B** of the Draft EIS.

G-9.2 "Specialty Retail" is the standard ITE Land Use used for general retail not in a shopping center, and no significance should be assigned to that term.

G-9.3 The Draft EIS analyzes a reasonable range of alternatives including reduced intensity, non-gaming and no project alternatives. With the exception of air quality, all impacts would be reduced to less than significant.

G-9.4 Alternatives A through E in the EIS inform decision makers that even when reducing the scope of project component development, project operations would still exceed some significance criteria. As an example, in comparing operational emissions of ozone

precursors in the Bay Area Air Quality Management District (BAAQMD) jurisdiction for Alternative A (Proposed Action) in Table 4.4-4 versus for Alternative B (Reduced Hotel and Casino) in Table 4.4-8, ROG and NOx emissions would be reduced from 94 pounds per day (lbs/day) and 132 lbs/day under Alternative A to 66 lbs/day and 93 lbs/day under Alternative B, respectively. Thus, ROG emissions would be reduced to less than significant under Alternative B, but NOx would remain significant. The alternatives evaluated in the EIS represent a full range of feasible alternatives that would meet the stated purpose and need.

G-9.5 Alternatives D and E include smaller structures which have less horizontal massing than Alternative A.

G-9.6 Tables 3.4-1, 3.4-2, and 3.4-4 have been revised. The Notice of Intent for the project was submitted to the Federal Registry on July 7th 2008, before the updated BAAQMD thresholds were adopted; therefore Table 4.4-2 is accurate. Full references have been added to Table 4.4-2 for each air district's identified thresholds.

G-9.7 Construction emissions were modeled using URBEMIS 2007. The output files are included in **Appendix C**. The URBEMIS program does not supply input files, however, detailed output files include information as to what assumptions were incorporated into the program.

G-9.8 Construction is considered short term because it would be completed in two years, compared to the long term operations of the completed project. Please see Response to Comment G-9.6 in regards to the recently adopted BAAQMD thresholds.

G-9.9 Operational emissions were calculated using both area sources and on-road vehicle emissions. Tables 4.4-4, 4.4-8, 4.4-12, 4.4-16, and 4.4-20 have been revised to specify that area sources are also included in the operational emissions presented in the tables, not just on-road sources. The numerical values included in the tables did not change. Operational emission estimate tables for each alternative go into more detail regarding trip distribution assumptions. In addition, more detailed information can be found in **Appendix C**, which includes URBEMIS output files. The URBEMIS program does not supply input files, however, detailed output files include information as to what assumptions were incorporated into the program.

G-9.10 The Caline-4 program is approved by the EPA, Federal Highway Administration (FHWA), and Caltrans for Carbon Monoxide (CO) modeling. Traffic data incorporated into the model was from the traffic study produced for the project. A tiered approach to analysis was used for CO. Since mass CO emissions were estimated to exceed several air district and General Conformity thresholds, a refined analysis using the Caline-4 dispersion model was conducted to determine potential localized impacts, or CO "hot spots", which ultimately are the impacts of concern for CO (rather than regional impacts associated with ozone). Thus, modeling CO concentrations at the most congested intersections and comparing the results to the State and National Ambient Air Quality

Standards resulted in a refined impact analysis for CO that correlated to consistency with air district and conformity thresholds.

G-9.11 Mitigation Measures 5.4-1 through 5.4-4, which are recommended during construction activities, have been developed and determined by the BAAQMD to reduce construction emissions to a less than significant level. Motor vehicle and energy efficiency measures identified in Mitigation Measures 5.4-5 and 5.4-8 would reduce operational air pollutant emissions. However, these mitigations would not reduce emissions to a less-than-significant level. In regards to mitigation enforcement, please see Response to Comment G-10.81.

G-9.12 Per the commenter's suggestion, the Graton Rancheria Casino and Hotel Project was reviewed. Many of the mitigation measures specified in the Graton analysis are also already incorporated into the EIS as well. Notably, the Emission Reduction Credits prescribed in the Graton EIS were implemented first and foremost to reduce NOx to comply with General Conformity. However, the Cloverdale Draft EIS showed that NOx would not exceed the General Conformity Threshold for any Alternative (see Tables 4.4-4, 4.4-8, 4.4-12, 4.4-16, and 4.4-20). In addition, as noted in the Graton EIS on p. 5-12, it is unclear whether or not additional pollutant credits are even an option: "The Tribe shall purchase offset credits for VOC, PM2.5, and PM10 *if available* [emphasis added]". Furthermore, the U.S. EPA has indicated that Tribes have had challenges obtaining ERCs since Tribes are not subject to Air District authority and if Air Districts have an emissions bank, the ERCs are often reserved for projects in their jurisdiction (U.S. EPA, 2011. Personal communication via telephone with Jefferson Wehling, U.S. EPA Region 9. April 26, 2011).

G-9.13 A health risk assessment was not deemed necessary for this project based on the following considerations: (1) the project would not itself contribute or generate toxic air contaminants as the only sources during operations would be diesel buses and delivery trucks; (2) the project would require construction for a short term duration of two years; and (3) the distance to sensitive receptors. Contrary to the commenter's assertion, sensitive receptors were described in the Draft EIS as follows: the nearest sensitive receptor to the project site is a residence approximately 250 feet to the south on Santana Drive. There are also residences located across Highway 101 to the west, the nearest being approximately 500 feet to the west on Otto Boni Drive.

G-9.14 The Draft EIS section states that Toxic Air Contaminant (TAC) emissions from operations are less than significant, but operational emissions as a whole are significant and adverse. Casinos are generally not substantial emitters of TACs. Sources of potential TACs (diesel-fueled on-road vehicles) as well as mitigation measures to reduce TAC exposure are already included in the EIS.

G-9.15 As indicated on page 4.4-6 of the Draft EIS, three criteria are used to determine the significance of Greenhouse Gas (GHG) emissions from the project, one of which is the numeric threshold of 25,000 metric tons of CO2e, which is a comparison to the size of

major facilities that are required to report GHG emissions. Please also see Response to Comment G-9.6 in regards to the recently adopted BAAQMD thresholds.

G-9.16 Mitigation Measure 5.4-5 (Transportation and Motor Vehicle Measures), Mitigation Measure 5.4-8 (Energy Efficiency Measures), and Mitigation Measure 5.4-10 (Greenhouse Gas Emission Credits) are identified in the Final EIS and would reduce GHGs. Enforceability would be ensured through the Tribe's government. Please see also Response to Comment G-10.81.

G-9.17 Please see Response to Comment G-9.6 in regards to the recently adopted BAAQMD thresholds, and G-9.11 in response to the additional commitments the Tribe have made to further reduce project GHGs.

G-9.18 The occurrence and severity of odor impacts depend on the nature, frequency and intensity of the source; wind speed and direction; and the sensitivity of receptors. Generally, increasing the distance between the receptor and the source would mitigate odor impacts. As the Draft EIS states, the nearest sensitive receptor to the wastewater treatment plant would be located approximately 900 feet across State Highway 101. It would be unlikely that odor impacts would affect sensitive receptors at this distance. However, if confirmed complaints are received, Mitigation Measure 5.4-7 would be implemented to ensure odors would be controlled appropriately.

G-9.19 It is acknowledged that a roundabout-controlled intersection could be built instead of a traffic signal. The traffic study did not consider a roundabout because at the time, one was not proposed as part of the project, and a traffic signal installation would mitigate the impacts. By contrast, at the interchange, the use of traffic signals still resulted in unacceptable queuing conditions, and therefore, roundabouts were proposed as mitigation. Assuming a single-lane roundabout at the entrance, the Buildout plus Project conditions would most likely operate with a LOS C or better. It is agreed that a traffic signal installation would potentially require more electrical and operational maintenance than the roundabout, but a roundabout could require more landscaping maintenance and would have a larger "footprint". A maintenance agreement has been added to Mitigation Measure 5.8-1.

G-9.20 The trip generation analysis conservatively assumed that all of the non-gaming uses would generate trips during the peak traffic periods, which might not be the case day-in and day-out for the entertainment and convention facility users. At casinos, these non-gaming facilities are marketed to attract customers to the casino, so there must be a degree of overlap between the two assumed. After the deductions, the amount of traffic related to the non-gaming facilities was higher than that for the casino traffic for both the weekday p.m. peak (55% of the total) and the weekend peak (66% of the total). There are additional justifications discussed in the Response to Comment G-6.6. Even considering these justifications for the use of the 67 percent deduction, if a lower internal capture rate had been used, the mitigation measures likely would be the same as those reported in the

Draft EIS.

G-9.21 As stated in the Draft EIS, "Because the applicant intends to market patron site access via the Citrus Fair Interchange, but access to and from the south would be more convenient via the South Interchange, it was assumed that only 30 percent of the vehicle trips oriented to and from U.S. 101 south of Cloverdale, or 27 percent of the total trips (30% of 90%=27%), would occur via the Citrus Fair Drive interchange, with the balance (70% of 90% = 63%) utilizing the South Interchange." Because some of the casino customers may want to visit other tourist-centered opportunities in the downtown Cloverdale area, 10% of the US 101 Southbound traffic (or 9% of the total traffic) would first divert into Cloverdale before returning back to US 101 Southbound.

G-9.22 As stated in the Draft EIS, appropriate growth factors were applied to older count data to reflect 2008 conditions. Based on the traffic analyst's experience in conducting traffic studies in and around Sonoma County, including Cloverdale, traffic volumes throughout Sonoma County have declined in the last two to three years due to the economical recession, and that traffic volumes collected in 2008 generally reflect peak traffic conditions over the last several years.

G-9.23 As stated in the Draft EIS, consistent with the City of Cloverdale General Plan, the level of service standard was applied to the overall average intersection delay, not for any single movement or approach. The delays in question are for the westbound project access approach, not the overall average intersection delay. Because the overall intersection delay met standards, no mitigation was presented.

G-9.24 The analysis of transportation conditions for the Draft EIS was completed in 2008, before the adoption of the *2010 Sonoma County Bicycle and Pedestrian Plan*. The *2008 Cloverdale Bicycle and Pedestrian Plan*, which was developed by the Sonoma County Transportation Authority and the City of Cloverdale in coordination with the County of Sonoma, included existing and proposed facilities in the unincorporated County adjacent to the City of Cloverdale, and was utilized to evaluate the project. In response to this comment, the project findings and bicycle recommendations have been reviewed and found to be consistent with the *2010 Sonoma County Bicycle and Pedestrian Plan*, which was adopted by the Sonoma County Board of Supervisors on August 24, 2010.

G-9.25 It is acknowledged that both the bike lanes on Asti Road and the SMART Rail Trail are identified as priority routes in the *2010 Sonoma County Bicycle and Pedestrian Plan*. See Response to Comment G-9.24 regarding the timing of the analysis of transportation conditions for the Draft EIS and adoption of the 2010 Plan, and regarding use of the *2008 Cloverdale Bicycle and Pedestrian Plan* (developed by the SCTA, the City of Cloverdale, and Sonoma County). Asti Road is identified in both the 2008 and 2010 Plans as a "Primary Route" and is designated as a high priority project in the 2010 Plan. That designation does not affect any of the impact conclusions contained in the Draft EIS. The SMART Rail Trail is also identified as a primary route and a high priority project in both Plans, and further, as the comment states, this trail is identified as a regional route in the

2009 Regional Bicycle Plan for the San Francisco Bay Area, prepared by the Metropolitan Transportation Commission. Likewise, that finding does not affect any of the impact conclusions contained in the Draft EIS. It is noted that paved shoulders and Class II bike lanes currently exist on Asti Road along the proposed project's frontage connecting north to the Cloverdale Train Depot. It is acknowledged, as noted in the comment, that any discretionary project proposed in the County would be required to construct or dedicate right-of-way for planned improvements as part of its basic frontage improvements, that project frontage improvements should ensure that shoulders on Asti Road conform to Class II bike lane standards, and that project entrances and exits should be required to conform to the Manual on Uniform Traffic Control Devices.

G-9.26 Access improvements identified as recommendations, not as mitigation measures, in the Draft EIS were done so because the analyses indicate that the project would cause no significant bicycle or public transit impacts, and with one exception, no significant pedestrian impact. As stated in the Draft EIS, bicycle routes between the project, the SMART station and downtown Cloverdale are "already served by bicycle lanes, and therefore, no impacts related to bicycle traffic were identified." Subsequent to publication of the Draft EIS, the project sponsor agreed to create an employee Commuter Program for the proposed project that would mitigate the effects of commuters from the Santa Rosa/Rohnert Park area through a shuttle service or ride share program. The pedestrian discussion identified Mitigation Measure 5.8-5 in response to a potentially significant impact tied to the area between the project and the SMART trail crossing of Asti Road.

G-9.27 The analysis of transportation conditions for the Draft EIS was completed in 2008, before the adoption of the *2010 Sonoma County Bicycle and Pedestrian Plan*. Based upon review of the *2010 Sonoma County Bicycle and Pedestrian Plan*, the following policy and bicycle parking guidelines are relevant to the project:

> Policy: 2.27: Provide adequate bicycle parking as part of all new school, public transit stops, public facilities, and commercial, industrial, and retail development. Retrofit of existing uses and facilities is recommended whenever feasible. Use the following standards for bicycle parking at commercial and industrial uses over 10,000 gross square feet: Location - Near main entrance with good visibility, Capacity - 1 bicycle rack space per 15 employees with a minimum of 8 bicycle rack spaces per location. Bicycle lockers may be substituted for bicycle rack spaces.

G-9.28 Project construction activities are short-term in duration, and would not have long-term (on-going) impacts. Therefore, project construction is not likely to damage pavement on public roads.

G-9.29 The transfer of soil between parts of the project site (as stated on page 4.2-1 of the Draft EIS) would be made on-site, and the use of public roads is not anticipated. In the event a public road is needed to transfer soil, a very brief (~ 400 feet) segment of Asti Road could be utilized prior to re-entering the proposed trust parcels, and road damage is not

anticipated.

G-9.30 The Tribe has indicated a willingness to fully fund required road improvements to ensure the improvements are in-place prior to project operation start-up. See Response to Comment G-7.3 for further discussion.

G-9.31 See Response to Comment G-9.30.

G-9.32 The traffic mitigation for this area is the same regardless of the jurisdiction who owns it.

G-9.33 Mitigation Measure 5.10-3 has been revised to approximately 2.0 to 2.5 sworn officer positions for Alternative A based on requests by the City. The actual number of sworn officer positions and other costs would be negotiated with the City or County by the Tribe.

G-9.34 As discussed in Section 4.7 and 4.10, research has been done on whether or not casinos increase crime in the general community over time. The results of these studies have been inconclusive. Mitigation recommends service agreements with law enforcement providers. These agreements could include provisions for the other discussed services.

G-9.35 Comment noted however requested change is not necessary for analysis.

G-9.36 EIS revised as recommended.

G-9.37 EIS revised as recommended.

G-9.38 EIS revised as recommended.

G-9.39 It is unclear what additional analysis the commenter is requesting. The EIS considers the impact of the project on emergency service providers and recommends appropriate mitigation for a commercial entertainment development. It should be noted that persons requiring emergency medical services are typically charged to offset the costs of providing service which helps to fund increased demands.

G-9.40 Mitigation Measure 5.10-4 and 5.10-5 state that the Tribe would enter into service contracts with Cloverdale Fire Protection District and Cloverdale Health Care District (ambulance) for primary fire protection and emergency medical services. The level of service would be the same as those provided to other businesses in the City of Cloverdale. A letter of intent between the Fire District and the Tribe has been signed by both parties stating the intent to enter into good faith negotiations for an agreement for services (**Appendix N**).

G-9.41 The exact terms of the service contract are unknown. A sustainability clause will be considered. Additionally, Class III gaming facilities require a Tribal-State Compact which reinforce that the Tribe must provide for health and safety measures at the project

facilities.

G-9.42 Mitigation Measure 5.10-6 has been added which provides for an emergency response plan for the project facilities. The Tribe would discuss the appropriateness of an on-site defibrillator with the fire protection and emergency response providers.

G-9.43 As stated in Section 2 the Tribe would adopt the development standards of the California Fire Code. As the Tribe proposes to contract with the Cloverdale Fire Protection District, the Tribe would coordinate safety design standards with this agency.

G-9.44 See Response to Comment G-9.43.

G-9.45 See Response to Comment G-9.43.

G-9.46 Section 4.10 specifically discusses the need for aerial apparatus.

G-9.47 As stated in Section 2 the Tribe would adopt the development standards of the California Fire Code. The provision of emergency fire flow would be dependent on whether the private or municipal option was chosen. The municipal option would require coordination with the City and the private option would require water storage. An estimated volume of 500,000 gallons of reclaimed water would be retained in an above ground storage pond. Fire pumps would be used to elevate pressure in the reclaimed water main during actual fire events.

G-9.48 As stated in Section 2 the Tribe would adopt the development standards of the California Fire Code.

G-9.49 See Response to Comment G-9.51.

G-9.50 This information is provided in Section 2.0 of the Draft EIS.

G-9.51 As stated in Section 2.0, the development would adhere to the California Fire Code. Amendments to the Code adopted by the City or County would be considered based on the agency which would provide service to the project and the terms of the State Compact.

G-9.52 Based on discussions with the Fire Protection District, the wildfire risk at the project site is low (Section 3.10); however, development would be consistent with the California Fire Code. As shown in the project description the facilities would have landscaped areas and fire breaks (such as driveways and access roads).

G-9.53 Federal OSHA regulations would regulate hazardous materials management.

G-9.54 Federal OSHA regulations would regulate hazardous materials management.

G-9.55 As discussed in the Response to Comment G.10.41, the EIS specifically recommends Mitigation Measure 5.7-1 to provide both on-site and off-site prevention and treatment to reduce potential problem gambling impacts. The EIS requires the Tribe to collaborate with the County of Sonoma so that they can jointly ensure the most effective results are achieved by the mitigation. The proposed mitigation would be available to special populations identified by the commentator (i.e. women, older adults, ethnic and cultural groups). The mitigation measure does not preclude implementation of the prevention and early intervention programs such as those recommended by the commentator.

G-9.56 The Draft EIS recommended Mitigation Measure 5.7-1 is largely consistent with the American Gaming Association's Code of Conduct for Responsible Gaming.

G-9.57 The Draft EIS assesses the impact. The County currently has a mental health division and it is unclear why funding for counselors could not be provided within this current structure. The Tribe is willing to work with the County to make the counselors available through the County system however if the County does not have a mechanism to provide these services then the Tribe shall contribute an equivalent amount to problem gambling treatment and prevention programs which serve Sonoma County as discussed in mitigation. In light of the Graton project (and associated mitigation) there would be a regional need and both Tribes are committed to funding a mechanism to provide these services.

G-9.58 Section 4.7 has been revised to include additional explanation and references.

G-9.59 The Tribe is pursuing service agreements for police and fire. The Tribe plans to commit to 2 to 2.5 officers for Alternative A, and for other alternatives the Tribe would determine the assistance in services that the proposed project would require in consultation with the relevant City/County agencies. The increased police services are considered to be adequate to mitigate any project-related crime impacts. Given the uncertainty of the causal relationship between the casino gambling to problem gambling and subsequent resulting crime incidence, the socioeconomic analysis regards it likely to be too speculative to ascribe specific domestic violence/sexual assault incidences and impacts to the project. Consequently, it is concluded that there insufficient evidence to ascribe additional and specific mitigation measures for violence/sexual assault impacts. Nonetheless, the Tribe is committed to Mitigation Measure 5.7-1 to reduce the project-related problem gambling to a less-than-significant level.

G-9.60 See Response to Comment G-9.59 and G-9.61.

G-9.61 The California Department of Alcohol Beverage Control (ABC) is responsible for determining the alcohol beverage service requirements for the proposed project. The applicant would comply fully with the ABC guidelines and requirements. The project description (Section 2) includes the provision that Casino patrons would be required to be 21 years of age or older in areas where alcohol is served and a “Responsible Alcoholic Beverage Policy” would be adopted to include provisions related to I.D. verification and

refusal of service to individuals who are visibly intoxicated.

G-9.62 Indoor air quality including second-hand smoke is analyzed in impacts 4.4.1-6, 4.4.2-6, 4.4.3-6, and 4.4.4-6 of the Draft EIS. Mitigation Measure 5.4-9 would also be implemented for all alternatives. This mitigation includes measures that would substantially reduce the short-term exposure of non-smoking patrons to interior secondhand smoke through appropriate ventilation standards and by providing "smoke-free zones" in the gaming area and non-smoking hotel rooms. In addition, the Tribe would post signage regarding the deleterious effects of second-hand smoke in prominent locations for patrons and employees, including the employee break room.

G-9.63 Food safety would be addressed by the anticipated Tribal-State Compact as for other Class III Tribal gaming facilities.

G-9.64 Mitigation Measure 5.10-6 has been added which provides for an emergency response plan for the project facilities. The mitigation is adequate and addresses staff training and response for a variety of emergencies. The cited court case pertains to a nuclear facility which has special emergency considerations and is not applicable.

The commenter recommends several mitigation measures related to tracking gambling impact indicators and community health impacts. The comment does not specify the types of impacts which should be tracked or the methodology for determining and tracking these impacts. The referenced Healthy Sonoma website covers a wide range of issues. The EIS has addressed a range of gambling impacts based on currently available data (problem gambling, crime, etc.) and included mitigation for these impacts. The suggested measures are too vague and thus their effectiveness in reducing specific impacts cannot be determined.

G-9.65 Please see Response to Comment G-9.70. The roles and responsibilities of the Sonoma County Water Agency and the U.S. Army Corps of Engineers in the operation of the Russian River system are not necessarily pertinent to understanding the analyses of the project impacts. The Draft EIS does discuss relevant, project-related aspects of the Russian River system such as the effects of groundwater pumping (private water supply option) on flows and flooding.

G-9.66 See Response to Comment G-4.3. Until a water and wastewater option is chosen, both the municipal and private options for water and wastewater supply are considered feasible for the purposes of the NEPA process and both are evaluated. The adequacy of the City's water rights and water availability for providing water to the proposed project is a consideration for the viability of the municipal option. The Tribe and the City of Cloverdale have been in discussions regarding the municipal option.

G-9.67 As discussed in the Water Resources section of the Draft EIS (Impact 4.3.1-5), groundwater model results indicate a groundwater flow gradient beneath the project site that is generally perpendicular to the Russian River but also accounts for a component of

down-valley groundwater flow. Groundwater extracted from the proposed well would be made up of water that, if not extracted, would eventually flow down-gradient and enter the Russian River. Based on the groundwater pumping analysis, the groundwater extracted for the project is not considered underflow that is under direct influence of the Russian River but rather groundwater that has not yet reached the river. The Tribe does not require a water right to extract groundwater for use on its property if an action alternative were selected. Furthermore, the private onsite groundwater well is not diverting surface water; the private well is extracting groundwater. There has been no information from the groundwater modeling or preliminary groundwater quality sampling that indicates that the water extracted from the onsite well is groundwater under the direct influence of surface water. Impact 4.3.1-5 discusses the potential impacts to the Russian River flows from extracting groundwater from the onsite well. The model was updated to include an actual groundwater supply well and an increased pump rate. The results of modeling are further discussed in response G-4.13.

G-9.68 Although the comment is somewhat unclear, it is assumed that it is referring to the municipal option and the ability of the Sonoma County Water District to provide water to the City of Cloverdale especially in light of the PG&E Potter Valley Project and a multi-year drought. As mentioned above in response G-9.66, discussions regarding the municipal option are ongoing and, if selected, may be conditioned to limit service the proposed project if there are perceived supply constraints. As noted, should it be determined that there is inadequate or limited supply after these discussions or that providing water service to the site is infeasible, the private water supply option may be selected.

G-9.69 A limited groundwater pumping analysis was conducted for the Draft EIS (referenced as Hydrometrics, 2009 in the Draft EIS) which incorporated available local well data to develop reasonable assumptions for aquifer properties. While there are no doubt areas of the riparian zone of the Russian River that are “losing stream” conditions, the limited groundwater pumping assessment indicates that a gaining condition exists in the vicinity of the project site.

The site lies on a relatively flat stream terrace adjacent to the Russian River. The site elevation is between approximately 282 and 284 feet (NAVD88). A levee lies between the project site and the Russian River. Water in the Russian River is at an approximate elevation of 271 feet in this area. Hydrographs for three nearby monitoring wells were obtained from the Water Data Library (California Department of Water Resources). The wells used for the analysis were: T11N/R10W-08P01M (northeast of project site, east floodplain of river), T11N/R10W-17P02M (east of project site, east floodplain of river) and T11N/R10W-19F02M (immediately west of project site adjacent to US 101). The groundwater levels fluctuate seasonally: lowest groundwater levels in the area are at an elevation of approximately 276.5 feet; the highest groundwater levels are at approximately 343 feet. This suggests that the Russian River is always a gaining stream in

this reach.

G-9.70 Text has been revised in the Final EIS to reflect the recent BO which requires a reduction in the minimum instream flow requirements for the upper Russian River from 150/185 cfs to 125 cfs for normal conditions. The groundwater analysis has been updated, see Response to Comment G-4.13, which discusses the reanalysis of the groundwater pumping impact based on the location and characteristics of an existing groundwater well. The estimated Russian River flow reduction caused by groundwater pumping as predicted in the first groundwater pumping analysis was 0.03 percent of the 286 cfs summer flow. Using the 125 cfs minimum flow dictated by the BO, the reduction would be 0.07 percent. A change from 0.03 to 0.07 does not change the conclusions stated in the Draft EIS; this would remain a less-than-significant impact.

G-9.71 Comment noted. The Draft EIS text is revised to clarify that the City of Cloverdale is a surface water source with a water right (Statement SO 1423 7) and maintains four groundwater wells for water supply, which pump the underflow of the Russian River. Please also see Response to Comment G-9.66 in regards to the feasibility of the municipal water supply option.

G-9.72 Comment noted. The EIS evaluated economically feasible and reliable water supply options.

G-9.73 The onsite wastewater treatment plant must demonstrate that it can meet federal EPA standards for tertiary water treatment prior to operation. Section 2, Alternatives, provides an adequate description of the proposed wastewater treatment strategy for the purpose of evaluating impacts under NEPA. There are several types of membrane bioreactor technologies to choose from which can meet EPA standards, thus further description would be difficult without limiting available options.

G-9.74 The Draft EIS evaluates the impacts of spray field application, percolation of tertiary treated effluent, and potential water quality impacts to the Russian River Section 4.3, Water Resources. For clarification, it should be noted that during the preparation of the Draft EIS, the applicant proposed use of a 4-acre spray field was evaluated and found to be undersized to accommodate the amount of effluent. As a result, the spray field was expanded to 14.6 acres and the crop type was changed from a vineyard to alfalfa in order to increase evapotranspiration rates. The water to be applied to the spray field would be tertiary-treated water and would need to meet federal EPA standards prior to application, therefore, nutrients and pathogens would not be a significant water quality concern.

G-9.75 As stated in Response to Comment G-4.7, the Tribe has completed a preliminary SQMP (**Appendix Q**) which reviews stormwater management options and develops recommendations for effective stormwater management. If the upland drainage system recommended in **Appendix B** is determined to be adequate and necessary, it would be incorporated into the stormwater management approach. Additional details of the subterranean detention system, the piping network, and the upland drainage release

system would be developed at the final design phase of the project after a preferred alternative is selected and are not necessary for the evaluation of potential impacts as required under NEPA.

G-9.76 Table 3.3-1 of the Final EIS has been updated to indicate nitrate concentrations in the onsite groundwater. Water quality sampling performed on the project site in 2008 for Phase II investigations included the analysis of nitrate in groundwater. On the property located east of the railroad tracks (aka Sirrah Property), nitrate was analyzed in 17 samples collected from monitoring wells, water supply wells, and surface water and was detected in 13 of those samples. Concentrations of nitrate ranged from below detection limits (<0.05 mg/L) to 6.6 mg/L. On the property west of the railroad tracks (aka Amonos Property) nitrate was analyzed in 30 groundwater samples and detected in 21 of those samples with the highest detection of 7.8 mg/L. The U.S. Environmental Protection Agency and the California State Department of Health Services Maximum Contaminant Level (MCL) for nitrate is 10 mg/L. Nitrate concentrations detected in the groundwater on the project site were not considered a significant impediment to development of the project. Testing groundwater for phosphates or phosphorous-containing compounds was not part of the scope of the 2008 Phase II investigations and thus these levels are unknown. The proposed project would be required to meet federal EPA water quality standards for phosphates and phosphorous-containing compounds if the private water supply option is chosen.

The Tribe would test the supply well for Groundwater Under the Direct Influence of Surface Water, as required. Prior to operation of the project, as with any water supply monitoring program, baseline water quality data would be obtained from the water supply well and used to assess water quality data obtained during regular water quality testing of the well.

G-9.77 Please refer to Section 4.3, Water Resources, and Response to Comment G-9.74. The originally proposed 4-acre spray field was expanded at the time of the Draft EIS preparation to occupy the maximum available area of 14.6 acres.

G-9.78 Please refer to Section 2, Alternatives, Sections 3.10 and 4.10, Public Services, for information regarding the possibility of the City of Cloverdale serving as the wastewater treatment contractor. Also see Response to Comments G-4.3, G-5.5 and G-9.66.

G-9.79 Please see Response to Comment G-4.3.

G-9.80 Please see Response to Comment G-4.5. The proposed project would be located on federal tribal trust lands and would not be required to comply with local grading ordinances. The project does not propose zero net fill.

G-9.81 See Response to Comments G-4.7, G-4.8, G-4.9, G-5.2, and G-5.3. The Tribe has completed a preliminary SQMP (**Appendix Q**), which provides additional detail on stormwater management. Please note that completing a comprehensive design-level

drainage plan at the EIS stage is not practical or appropriate because an alternative has not been selected. It would not be efficient, cost effective, or necessary per the requirements of NEPA to prepare a design-level drainage plan for each of the five alternatives considered in the EIS.

G-9.82 See Response to Comment G-7.13.

G-9.83 The EIS has been revised to reflect General Plan adoption.

G-9.84 The document acknowledges State and local laws regarding agriculture; however, regulations alone do not determine the level of environmental impact. The impact to agriculture considers the proposed uses, Form AD 1006 and the City's land use designation for the project site should annexation occur. First, the eastern portion of the project site (which is the portion under Williamson Act contracts) would contain primarily alfalfa sprayfields (public water/wastewater option) or would remain in agricultural use (private water/wastewater option) and thus the project is not proposed full conversion. Secondly, the Form AD 1006 takes into account the presence of agriculture-related land use controls on the parcels in addition to other important factors such as historical use, access to agricultural infrastructure, and size and are appropriate criteria for the federal government. Finally, the City of Cloverdale has projected future designations for the project site of light industrial and public/quasi-public/institutional – i.e. non-agricultural uses. These factors were all considered in the conclusion that the impacts to agriculture would be less than significant.

G-9.85 The EIS clearly states that the eastern portion of the project site is within the County. Mentioning the City's proposed designations is not hypothetical as they exist.

G-9.86 See Response to Comment G-7.14 and G-9.84

G-9.87 ESA contacted the airport manager, Police Chief Mark Tuma (ESA, pers. comm., 2011) regarding the proposed runway improvements in the Master Plan. Resurfacing of the existing runway is planned to create 250 feet of additional usable space on the southern end of the runway. This is scheduled to begin Spring/Summer 2011. There are no improvements or plans which would affect the physical runway on the north end.

G-9.88 The Draft EIS notes that the project is not consistent with the proposed density of uses within the Traffic Pattern Zone. The discussion has been revised to cite page 8-2 of the County Airport Land Use Plan (CALUP) which states "[t]he primary referral area for Cloverdale Municipal Airport runs close to the airport on the west since there is no traffic pattern on that side, but extends some 6,000 feet to the east to encompass some of the high terrain in that area." If transferred to tribal trust status, the trust land would not be subject to the County's Airport Land Use Plan; however, alternatives, including those of reduced intensity and reduced height, are analyzed in the EIS. Regarding safety the project is required to meet FAR Part 77 standards (objects affecting navigable airspace). While the project as proposed would not penetrate the navigable air space of the runway, the

project is located at a distance which requires notification of construction under Federal Aviation Regulation (FAR) Part 77.

G-9.89 The visual impact analysis in Section 4.13 utilizes the existing development in and around the project site as the baseline and does not rely on land use designations. For example, Impact 4.13.1 addresses the changes to the existing scenic quality irrespective of land use designation/zoning.

G-9.90 The EIS mentions the Alexander Valley Resort however it is not used to imply that impact would be less than significant. In fact, this impact was found to be potentially significant (Impact 4.13.1).

G-9.91 Potential impacts are not downplayed. The visual impact to Highway 101 is discussed and found to be part of a potentially significant impact for which mitigation is recommended. It is also discussed in Section 4.13 that the project site is immediately adjacent to Highway 101. In addition the section includes visual renderings to support the conclusions of the impact analysis.

G-9.92 Signage detail has not been developed. In addition, the Tribe has committed to refraining from the use of neon signage.

G-9.93 The EIS includes several alternatives with smaller buildings and different layouts (Section 2.0).

G-9.94 Mitigation includes light shielding and light direction. The mention of dark sky lighting techniques simply means that the Tribe could adopt mitigation in addition to these specifically mentioned measures.

G-9.95 Table 3.11-1 and Figures 3.11-2 through 3.11-11 provide a very detailed look at the existing noise environment in the project area, including noise measurements near sensitive receptors. Anticipated construction noise levels at the nearest receptors are evaluated in the Impacts, 4.11.1-1, 4.11.2-1, 4.11.3-1, 4.11.4-1, and 4.11.5-1 of the Draft EIS. While the FHWA RD-77-108 is not appropriate for current FHWA highway construction projects it is appropriate and commonly used by acoustic professionals in California for projecting simple noise levels from increased traffic on highways. The EIS noise evaluation considered levels of substantial increase (Table 4.11-1) and land use and noise compatibility standards (Figure 4.11-1) that would generally be applied in the project area. With regard to nighttime noise impacts, the entrance route to the project site (Asti Road) currently exists and no new access roads are proposed. Furthermore, the nearest project traffic to any residences would be on Asti Road, which is adjacent to Highway101. The nighttime traffic noise from Highway 101 would still be the dominant nighttime noise source in the area because of the higher speeds on Highway 101 than on Asti Road. The cumulative traffic impacts would be from traffic and they are quantified in Table 4.11-5 and further discussed on page 4.16-23 of the EIS.

G-9.96 The location of sensitive noise receptors are described on page 3.11-5 of the Draft EIS and the areas of sensitive noise receptors are identified on Figure 3.11-2 in the Draft EIS.

G-9.97 Mitigation Measure 5.11.1a would prohibit construction during hours that would cause sleep disturbance. Weekend construction is also prohibited to allow at least 2 days of break from construction noise each week.

G-9.98 In response to this comment, the Final EIS revises the discussions in Section 4.11 related to Non-Transportation Noise Sources.

G-9.99 A list of special-status plant and wildlife species that have the potential to occur within the vicinity of the project site was compiled based on a background information search for previously documented special-status species within the project vicinity. The California Natural Diversity Database (CNDDB) program and the USFWS online list were queried. Analysis of the potentially occurring species is provided within Section 3.5.3 of the Draft EIS, with appropriate mitigation provided in Section 5.5. The overall value of the project site as a wildlife movement corridor is limited by Highway 101 along the entire western boundary and the industrial land use to the south. Much of the surrounding land use, with the exception of Porterfield Creek and the Russian River to the east, are developed or have been converted for use as agricultural crops or light industry. Based on these conditions, the project site provides limited opportunities for wildlife as a terrestrial movement corridor. Potential impacts to plant communities (including sensitive types) were also analyzed in the Draft EIS, with approximate habitat impact acreages provided in Section 4.5. Because the project proposes to transfer the parcels to federal tribal trust land, local laws and ordinances, such as the Oak Woodlands Conservation Act and other tree protection policies such as the County's tree protection policies would not be applicable. However, Mitigation Measure 5.5.-1 from the Draft EIS mitigates the loss of sensitive habitats by the proposed development through the creation, restoration, or enhancement of coast live oak woodland and north coast riparian scrub habitat on the project site. This measure, as well as the project design which avoids most sensitive habitats (i.e. stream channels, wetlands, riparian scrub, and oak woodland), minimizes potential adverse impacts to these resources.

G-9.100 See Response to Comment G-2.7.

G-9.101 Mitigation Measure 5.5-8 has been added to the Final EIS (Section 5.0) to minimize potential adverse effects to western pond turtles.

G-9.102 The project mitigates potential adverse effects to jurisdictional wetlands through avoidance and Mitigation Measure 5.5-2. Wetland habitat quality in areas within the mitigation area and adjacent to preserved seasonal wetlands would be improved through native plantings of wetland plant species. The use of a County recommended set-back from existing and avoided stream channels and wetlands is not feasible in many areas of the proposed development due to physical size constraints, but appropriate buffers and treatment measures associated with the project design and the preliminary SQMP

(**Appendix Q**) would minimize potential adverse effects to adjacent wetland and stream channel features (and associated special status species) from pollutant run-off. In addition, Mitigation Measures 5.5-6 and 5.5-7 have been added to the Final EIS (Section 5.0) to further minimize potential adverse indirect impacts to jurisdictional wetlands and stream channels.

G-9.103 Because the proposed project would transfer parcels to federal tribal trust status, local laws and ordinances, such as the Oak Woodlands Conservation Act and the Sonoma County Tree Protection and Replacement Ordinance would not be applicable. However, Mitigation Measure 5.5.-1 from the Draft EIS mitigates the loss of sensitive habitats by the proposed development through the creation, restoration, or enhancement of coast live oak woodland and north coast riparian scrub habitat. Mitigation Measure 5.5-9 has been added to the Final EIS (Section 5.0) to further protect native tree species that would be avoided by project construction.

G-9.104 The cumulative scenario in the Draft EIS analysis included the buildout of the City of Cloverdale *2008 Draft General Plan* and buildout of the *Sonoma County General Plan 2020*. These information sources are assumed to provide sufficient data when considering analysis in a cumulative environment. The Dry Creek Rancheria *Economic Development Master Plan* was not included with Table 4.16-1 as that project upgrades an existing facility (River Rock Casino), effectively replacing a tent structure with a permanent structure. However, analysis of the potential effects of the River Rock Casino on the proposed project was included within the Draft EIS (within applicable environmental resource areas), as well as considered by the Tribe when analyzing the economic feasibility of the project. Please see Response to Comment G-10.38 for further discussion related to the market study. The status of the Graton Casino and Hotel has been updated in Table 4.16-1 to reflect the recent project activity and agency actions.

G-9.105 As noted on page 4.16-4 of the Draft EIS, according to the BAAQMD, "Any project that would individually have a significant air quality impact would also be considered to have a significant cumulative impact." Thus, if an individual project results in emissions that exceed air district thresholds, then the addition of emissions from past, current, and future projects to the individual project emissions would also exceed the air district thresholds. The cumulative air pollutant emissions generated would thus be considered significant as well. The analysis included in the Draft EIS complies with this typical methodology.

G-9.106 See response to Comment G-9.6.

G-9.107 The Notice of Intent for the project was submitted to the Federal Registry on July 7th 2008, before the California legislature adopted SB 375. Furthermore, reduction targets for SB 375 would be met by strategies for housing development, road-building and other land uses to shorten travel distances, and reduce vehicular travel time.

G-9.108 Section 4.4 lists the federal, state and local thresholds which are used to determine significance. Section 3.4 describes how federal, state and local thresholds have been

established through laws such as the Clean Air Act and California Clean Air Act.

G-9.109 See response to Comment G-9.6. Full references have been added to Table 4.4-2 for each air district's identified thresholds.

G-9.110 As discussed in G-9.108, Section 3.4 provides the regulatory background for the thresholds which apply to the project and how they apply. For example, Section 3.4 describes that federal projects, such as the Proposed Action, are subject to the General Conformity Rule

G-9.111 See response to Comment G-9.7.

G-9.112 The project and alternatives would not exceed Federal Conformity Rule de minimus thresholds during construction. Nonetheless, the words 'Federal Standards' have been removed from the sentence to avoid confusion.

G-9.113 TACs are airborne substances that are capable of causing short-term and/or long-term adverse human health effects. Health effects from carcinogenic air toxics are usually described in terms of individual cancer risk. “Individual Cancer Risk” is the likelihood that a person exposed to concentrations of TACs over a 70-year lifetime would contract cancer, based on the use of standard risk-assessment methodology. The significance criteria used was whether the project would result in a long-term substantial source of TAC emissions. The project would not directly result in a new source of TAC emissions. See Response to Comment G-9.13.

G-9.114 Construction and operational activities would not be concurrent, therefore adding emissions would not be accurate. See response to Comment G-9.14.

G-9.115 See response to Comment G-9.9

G-9.116 See response to Comment G-9.10

G-9.117 See response to Comment G-9.10.

G-9.118 See response to Comment G-9.14. The analysis is consistent. The operation of the project facilities would not generate TAC emissions itself, but would result in indirect emissions from trucks and buses.

G-9.119 The analysis conservatively assumes that the wastewater treatment plant could create odor impacts based on the type of facility and distance to the nearest sensitive receptors. See response to Comment G-9.18.

G-9.120 See response to Comment G-9.15.

G-9.121 The project would not hinder the AB 32 Scoping Plan 39 recommended actions as stated in the Draft EIS. Please see response to Comments G-10.29 and G-10.30 pertaining to

GHG mitigation measures that address project transportation and energy efficiency sources of GHGs. The proposed project and alternatives do not propose green building but the Tribe will build the facilities to Title 24 standards if financially feasible. These actions would not hinder the ability of the State to implement the AB 32 Scoping Plan for other new projects.

G-9.122 Tables 4.4-6, 4.4-10, 4.4-14, 4.4-18, 4.4-22 have been revised.

G-9.123 Although the project would not conflict with the 39 recommended actions, as stated in Impact 3.31-5, the project would exceed the reporting limit of 25,000 metric tons per year of CO2e and therefore is found to generate a substantial amount of GHG emissions and would not be consistent with the goals of AB 32. See response to Comment G-9.15.

G-9.124 A substantial amount of GHG emissions would occur if the project were to exceed the lower reporting limit of 25,000 metric tons per year of CO2e.

G-9.125 Comment noted, the same responses apply to the air quality assessments for Alternatives B-E.

G-9.126 Comment noted.

G-9.127 See response to Comments G-9.128 through G-9.140 pertaining to specific mitigation measures.

G-9.128 TAC impacts were not significant before the addition of mitigation measures as the project would not result in a long term substantial source of TAC emissions. Mitigation measures were added to ensure and add further safety against TAC impacts.

G-9.129 These measures are recommended to further reduce impacts, though exhaust emissions were determined to be less than significant without mitigation. See also response to Comment G-10.81 regarding mitigation enforcement.

G-9.130 Comment noted. Performance standards not deemed necessary since exhaust emissions were determined to be less than significant without mitigation.

G-9.131 See response to Comment G-9.129.

G-9.132 Low or zero emission vehicles would be used when feasible and may include construction vehicles or Tribal-fleet vehicles.

G-9.133 The mitigation measure proposes fee parking or tolls if feasible in addition to other measures to reduce emissions.

G-9.134 Providing public transit incentives, such as free or low-cost monthly transit passes, is a mitigation measure in the EIS.

G-9.135 See response to Comment G-9.12 regarding offsets.

G-9.136 Mitigation Measure 5.4-6 has been removed as the measures were the same as Mitigation Measure 5.4-5.

G-9.137 Mitigation Measure 5.4-6 states that buses and diesel loading trucks are required to comply with the California Air Resource Board's Airborne Toxic Control Measure to Limit Diesel-Fueled Commercial Motor Vehicle Idling. See response to Comment G-10.81 regarding enforcement.

G-9.138 See response to Comment G-9.18.

G-9.139 See response to Comments G-9.16 and G-9.17.

G-9.140 See response to Comments G-9.16 and G-9.17.

G-9.141 See response to Comment G-9.96, and Figure 3.11-2 Noise Measurement Locations.

G-9.142 The results of noise modeling and traffic modeling were applied to the study. Noise measurements were used to compare construction related noise levels at sensitive receptors, and existing traffic noise modeling was compared to future noise modeling.

G-9.143 Construction noise levels at the nearest sensitive receptors are evaluated in Section 4.11 noise for each alternative and compared to existing noise levels as well as City of Cloverdale exterior noise standards. Furthermore, mitigation measures were added to reduce construction noise levels at sensitive receptors.

G-9.144 The Notice of Intent for the project was submitted to the Federal Registry on July 7th 2008, before the updated TNM model was adopted. See response to comment G-9.95.

G-9.145 See response to Comment G-9.95.

G-9.146 See response to Comment G-10.69.

G-9.147 Comment noted, the same responses apply to the noise assessments for Alternatives B-F.

G-9.148 See response to Comment G-9.95.

G-9.149 See response to Comment G-9.95.

G-9.150 See response to Comment G-10.69 regarding stationary source noise and Mitigation Measure 5.4-6 pertaining to idling time restrictions.

Comment Letter G-10 City of Cloverdale

G-10.1 Regarding housing and economic impacts see specific responses to comments

below. In addition to the proposed project, the EIS includes additional alternatives which vary in size and use.

G-10.2 See Comment Response G-10.38.

G-10.3 See Comment Response G-10.38.

G-10.4 The purpose of NEPA is to evaluate the potential environmental impacts of a proposed federal action. Once the EIS process is completed, as may be expected of any prudent developer, the Tribe and its investors would evaluate the market and investment conditions to assess the feasibility of the project and guide its development strategy in accordance with the alternative selected and mitigation required. The revenue projections and market assumptions provided in the EIS are adequate to indicate and assess the reasonableness of the economic estimates and findings. It is speculative to project failure of the venture and ascribe resulting impacts such as wastewater treatment facility failure.

G-10.5 A reasonable range of alternatives have been proposed to meet the stated purpose and need. Central to the purpose and need is the restoration of the Tribe's lost trust land base. The proposed project site contains properties which are contiguous to the original trust lands.

G-10.6 The title issue regarding the City’s treatment pond has been resolved and has been removed from the project site throughout the EIS.

G-10.7 See Response to Comment G-7.13

G-10.8 See Response to Comment G-10.38

G-10.9 Figure 4.2-1 has been added which shows there is a risk of moderate groundshaking at the project site. This map is based on all major faults which could affect the project site. The Tribe would adopt the standards of the California Building Code (CBC) which address seismic issues as stated in the project description. The geotechnical report at the design-level would aid in ensuring that the project complies with standards of the CBC. In addition to mitigation designed in the project description it is anticipated that a Tribal-State Compact would require compliance with the CBC.

G-10.10 There is no available information regarding the historic occurrence of subsidence due to groundwater extraction on the project site or in the Cloverdale area. An analysis on whether overdraft could occur was not necessary because overdraft of the groundwater is not currently occurring in the basin. The project proposes groundwater extraction from one well that would not contribute to groundwater overdraft. The Draft EIS analyzed the effects of groundwater pumping on groundwater beneath the project site and how that pumping would affect other local

wells and the Russian River. See Section 4.3 Water Resources, Impact 4.3.1-5 and Response to Comment G-4.13.

G-10.11 Use of wastewater flow calculations is an acceptable methodology for calculating water supply demands and represents a reasonable use of available data to develop appropriate water supply requirements for purposes of project impact analysis under NEPA. The Water Supply Report (**Appendix I**) excluded irrigation from the calculations because it assumed the use of onsite recycled water; however the EIS discusses that peak irrigation demands would be 20,000 gallons per day. Evaporation was not considered in the calculations because irrigation was excluded, no surface storage of extracted groundwater was proposed, and the water demand estimate was specifically for potable and non-potable uses required by the casino, hotel, convention center, entertainment center, food and beverage service, spa, and the project employees. See comment response G-9.66.

G-10.12 As stated in the Draft EIS (Section 4.10, Public Services), under the municipal option, the Tribe would contract with the City of Cloverdale for wastewater service and connect to the existing 18-inch sewer main which runs along the southern and northeastern project boundary. As the Tribe does not currently have an agreement to obtain wastewater service from the City, the Draft EIS found this as a potentially significant impact. Mitigation of this impact would require the Tribe to enter into a service contract with the City of Cloverdale for wastewater service. If municipal water cannot be provided the Tribe would choose the private wastewater option.

G-10.13 As the proposed project would be located on federal tribal trust lands, the Tribe would comply with federal laws as enforced by the U.S. EPA regarding the protection of surface and groundwater water quality. The mitigation measures presented in the Draft EIS provide adequate monitoring and control strategies.

G-10.14 See Response to Comment G-10.13. The proposed project would be located on federal tribal trust lands and therefore local ordinances would not be applicable. Inconsistencies with City of Cloverdale General Plan policies are not considered impacts of the project.

G-10.15 See Response to Comment G-4.3.

G-10.16 See Response to Comment G-4.3.

G-10.17 See Response to Comment G-4.3.

G-10.18 The proposed action would be located on federal tribal trust lands and therefore would not be subject to local ordinances. Inconsistencies with City of Cloverdale General Plan policies are not considered impacts of the project. The Draft EIS provides a Preliminary Grading Study (**Appendix A**) and a Preliminary Drainage Study (**Appendix B**). Comprehensive design-level grading and drainage plans would

be prepared once the project alternative is chosen through the NEPA process. The Tribe completed a preliminary SQMP (**Appendix Q**) concurrent with the preparation of the Final EIS (see Response to Comment G-4.7).

G-10.19 Based on the proposed conversion of parcels to federal tribal trust land, the project applicant would not be required to comply with City Policy CDO 7-1. The recommended buffer zones from existing and avoided stream channels and wetlands is not feasible in many areas of the proposed development due to limited size constraints, but appropriate buffers and treatment measures associated with the project design and the preliminary SQMP (**Appendix Q**) would minimize potential adverse effects to adjacent and downstream wetland and stream channel features. In addition, Mitigation Measures 5.5-6 and 5.5-7 have been added to the project (Section 5.0) to further minimize potential adverse indirect impacts to jurisdictional wetlands, stream channels, and the Russian River.

G-10.20 See Response to Comment G-4.3. While the proposed action would be located on federal tribal trust lands and therefore would not be subject to local ordinances, the Tribe would be required to comply with Executive Order 11988 and in doing so, complete a CLOMR prior to implementation of a project. A LOMR request must be submitted to FEMA within 6 months of completion of a project. Compliance with EO 11988 would require the Tribe to determine how the proposed project activities would change the flow characteristics and boundaries of flood waters during a 100-year flood.

G-10.21 See Response to Comments G-4.3 and G-10.20.

G-10.22 See Response to Comments G-4.3, G-4.7, and G-10.20. The Draft EIS provides a Preliminary Grading Study (**Appendix A**) and a Preliminary Drainage Study (**Appendix B**). The Tribe has also completed a SQMP (**Appendix Q**) to address stormwater management and quality through a series of BMPs. Comprehensive design-level grading and drainage plans would be prepared once the project alternative is chosen through the NEPA process.

G-10.23 The proposed action would be located on federal tribal trust lands and therefore would not be subject to local ordinances. Nevertheless, it should be stated that as part of the proposed project, the Tribe would improve site drainage and design stormwater facilities that would manage any increases in stormwater flow and protect surface water quality. With the proposed stormwater drainage strategies proposed for the project, the need for additional offsite drainage control facilities operated by the City of Cloverdale are not expected and thus, no additional costs to the City are anticipated. The Tribe has prepared a Preliminary Drainage Study (**Appendix B** of the Draft EIS) and a Preliminary SQMP (**Appendix Q**) to address management of stormwater runoff and the quality of that runoff. The SQMP proposed stormwater BMPs to manage stormwater runoff and protect water quality at the project site. As project planning continues, the Preliminary SQMP would be

refined to include the proposed design of BMPs and details on operations and maintenance of proposed BMPs.

G-10.24 See Response to Comment G-10.22.

G-10.25 The use of the daily average pumping rate is the preferred methodology for determining effects to the groundwater source and the Russian River from the groundwater extraction associated with the proposed project. The use of peak daily pumping rates would be overly conservative and not an accurate representation the daily operational scenario. Use of peak pumping rates, as suggested in the comment, could overestimate the effects on the aquifer and result in an inaccurate assessment of a) the groundwater capture zone, b) the potential interference with other wells, c) the shallow zone interception of Russian River flows, and d) the estimate of the reduction from pumping to flows in the Russian River. Also refer to Response to Comment G-4.13.

G-10.26 See Response to Comment G-4.13. The supplemental groundwater analysis (Hydrometrics, 2011) concluded that the estimated drawdown from the actual groundwater well is less than 0.5 feet and does not extend beyond a radius of 500 feet. If 0.1 to 0.5 feet of drawdown due to project pumping occurred in a neighboring well, it would be within the seasonal fluctuation of the well and would not adversely affect its functionality or production capability. Mitigation for reduced operational drawdown due to the proposed project for other wells is not necessary.

G-10.27 See Response to Comment G-4.13. The groundwater pumping analysis completed for the proposed project (Hydrometrics, 2009 and 2011) relied on hydrographs of local wells that reported changes to groundwater level from 1975 to present. While the groundwater hydrographs did show some response to droughts years, the magnitude of the reduction in groundwater levels amounted to only a few feet. Therefore, based on the local groundwater response to drought years of supply wells in the immediate vicinity, analysis of groundwater well functionality and/or available groundwater supply during drought years is not necessary for the purposes of identifying impacts of the project under NEPA.

G-10.28 In regards to AB 32 conflicts, the Draft EIS looks at the following: potential conflicts with California Air Resources Board’s (CARB’s) 39 recommended actions in the AB 32 Scoping Plan; the relative size of the project in comparison to the estimated greenhouse reduction goal of 174 MMTCO2e by 2020 and in comparison to the size of major facilities that are required to report GHG emissions (25,000 metric tons per year of CO2e); and the basic parameters of a project to determine whether its design is inherently energy efficient. The commenter suggests more of a "hard look" is needed, but does not identify any specific conflicts (with the 39 recommended actions) with analysis.

G-10.29 Energy Efficiency Measures are included in Mitigation Measure 5.4-8 for all alternatives, and the following additional mitigation has been incorporated into Mitigation Measure 5.4-8:

- If financially feasible the Tribe could commit to construction of a facility that operates at a minimum level which is similar to the California Title 24 standards.

G-10.30 Mitigation Measure 5.4-5 (Transportation and Motor Vehicle Measures) and Mitigation Measure 5.4-8 (Energy Efficiency Measures), and Mitigation Measure 5.4-10 (Greenhouse Gas Emission Credits) are identified in the Final EIS and would reduce GHGs. Contrary to the commenter's assertion that there are no mitigations to address GHGs from increased traffic, trip reductions resulting from implementation of Mitigation Measure 5.4-5 would address GHG.

G-10.31 Please see Response to Comment G-10.29 regarding Energy Efficiency Mitigation Measures.

G-10.32 As discussed in the Response to Comment for G-10.38, the Innovation Group market analysis for the project is proprietary information that can not be publicly disclosed without compromising the Tribe's business development opportunity. Nonetheless, as part of the Draft EIS socioeconomic impact analysis, the market study was reviewed and assessed to determine the reasonableness of its findings. It should be noted that market analysis inherently requires projections of project performance, market conditions and customer responses that limit the extent that accurate analysis assumption can be fully verifiable except in hindsight. The key findings of the analysis are provided in the Draft EIS and are adequately identified so that their reasonableness and related impact analysis to be assessed. While the EIS is required to evaluate the project's socioeconomic impact, evaluating the project's financial feasibility is beyond the scope of NEPA.

G-10.33 The Draft EIS analysis concluded that the project's future staffing needs would be met from existing Sonoma County residents and consequently there would be no significant project related local population increase for the City of Cloverdale or its immediate surroundings as asserted by the commenter. See Impact 4.7.1-3 of the EIS which discusses the labor force, housing and commuting factors for this conclusion. Furthermore, the Tribe commits to operating an employee Commuter Program for the proposed project (Mitigation Measure 5.7-2). The planned worker shuttle service and/or ride share program would furthermore enhance the ability of employees' daily commute to work from Santa Rosa and other parts of Sonoma County and thereby reduce demand for local housing by employees.

G-10.34 See Response to Comment G-10.33 which discusses the Draft EIS analysis findings that the project's future staffing needs would be met from existing Sonoma County residents and consequently there would be no significant project-related local population increase for the City of Cloverdale or its immediate surroundings as

asserted by the commenter. Section 4.7 of the EIS also addresses wages and affordable housing.

G-10.35 The Draft EIS analysis specifically evaluated the proportion of the project's future revenues that would be *new* and *net* revenues for the region's economy thereby clearly recognizing that any sales obtained from other existing businesses would not represent a beneficial economic impact. The Draft EIS analysis specifically estimates the project's total and net revenue impacts by commercial sector (Tables 4.7-3 and 4.7-4) to indicate the expected magnitude of the project competitive "sales shift" impacts on county and local businesses. While the analysis conservatively projects some sales shifts from existing businesses, the overall impact of the project may be expected to draw major number of new visitors to the region which would offer opportunities for other businesses to capture spillover benefits. Depending on their specific market situation, the spillover opportunity could offset some or even all of the sales shift impacts to their businesses. The analysis for Impact 4.7.1-4 specifically states the basis and reasoning for the analysis estimates of the fiscal impacts to the both Sonoma County and the City of Cloverdale. The analysis for Impacts 4.7.1-5 and 4.7.1-6 also evaluated the potential public service and public service impacts associated with the proposed project. The analysis included mitigation for addressing the potential for problem gambling related social impacts. In addition, as discussed in the Response to Comment G.6-59, the Tribe is pursing development of an MOU with City/County Police and Fire to provide additional public safety services.

G-10.36 Conflicting with a local policy is not considered a significant impact unless there are environmental implications. The project discusses the potential for physical impacts to the environment (i.e. population increase). See Response to Comment G-10.33 which discusses the Draft EIS analysis findings that the project's future staffing needs would be met from existing Sonoma County residents and consequently their would be no significant project-related local population increase for the City of Cloverdale or its immediate surroundings as asserted by the commenter.

G-10.37 The land is still within the County although the EIS assumes that annexation will occur in the future. Economic impacts to the City and businesses are analyzed in Section 4.7. The economic impacts are anticipated to be beneficial for the City. Any development on this land would require a number of infrastructure connections and improvements to operate. Also see Response to Comments G-10.33 and G-10.35.

G-10.38 An extensive market study has been performed for the project by the Innovation Group which is cited and acknowledged in the Draft EIS. The study findings were reviewed and the study's key findings are reported in the Draft EIS analysis. The full marketing study can not be disclosed to the public due to the proprietary nature of the analysis and the potential business effects any such disclosure would have on the Tribe's future business development. The revenue projections and market

assumptions provided in the Draft EIS are adequate to indicate and assess the reasonableness of the economic estimates and findings. Given the inherent uncertainties associated with any such development (e.g. whether actual successful completion of other similar proposed projects would occur, marketing and management effectiveness differences between businesses), it is speculative to project failure of the venture and ascribe resulting any resulting impacts such as blight. The commentator also asserts that the project would induce substantial local housing growth and local service impacts that would contribute to the severity of future business failure. However, as discussed in Comment Response G-10.33, the Draft EIS analysis projects no such major increase in local housing and public services demand such as the concerns raised by the commenter.

G-10.39 As stated in the Draft EIS, the socioeconomic analysis provides reasonable estimates of the casino's projected futures sales by revenue source (i.e. lodging, retail, and food beverage) based on marketing analysis specifically for the proposed project by the Innovation Group. The marketing analysis determined its sales performance projections based on typical industry standards and local market conditions. The casino future sales projections have been analyzed in conjunction with countywide sales data to determine conservative and reasonable sales shift impacts and related tax impacts based on current spending behavior and professional judgment. As discussed in the Response to Comment I-12.7, given the uncertainty of the likelihood of future buildout of the City's General Plan, it is considered speculative and inappropriate in accordance with NEPA guidelines to ascribe project-related "potential" future losses for currently non-existing land uses.

G-10.40 See Response to Comment G-10.33 which discusses the Draft EIS analysis findings that the project's future staffing needs would be met from existing Sonoma County residents and consequently there would be no significant project-related local housing / population increase and related infrastructure / service impacts.

G-10.41 Despite the conflicting causal evidence and research on problem gambling discussed in the analysis for Impact 4.7.1-6, the Draft EIS conservatively recommended Mitigation Measure 5.7-1 to provide both on-site procedures and off-site social services to reduce the occurrence of problem gambling and provide problem gambling treatment if needed. Such intervention by professional social service counselors would address pathological gambling and related social problems (e.g. domestic violence). The Draft EIS requires the Tribe to negotiate with Sonoma County so they can jointly determine the most appropriate local organization to be the counseling service providers and thereby ensure that the most effective results are achieved by the mitigation.

G-10.42 The commenter misinterpreted the drawings, as there would be no driveway connection from the project site to Santana Drive. The gray area shown on Draft EIS Figure 2-1 for Alternative A (and similar figures for the other alternatives) near the

proposed Tribal Headquarters building would be a parking area for Tribal government staff only.

G-10.43 See Response to Comments G-6.6 and G-9-20.

G-10.44 Review of the traffic analysis calculations for the Draft EIS indicates that the cited lane reduction would not change the findings of the analysis; the existing four lanes provide excess capacity in the corridor.

G-10.45 See Response to Comment G-9.26.

G-10.46 Mitigation Measure 5.8-5 stipulates that the project sponsor would install either an off-street path or sidewalk along Asti Road between the SMART track/multi-use trail crossing of Asti Road and the project site entrance.

G-10.47 The commenter's conclusion regarding Mitigation Measure 5.8-1 is incorrect. The measure would reduce near-term conditions to a less-than-significant level. Regarding other assertions made in this comment, the text as written in the Draft EIS is accurate. That is, if signals were installed (per Mitigation Measures 5.8-7 and 5.8-8), then conditions would be unacceptable, and the impact would remain significant. However, if roundabouts were constructed (per Mitigation Measure 5.8-9), the conditions would be acceptable, and the impact would return to acceptable.

G-10.48 Subsequent to publication of the Draft EIS, the Tribe agreed to commit to its fair share, and if necessary, to commit to fully fund the construction of a South Cloverdale off-ramp roundabout and the primary project site driveway roundabout with the condition that all future developments that would benefit from the roundabouts as traffic mitigations, would provide its fair share of the costs to the City, and that the City would transfer those costs as reimbursements to the Tribe. It should be noted that the cited mitigation measures are not individual discrete measures. As stated in the Draft EIS, if Mitigation Measure 5.8-2 and 5.8-3 are selected, then Mitigation Measure 5.8-4 would not be required and vice versa; and if Mitigation Measure 5.8-7 and 5.8-8 are selected, then Mitigation Measure 5.8-9 would not be required and vice versa.

G-10.49 The traffic analysis assumed that the project would not be served by transit, other than the future SMART station located 0.6 mile to the north. Therefore, there were no deductions to the trip generation to account for enhanced transit use. Bus service to/from the downtown area may slightly reduce the amount of vehicle traffic because it would mostly serve some employees of the casino who live in Cloverdale. This service would not preclude the need for road improvements that were recommended in the Draft EIS.

G-10.50 See Response to Comment G-9.88.

G-10.51 Mitigation includes 5.9-1 submission of Federal Aviation Administration (FAA) form SF 7460-1, "Notice of Proposed Construction or Alteration" for FAA review. The measure also included submittal of lighting plans for FAA review. Review of signage has been added to this measure. Additional measures regarding lighting and signage are included in Mitigation Measures 5.13-2 through 5.13-4.

G-10.52 Local policies and goals are not applicable to Tribal land. Consistency with the Cloverdale Municipal Airport is analyzed in Section 4.9. Pursuant to Mitigation Measure 5.9-1, the Tribe would coordinate with the FAA regarding the development.

G-10.53 See Response to Comment G-9.88. The height of the buildings with respect to the navigable airspace surrounding the runway is discussed in Section 4.9 of the EIS. Regarding airport improvements related to the City's Airport Master Plan see Response to Comment G-9.87. Regarding lighting and signage see Response to Comment G-10.51.

G-10.54 Commenter does not specify how mitigation is inadequate.

G-10.55 The local policy is not applicable to Tribal land. Water improvements would be in place prior to project opening.

G-10.56 The local policy is not applicable to Tribal land. Housing impacts are addressed in Section 4.7. Public services and facilities are addressed in Section 4.10.

G-10.57 The local policy is not applicable to Tribal land. The Tribe could still coordinate with the City.

G-10.58 The local policy is not applicable to Tribal land. The Tribe proposes to fund on-site improvements and to fund a full share or fair share of off-site improvements.

G-10.59 At the time the Final EIS was prepared, the Tribe and the City of Cloverdale were in discussions regarding the municipal water supply and wastewater options. Until an option is chosen, both the municipal and private options for water and wastewater are considered feasible. However, certain design details of the project, such as quantity of additional water storage and capacity of water mains cannot be determined until an alternative is chosen under the NEPA process and agreements are finalized between the Tribe and the City of Cloverdale.

G-10.60 See Response to Comment G-10.59. The City of Cloverdale water production capacity for the municipal option would be evaluated during planning discussions between the Tribe and City of Cloverdale.

G-10.61 At the time the Final EIS was prepared, the Tribe and the City of Cloverdale were in discussions regarding the municipal water supply and wastewater options. Until an

option is chosen, both the municipal and private options for water and wastewater are considered feasible. However, certain design details of the project, such as the projected size of wastewater trunk lines needed to accommodate the project cannot be determined until an alternative is chosen under the NEPA process and agreements are finalized between the Tribe and the City of Cloverdale.

G-10.62 Tribal waste does not contribute towards diversion totals as stated in Section 3.10. Council on Environmental Quality (CEQ) memos are directed at different kinds of federal projects such as federal buildings. The EIS has been updated to note changes in Sonoma County waste disposal. The EIS incorporates pollution prevention measures such as recycling and other energy efficiency measures (Mitigation Measure 5.4-8) and preparation of a stormwater pollution prevention plan (Mitigation Measure 5.5-3), among other measures and project design elements.

G-10.63 Mitigation Measure 5.10-3 has been revised to approximately 2.0 to 2.5 sworn officer positions for Alternative A. The actual number of sworn officer positions and other costs would be negotiated with the City.

G-10.64 The analysis of impacts to law enforcement (Section 4.10) is based on multiple studies (Section 4.7) and discussions with the City of Cloverdale, and not simply a comparison to other types of developments.

G-10.65 See Response to Comment G-9.34. The anticipated Tribal-State Compact would include similar requirements for police/fire, i.e. that these services are available prior to opening.

Impacts of casinos on crime are inconclusive. The development would result in a loss of property tax and other taxes which would fund County services such as courts and jails. However, as discussed in Section 4.7, the net tax impact on Sonoma County would be less than significant.

G-10.66 Sections 3.2 and 4.2 acknowledge that the project site is in a seismically active area subject to groundshaking. Measures have been incorporated into the project description and mitigation to reduce hazards associated with seismic events. Mitigation Measure 5.10-6 has been added which provides for an emergency response plan for the project facilities.

G-10.67 Seismic issues are addressed in Section 4.2. It is unclear what disaster scenario would strand patrons at the facility for 10 days. Nevertheless, Mitigation Measure 5.10-6 has been added which provides for an emergency response plan for the project facilities.

G-10.68 See Response to Comment G-10.33 which discusses the Draft EIS analysis findings that the project's future staffing needs would be met from existing Sonoma County residents and consequently their would be no significant project-related local

population increase for the City of Cloverdale or its immediate surroundings as asserted by the commenter.

G-10.69 See Response to Comment G-9.95. Mitigation Measures 5.11.1a and 5.11.1b would mitigate impacts from construction noise and Mitigation Measure 5.11.2 specifically address potential noise impacts from rooftop air conditioners. The primary source of noise from the project is traffic-related. The project buildings, including casino, convention center and events center are fully enclosed. Mitigation Measure 5.11.2 has been modified to address other continuously operated 24-hour equipment (i.e., chillers, refrigeration systems, and exhaust fans).

G-10.70 The EIS analyzes both the visual impact and consistency with the City General Plan. The visual impact to Highway 101 is discussed and found to be part of a potentially significant impact for which mitigation is recommended. It is also discussed in Section 4.13 that the project site is immediately adjacent to Highway 101. In addition the section includes visual renderings to support the conclusions of the impact analysis. As shown on the renderings the proposed landscape plan includes screening for the parking structure, casino, and hotel to obscure views of these structures from most vantage points.

G-10.71 Mitigation Measure 5.13-2 and 5.13-3 specifically includes language which supports the discussed goals and policies (preservation of nighttime sky, shielding, avoidance of light trespass, and refraining from use of neon/excessively bright signage). A detailed lighting plan is not available however Mitigation Measure 5.9-1 includes that proposed lighting and signage would be submitted to the FAA for review.

G-10.72 The parking garage would incorporate the same mitigation measures as the rest of the development including the following: light shielding directed to reduce light trespass, and the intensity of the lights would be kept to a minimum necessary for safety and commerce as determined by the Tribe.

G-10.73 Mitigation adequately addresses lighting impacts. The Tribe would consider this measure as well.

G-10.74 Mitigation adequately addresses lighting impacts. The Tribe is open to discussing the lighting level with the City including the development of a Tribal ordinance to set lighting levels.

G-10.75 See Response to Comment G-10.33 which discusses the Draft EIS analysis findings that the project's future staffing needs would be met from existing Sonoma County residents and consequently there would be no significant project-related local population increase for the City of Cloverdale or its immediate surroundings as asserted by the commentator.

G-10.76 See Comment Response G-10.38.

G-10.77 See Comment Response G-10.38.

G-10.78 In regards to GHGs, as acknowledged in the Draft EIS, the mitigation measures recommended would reduce the GHG emissions from transportation sources and energy usage. In short, they would reduce the project GHG emissions, and GHG emissions are considered to be the primary driver of climate change impacts. The recommended mitigations are practical for the project and the specific site. Mitigation Measure 5.4.10 has been added for the purchase of GHG offset credits through an approved broker.

G-10.79 See Response to Comment G-10.33 which discusses the Draft EIS analysis findings that the project's future staffing needs would be met from existing Sonoma County residents and consequently there would be no significant project-related local population increase for the City of Cloverdale or its immediate surroundings. Mitigation has been revised regarding law enforcement and the development of an emergency plan.

G-10.80 See Response to Comment G-10.81 regarding mitigation monitoring and enforcement. Planning for failure of water/wastewater treatment facilities has been added to Mitigation Measure 5.10-6.

G-10.81 The Record of Decision (ROD) commits the agency to implementation of mitigation (40 CFR §1505.3). Where applicable, a monitoring and enforcement program for mitigation measures shall be adopted and summarized within the ROD (40 CFR §1505.2c). Many of the measures in the EIS are self-enforcing and implementation would be ensured through permit conditions or federal law, which is applicable on trust lands. It should be noted that the BIA cannot compel another governmental agency (State, County or City) to complete off-site improvements or accept payments from the Tribe for improvements.

Comment Letter G-11 SMART

G-11.1 The project analysis was performed under the assumption that people would want to walk, bicycle, and utilize transit to reach the project site. Accordingly, substantial efforts were made to provide and accommodate alternative access to the project site for both employees and project patrons. While a typo on page 3.8-5 inaccurately identified the distance between the Train Depot and the project site as 1.5 miles, the analysis was performed utilizing a distance of about 0.6 mile between the two sites. The expectation that project employees and patrons would utilize transit and/or walk and bicycle to any particular site must be tempered with site specific conditions. While even at a distance that only slightly exceeds the U.S. Department of Transportation’s threshold for “willingness to walk to and from transit stops”, additional considerations such as transit schedules and adjacent land uses were

included in the mode split projections. Given the pro-forma schedule for the passenger rail service to the City of Cloverdale identified in SMART's Final Environmental Impact Report, which includes four southbound weekday trips (three in the morning and one in the afternoon) and four northbound weekday trips (one in the morning and three in the afternoon), the potential to serve project visitors who are largely expected to patronize the project site in the late afternoon and evening hours is limited. Further, pedestrian access to the project site is expected to be affected by the rural nature of the location and limited land uses adjacent to the Train Depot and along the trail corridor. This is especially important when considering the typical demographic of casino patrons.

G-11.2 The Tribe would coordinate with SMART, and provide preliminary designs of the project to determine an appropriate location for a SMART Multi-User Pathway that would comply with FRA and CPUC rules and regulations. Mitigation Measure 5.8-5 stipulates that the project sponsor would install either an off-street path or sidewalk along Asti Road between the SMART track/multi-use trail crossing of Asti Road and the project site entrance. Appropriate contribution would be determined to mitigate the expense of the potential pathway relocation.

G-11.3 Potential private crossings of the rail right-of-way would be disclosed to SMART by the Tribe in order to resolve potential SMART and CPUC concerns, as well as to discuss potential operating or safety impacts. However, creation of a de-facto public access point is not anticipated, and would be highly discouraged by the Tribe.

G-11.4 The comment is accurate. The Draft EIS erroneously states on page 3.8-5 that "the SMART Rail Train Depot is located approximately 1.5 miles north of the project site along Asti Road. The distance between the station platform and the center of the project property, or the main entry to the facility is correctly identified as approximately 0.6 miles later in the report. This measurement is taken along the SMART Multi-Use pathway alignment, and represents the shortest distance between the facilities as well as the location of the proposed bicycle and pedestrian access route. The analysis was prepared in recognition of the U.S. Department of Transportations (DOT)'s research which shows that people have a considerable willingness to take transit if their trip origin or destination is within 0.5 miles of a rail transit stop. However, the pro-forma schedule for the passenger rail service to the City of Cloverdale contained in SMART's Final Environmental Impact Report indicates that service to Cloverdale would be limited to four southbound weekday trips (three in the morning and one in the afternoon) and four northbound weekday trips (one in the morning and three in the afternoon). Given the nature of the proposed use, which is expected to draw patrons in the late afternoon and evening hours, and the nature of the clientele which is anticipated to consist of an older demographic, transit trips via the train are anticipated to consist largely of commute trips by employees working traditional day shifts.

G-11-5 See Response to Comment G-11.1.

G-11.6 The trip generation estimates did not make allowances for potential alternative travel modes (e.g., biking and walking to/from the SMART Station), providing a conservative analysis of potential traffic impacts. In regards to air quality measures, as the commenter notes, the mitigation measure that states "provide public transit incentives such as free or low-cost monthly transit passes" in the Draft EIS does not have a specific trip reduction percent. That is because a trip reduction percent was not identified for this measure in the BAAQMD's 1999 *CEQA Guidelines*. However, the BAAQMD does list this measure as a "Supporting Factor to Enhance Effectiveness" (BAAQMD 1999 *CEQA Guidelines*, page 62) for another trip reduction measure included in the Draft EIS (page 5-4), specifically "Provide shuttle service to public transit". According to the BAAQMD, "Support measures, by definition, are implemented to reinforce other emission reduction strategies" (BAAQMD 1999 CEQA Guidelines, page 59). The listed traffic trip reduction measures in the Draft EIS would not be additive to a baseline transit mode share, since as described above, the trip generation estimates did not make allowances for potential alternative travel modes.

G-11.7 See Response to Comment G-9.26 (regarding recommendations put forth in the Transportation section of the Draft EIS). In regards to the air quality mitigation measures, they have been incorporated as recommendations. This is described in the introductory sentence before the air quality mitigation measures: "The following mitigation measures are recommended for Alternatives A, B, C, D, and E" (Draft EIS, p. 5-3).

G-11.8 Because no preliminary plans for the multi-use pathway crossing have been developed by SMART, it is unknown whether crossing enhancements would be required without the casino project. It is clear, however, that these crossing improvements should be in place with the Casino project and assuming the multi-use trail section is complete to the SMART station. It is agreed that a shuttle service or municipal bus service between the project and the SMART station will increase the transit mode split to/from the project. However, it is unlikely that the volume of ridership would be substantial for this evening oriented use given the current train operational plans for time of day and frequency of the train.

G-11.9 See Response to Comment G-11.6 (regarding mode split assumed for estimate of vehicle trip generation), and Response to Comment G-11.1 (regarding conditions that affect use of public transit by employees and patrons of the project).

G-11.10 Subsequent to publication of the Draft EIS, the project sponsor agreed to create an employee Commuter Program within the Casino that would mitigate the effects of commuters from the Santa Rosa/Rohnert Park area through a shuttle service or ride share program (Mitigation Measure 5.7-2). See Response to Comment G-9.26 (regarding recommendations put forth in the Transportation section of the Draft EIS),

and to Comment G-10.46 (regarding the Draft EIS stipulation that the project sponsor install either an off-street path or sidewalk along Asti Road between the SMART track/multi-use trail crossing of Asti Road and the project site entrance. Under Mitigation Measure 5.5-6 the applicant has committed to implementing a number of transportation and motor vehicle measures to the extent feasible. These measures, as well as Measures 5.7-2 and 5.8-5, provide an appropriate level of mitigation to reduce potential adverse effects to local and regional transit resources. Please also see Comment G-11.1 (regarding conditions that affect use of public transit by employees and patrons of the project).

Comment Letter G-12 USGS

G-12.1 The reference has been added to Section 3.3.

Comment Letter B-1 South Cloverdale Water

B-1.1 The Draft EIS discusses the wells owned by South Cloverdale Water Corporation on pages 3.3-5, 3.10-1 and 4.3-5. The Draft EIS specifically discusses that the water main would need to be relocated on pages 4.10-2 and 4.15-2.

B-1.2 Comment noted.

B-1.3 Comment noted. The project proposes to relocate the existing water line; however, neither the Tribe nor BIA propose to take ownership of the water line.

Comment Letter B-2 Cloverdale Skate Park

B-2.1 See Response to Comment B-2.1

B-2.2 The Skate Park is not an approved project and it is unclear where the Skate Park would ultimately be located. Within the City of Cloverdale General Plan, parks are allowed in Destination Commercial and Transit Oriented Development areas however none of the lands adjacent to the project site contain these designations. Traffic would be present regardless of the project. Traffic safety is addressed in Section 4.8, specifically pedestrian, bicycle and commuter traffic. As discussed in Section 4.7 and 4.10, research has been done on whether or not casinos increase crime in the general community over time. The results of these studies have been inconclusive. No minors are allowed to enter the gaming areas of the casino. This would be strictly enforced through checking identification at the project entrance or other methods subject to the terms of the Tribe’s alcohol license.

Comment Letter B-3 Fredericks, Peebles and Morgan

B-3.1 Comment noted. This is a legal issue and related to a pending lawsuit. As the issue

does not affect the environmental analysis within the EIS no response is provided.

Comment Letter I-1

I-1.1 Comment noted.

I-1.2 Groundwater pumping analysis of the proposed casino indicates that the effects of groundwater pumping for the project would not significantly decrease local water levels and the groundwater bearing zones could adequately supply the project. If the municipal option is chosen, water supply would be provided, from the City of Cloverdale. While the proposed casino project would require additional water supply over what is currently used in Sonoma County, the amount of supply required would not “severely tax” water resources in the County.

I-1.3 The Alexander Valley Resort is included within the cumulative analysis (Section 4.16).

I-1.4 As discussed in Section 4.7 and 4.10, research has been done on whether or not casinos increase crime in the general community over time. The results of these studies have been inconclusive. Mitigation recommends service agreements with law enforcement providers. These agreements could include provisions for the other discussed services.

I-1.5 Comment noted.

I-1.6 Comment noted.

Comment Letter I-2

I-2.1 Comment noted.

Comment Letter I-3

I-3.1 Several commenters discussed that the project would affect the quality of life or community character of Cloverdale. The issues affecting quality of life including traffic, aesthetics, socioeconomics (crime, population, housing), and public services are addressed in the topical sections of the Draft EIS. NEPA requires that social issues be analyzed when associated with physical environmental effects. These physical environmental effects have been addressed in the Draft EIS.

I-3.2 The climate, meteorology, and topography of the project area are discussed in the Draft EIS on page 3.4-1. Applicable general conformity and air district thresholds of significance are identified in Tables 4.4-1 and 4.4-2, which are based on emission levels that would result in significant adverse air quality impacts to the specific region's existing air quality conditions. Thus, the Draft EIS considered local factors

through incorporation of affected air district thresholds in the analysis.

Comment Letter I-4

I-4.1 The commenter asserts that the only economic impact to local businesses is a loss of income. Section 4.7 describes the one-time and ongoing benefits in addition to the potential substitution effects to local businesses. Economic data for impacts to the local economy are not typically presented over a ten-year horizon. In addition the commenter does not request at what interval the data should be provided. Regardless, the effects in the first few years would be expected to be the greatest impacts with fewer substitution effects over time. The economic models used do not rely on whether the national economy is doing well or poorly so no adjustments are warranted based on the commenter's assertion of impacts to the national economy.

I-4.2 Section 4.7 discusses the effects to local businesses. Food and beverage sales are lumped together and alcoholic drinks are included within the food and beverage total.

I-4.3 Section 4.7 acknowledges that there are both new sales and sales which are substituted from existing businesses. As stated in the Draft EIS "it is projected that, at a minimum, $137.1 million of the casino's projected $179.8 million future annual sales would represent new net sales to the Sonoma County economy annually."

I-4.4 Recapturing lost spending from the County is considered to be economically beneficial for the County. It would provide some benefit through retail and meal sales but also by supporting local employment (and wages spent in the local economy) and local vendors supplying the casino.

I-4.5 The 70 rooms were considered minimally dilutive in comparison to the 8,500 hotel rooms currently available in the area.

I-4.6 Net new sales to the County generate beneficial economic impacts to the surrounding area in a number of ways including visitor spending in the community, and revenue to local vendors and employees who in turn put this money back into the local economy.

I-4.7 The EIS discloses the potential impacts to transient occupancy taxes and determines any such tax impacts would represent a relatively minor proportion (less than 3.5 percent) of the jurisdiction's total annual transient occupancy tax receipts.

I-4.8 The EIS discloses the fiscal beneficial and adverse impacts to both the City and County. These are based on IMPLAN input-output modeling which is a widely accepted tool for estimating the indirect economic effects of spending changes to an area's economy. The modeling provides for estimates of money that would be indirectly spent in the local economy. It would be speculative to estimate how individual businesses would be affected as the modeling determines impacts at a larger scale and individual

businesses are influenced by a number of factors other than the project.

I-4.9 The available information regarding construction phase spending as reported by the IMPLAN model has been disclosed.

I-4.10 The analysis finds that overall impacts would be beneficial and thus no mitigation is provided.

I-4.11 The commenter's arguments regarding costs of food and drink and avoidance of relocation of establishments are speculative. Impacts to tax revenues are discussed in Section 4.7.

I-4.12 The economic modeling performed for this analysis determines impacts at a more macro level than the information requested by the commenter. The assumption that additional taxes would be needed to make up for lost tax revenues is speculative.

I-4.13 The EIS takes into consideration research on the impacts of casinos for multiple resource categories including crime (see Response to Comment G-9.34), problem gambling (see Response to Comment G-10.41) and traffic (see Response to Comment G-6.6).

I-4.14 The socioeconomic impact analysis provides a macro-level analysis for impact to local jurisdictions based on IMPLAN modeling, which is well-established. The argument that the project would have a negative impact on relocation of businesses is speculative.

I-4.15 Comment noted. The argument that the project would have a negative impact on relocation of businesses is speculative. The City and surrounding sphere of influence have vacant land on which industrial, commercial and professional businesses could be established to meet these goals. In other words the project does not prevent the City from maintaining wage goals for land within its jurisdiction.

I-4.16 See Response to Comment I-4.15.

I-4.17 See Response to Comment I-4.15.

I-4.18 Traffic would be present regardless of the project. Traffic safety is addressed in Section 4.8, specifically pedestrian, bicycle and commuter traffic.

As stated in the Draft EIS an approximate 40 foot landscaped area, 30 foot slope, and a retaining wall would be located in between the proposed hotel/spa garden and the nearest residence on Santana Drive for Alternative A (other alternatives are similar). With these features future noise levels at sensitive receptors would likely be similar to existing conditions. As for transportation related noise, the Draft EIS states that future noise levels resulting from the increased traffic would not be substantially greater than

the existing ambient noise levels.

I-4.19 Comment noted. Specific responses to comment are provided in this appendix.

I-4.20 to I-4.23 The Draft EIS analyzes a reasonable range of alternatives including reduced intensity, non-gaming and no project alternatives.

Comment Letter I-5

I-5.1 The issue areas that the commenter mentions are addressed in the EIS: light pollution (Section 4.13), noise pollution (Section 4.11), air pollution (Section 4.4), water/sewer (Section 4.10), and socioeconomic issues (Section 4.7).

Comment Letter I-6

I-6.1 See Response to Comment I-12.11.

Comment Letter I-7

I-7.1 Mitigation Measure 5.10-6 has been added which provides for an emergency response plan for the project facilities.

I-7.2 Please refer to the Draft EIS Section 4.3, Water Resources for a discussion of potential groundwater impacts. Also see Response to Comment G-4.13, G-10.26, G-10.27, G-10.59, and I-1.2.

Comment Letter I-8

I-8.1 This Proposed Action analyzed in this EIS requires NEPA analysis. CEQA analysis and preparation of an EIR are not required.

Comment Letter I-9

I-9.1 Please refer to Draft EIS Section 4.3, Water Resources for a discussion of potential groundwater impacts. Also see Response to Comment G-4.13, G-10.26, G-10.27, G-10.59, and I-1.2.

I-9.2 Potential impacts to visual resources are addressed in Section 4.13 and socioeconomics in Section 4.7. The commenter does not elaborate on how the project would result in blight.

Comment Letter I-10

I-10.1 Please refer to the Draft EIS Section 4.3, Water Resources for a discussion of potential groundwater impacts. Also see Response to Comment G-4.13, G-10.26, G-10.27, G-10.59, and I-1.2.

I-10.2 Comment noted.

Comment Letter I-11

I-11-1 The first sentence of Section 4.9 clearly states "Sonoma County and City of Cloverdale land use regulations would not apply to land that is taken into trust." Land use/zoning consistency issues are discussed in Section 4.9. Mitigation has been included to directly address impacts of the project. At this time no LEED certification is proposed. It should be noted that LEED certification is not the only method to adequately address impacts and thus is not a requirement for federal projects.

I-11-2 See Response to Comment G-7.13.

I-11-3 The EIS acknowledges the surrounding uses; however, the development does not preclude surrounding properties from being used as designated/zoned.

I-11-4 See Response to Comment G-9.84. Additionally, Tribal land is not subject to County and City land use policies.

I-11-5 Comment noted. The comment is a list of policies from the City of Cloverdale General Plan. Consistency with local land use plans is discussed in Section 4.9.

Comment Letter I-12

I-12.1 Comment noted. The commenter states the project could cause community harm. Without further definition of how the project would cause community harm or what environmental issues this relates to, no further response could be provided.

I-12.2 The source of this information is the BIA's 2005 American Indian Population and Labor Force Report <http://www.doi.gov/bia/labor.html>. These reports are updated more frequently than the U.S. Census.

I-12.3 The renderings are realistic and provided for key viewpoints.

I-12.4 The EIS addresses environmental concerns required by law and issues raised in scoping and comment letters on the Draft EIS. Traffic impacts are addressed in Section 4.8.

I-12.5 Please refer to the Draft EIS Section 4.3, Water Resources for a discussion of potential groundwater impacts. Also see Response to Comment G-4.13, G-10.26, G-10.27, G-

10.59, and I-1.2.

I-12.6 Please refer to response to the Draft EIS, **Appendix I** for a detailed description of how water demand was calculated. Comparing the overall City of Cloverdale water demand to the expected water demand of the proposed casino project would be skewed because the city demand is based on myriad other uses compared to that of a casino/hotel. Please refer to Response to Comment G-4.13 for a discussion of the effects the project would have on the underlying groundwater aquifer.

I-12.7 The site for the proposed casino is currently mostly undeveloped and only one vacant parcel comprising of less than 3 percent of the project site is located within the City of Cloverdale's jurisdiction. The potential loss of the current City property tax revenues from fee to trust transfer of that parcel is identified in Impact 4.7.1-4. The nature and likelihood any future development of the parcel is unknown and consequently it would be highly speculative to attribute any future economic development scenario conditions and thereby make projections for future economic "losses." It should be noted that this parcel has been removed from the fee-to-trust application and thus losses to the City's property tax revenues are no longer anticipated.

I-12.8 The EIS analyses visual (Section 4.13) and noise impacts (Section 4.11) and recommends appropriate mitigation. Local standards were discussed and taken into consideration for both issue areas.

I-12.9 The Draft EIS analyzed potential traffic impacts using standard traffic engineering methods and practices, which include, among other things, estimation of project-generated daily and peak-hour vehicle trips, distribution of the peak-hour trips on roads that would be used by people traveling to and from the project site, and evaluation of the effect of those trips on traffic flow (delays/congestion). As described in the Draft EIS, the proposed project would have significant near-term and cumulative traffic impacts on area roadways, but all near-term impacts can be mitigated to a less-than-significant level by implementing the measures identified in the Draft EIS.

I-12.10 Federal and state law determines the tax obligations of tribal entities operating businesses and as such any related equity issues are outside the scope of the Draft EIS.

I-12.11 The EIS analyzes the environmental impacts of the project and alternatives on the resource areas mentioned by the commenter. The commenter provides no evidence to counter the conclusions within the EIS.

Comment Letter I-13

I-13.1 The comment is vague and does not specify how the EIS does not make a "good faith effort". Prior to conducting Class III gaming a Tribal-State compact would be entered into by the Tribe and State.

Comment Letter I-14

I-14.1 The population of Cloverdale would remain stable as discussed in Response to Comment G-10.33. Regarding the Tribal enrollment numbers, the source of this information is the BIA's 2005 American Indian Population and Labor Force Report <http://www.doi.gov/bia/labor.html>.

Comment Letter I-15

I-15.1 Traffic is addressed in Section 4.8 and Air Quality (including emissions from traffic) is addressed in Section 4.4.

I-15.2 Operational noise from transportation and non-transportation noise sources was evaluated in Section 4.11 in the Draft EIS.

I-15.3 Visual impacts are analyzed in Section 4.13. Mitigation includes that the project refrain from the use of excessively bright or neon signage.

I-15.4 Comment noted. While the parcel could not be developed by the City it would contribute to the local economy.

I-15.5 Please refer to Response to Comments G-4.13, G-10.26, G-10.27, G-10.59, and I-1.2.

I-15.6 Impacts to public services are addressed in Section 4.10. Impacts to socioeconomic conditions are addressed in Section 4.7. Mitigation is recommended and listed in Section 5.0.

Comment Letter I-16

I-16.1 See Comment Response G-10.38.

Comment Letter I-17

I-17.1 Section 1.4 provides an overview of the environmental process, including scoping. The presentation at the Scoping Meeting and Notice of Intent published in local papers included a description of the components of the project and possible alternatives. Scoping CDs were mailed to individuals who opted to be on the mailing list at the scoping meeting and individuals who submitted scoping comments.

I-17.2 Sections 3.2 and 4.2 acknowledge that the project site is in a seismically active area subject to groundshaking. Measures have been incorporated into the project description and mitigation to reduce hazards associated with seismic events. Mitigation Measure 5.10-6 has been added which provides for an emergency response plan for the project facilities.

I-17.3 The potential loss of the current City property tax revenues from fee-to-trust transfer of that parcel is identified in Impact 4.7.1-4. The nature and likelihood any future development of the parcel is unknown and consequently it would be highly speculative to attribute any future economic development scenario conditions and thereby make projections for future economic "losses." It should be noted that this parcel has been removed from the fee-to-trust application and thus losses to the City's property tax revenues are no longer anticipated.

I-17.4 Soil resources are discussed in the Draft EIS, Section 4.2, *Land Resources.* As discussed in the Draft EIS, the project site east of the railroad tracks is highly susceptible to liquefaction and other soils susceptible to strength loss during strong earthquake ground shaking are found in the project vicinity.

Development on land that is susceptible to liquefaction occurs throughout the San Francisco Bay Area in areas with higher expected ground shaking than Cloverdale. Areas that have a liquefaction potential are typically evaluated by geotechnical engineers and if necessary, a liquefaction mitigation strategy is developed. Soil removal, soil drains, and use of pile supported foundations are but a few of the remedies that can reduce the risk of soil failure due to liquefaction. Mitigation Measure 5.2-1 presented in the Draft EIS requires a design-level geotechnical investigation, which would evaluate the soil type, the risk level of liquefaction, and if necessary, identify appropriate remedies to reduce liquefaction potential.

There is a very low potential that if liquefaction did occur on the project site, that the resultant secondary ground failure would cause water quality impacts to the Russian River. No analysis of this potential impact is necessary because the project site is a floodplain in this area and lateral spread failures (liquefaction effect on slopes), which would lead to material entering the river, are unlikely due to the level of expected ground shaking and topography.

Development on land that is susceptible to liquefaction is permitted and occurs throughout the San Francisco Bay Area. Under the Seismic Hazard Mapping Act of 1990, lands that are determined by the State to be prone to liquefaction must be evaluated and mitigated under the Act using Special Publication SP-117. Under Mitigation Measure 5.2-1, the project site would be evaluated by a geotechnical engineer and if liquefaction is determined as a potential impact on the proposed facilities, a proper mitigation strategy would be implemented to protect the facilities from damage.

Flood impacts are discussed in the Draft EIS, Section 4.3 *Water Resources*. The project would construct levees to protect the proposed wastewater facilities from damage during a large flood event. The casino portion of the project is not located on a 100- or 500-year floodplain and thus is not expected to be impacted. Refer to Response to Comment G-4.3 for additional information on the Tribe's requirement

to consider flooding impacts under FEMA.

I-17.5 It is unclear from the comments as to what data is being referred to as "badly out of date." If the comment is referring to the Department of Water Resources data from 1983 and 2003, this data is not out of date but rather reflects the accepted understanding of the groundwater resources in this region of California and is based on historic data trends. Other precipitation and groundwater data used in the Draft EIS was derived by recent DWR sources including the DWR California Data Exchange Center.

The Draft EIS, Section 4.3, *Water Resources*, and Response to Comments G-4.13 and G-10.26 discuss the effects from groundwater pumping at the project site on neighboring wells.

Groundwater recharge is not proposed as part of the project but it is expected that some of the tertiary treated wastewater applied to the cultivated 14.6 acre spray field would infiltrate to groundwater. Well drillers logs from the construction of the newly installed groundwater supply well on the project site indicates that a clay layer is not 11 feet thick but extends from 4 to 7 feet in depth (3 feet thick). The clay is underlain by about 20 feet of what is described as "river rock". With a shallow, 3 -foot brown clay layer overlying 20 feet of river rock, surface water infiltration is expected to be effective.

Runoff of plant care products is not an anticipated impact because the project would use chemicals, including fertilizers and pesticides, as recommended by the manufacturer and would store, use and dispose of these products in accordance with federal OSHA standards for the management, use and storage of hazardous materials in the workplace (see Draft EIS Section 4.12, *Hazardous Materials*). Additionally, surface water runoff would be managed through recommended Best Management Practices outlined in the preliminary SQMP, (**Appendix Q**).

See Response to Comment G-4.3 regarding the municipal and private water supply options.

I-17.6 AB 32 does not have specific GHG thresholds for cities or counties. The Climate Change Scoping Plan (implementing AB 32) will implement regulations to reduce specific sources of GHG emissions, and those regulations will be enforced in local jurisdictions. The local jurisdiction would not be held accountable for the ability to comply with state goals of GHG reduction. However, Mitigation Measure 5.4-5 (Transportation and Motor Vehicle Measures) and Mitigation Measure 5.4-8 (Energy Efficiency Measures) and Mitigation Measure 5.4-10 (Greenhouse Gas Emission Credits) are identified in the Final EIS and would reduce GHGs.

The term default in section 4.4.1-1 paragraph 3 of the Draft EIS refers to the URBEMIS model preset amounts of crew, truck trips, and equipment for the project

type and size. Please see **Appendix C** for additional information regarding URBEMIS data and assumptions.

The inputs are primarily project type and size and year of initial construction. Information regarding URBEMIS data can be found in **Appendix C**.

Please see Response to Comment G-9.13 regarding health risk and TAC impacts.

In their 1999 CEQA Guidelines, the BAAQMD determined that implementation of these mitigation measures during the construction phase of a project are appropriate and would reduce emissions to less than significant.

In regards to mitigation monitoring and enforcement, please see Response to Comment G-10.81.

The Odor Management Plan requires the applicant to reduce odors so they won't be an issue. The plan is avoid any arbitration by mitigating odors through the Odor Management Plan.

In their 1999 CEQA Guidelines, the BAAQMD determined that implementation of these mitigation measures during the construction phase of a project are appropriate and would reduce emissions to less than significant. For operations, the idling standard is established in California Air Resource Board’s Airborne Toxic Control Measure to Limit Diesel-Fueled Commercial Motor Vehicle Idling (California Code of Regulations, Title 13, Division 3, Article 1, Chapter 10, Section 2458). In regards to mitigation monitoring and enforcement, please see Response to Comment G-10.81.

Information regarding the specifics of shuttle bus travel is not available.

As the monitoring station is the nearest it would more accurately represent the area than a monitoring station that is located further away.

I-17.7 The project site provides limited suitable nesting habitat for large birds of prey. However, Mitigation Measure 5.5-4 from the Draft EIS would mitigate potential adverse effects to these species. Project alternatives have avoided a majority of sensitive oak woodland and riparian woodland habitats, with proposed development occurring mostly within urban, non-native annual grassland, and vineyard habitat types. Conserved native oak trees would continue to provide existing screening of the project site. Mitigation Measure 5.5.-1 from the Draft EIS mitigates the loss of sensitive habitats by the proposed development through the creation, restoration, or enhancement of coast live oak woodland and north coast riparian scrub habitat. Mitigation Measure 5.5-9 has been added to the project (Section 5.0) to further protect native tree species that would be avoided by project construction.

I-17.8 Regarding the Tribal enrollment numbers, the source of this information is the BIA's 2005 American Indian Population and Labor Force Report <http://www.doi.gov/bia/labor.html>. A Tribal voting list may not represent all members, particularly children. Employment of Tribal members is only on aspect of the purpose and need.

I-17.9 Comment noted. This is a legal issue and related to a pending lawsuit. As the issue does not affect the environmental analysis within the EIS no response is provided.

I-17.10 The commenter lists several socio-economic issues which are addressed in Section 4.7 including impacts to the local housing market, County/City tax revenue, economic impacts to the City, problem gambling, crime and cannibalization/substitution impacts to local businesses. Beneficial community effects are also discussed.

Long-term viability/sustainability of the project was analyzed by the Innovation Group with the conclusion that the project would generate revenue.

It is unknown how the commenter believes the project would affect the City's marketing efforts (for the Citrus Fair or other projects) and no information has been provided on the extent and result of these efforts.

See Response to Comment I-17.11 regarding the project's future staffing needs which would be met by Sonoma County residents.

I-17.11 The Draft EIS analysis concluded that the project's future staffing needs would be met from existing Sonoma County residents and consequently there would be no significant project related local population increase for the City of Cloverdale or its immediate surroundings as asserted by the commenter.

The comment states an opinion about future gas prices and changes in driving habits, both of which are speculative, and subject to many variables. The Draft EIS analysis of the proposed project's effects on transportation conditions did not make the assumptions that the comment asserts, and is consistent with standard practice for traffic analysis studies.

The rail road right of way is not within the proposed trust parcel boundaries and would not be taken into federal trust as a result of the project.

The comment states an opinion about future travel modes, but does not address the adequacy of the Draft EIS. No response is required.

Details about the shuttle service to be operated by the project sponsors are not known at this time, but that does not undermine the adequacy of the Draft EIS. No further response is required.

The Draft EIS analysis of traffic impacts during peak traffic hours was based on empirically gathered data about when those peak hours occur at the study intersections. Traffic conditions on Friday evenings do not represent average conditions, and such analysis would be inconsistent with standard practice for traffic analysis studies.

See Response to Comment G-6.5 regarding project-generated traffic during morning peak traffic hour, and why analysis of impacts during that period is not warranted.

The project's peak parking demand (i.e., the highest parking demand that would occur) was determined using standard traffic analysis methodologies, and therefore the impact determination that the project's parking demand would not exceed its parking supply is valid. Buses bringing people to the project site would only park on-site.

As described in the Final EIS (new Mitigation Measure 5.7-2), the project sponsors would provide a shuttle service for employee commuters from the Santa Rosa / Rohnert Park area to reduce traffic impacts.

The Draft EIS analysis of the proposed project's effects on traffic conditions at area intersections (including the location cited by the comment) is consistent with standard practice for traffic analysis studies, including the use of future traffic projections obtained from the General Plan Update traffic analysis, and as such, provides information about future conditions at the comment's cited location.

The comment is speculative, and does not address the adequacy of the Draft EIS. No response is required.

Implementation of Draft EIS Mitigation Measure 5.8-6 would ensure that the peak parking demand would be accommodated by onsite parking spaces.

See responses to Comments G-6.6, G-9.21, G-9.25, G-9.26, G-10.33, G-10.44, G-10.46 and G-11.1.

I-17.12 The comments here are the same as those made in Comment Letter I-11. See responses above.

I-17.13 Comment noted. This is a legal issue and related to a pending lawsuit. As the issue does not affect the environmental analysis within the EIS no response is provided.

I-17.14 The Draft EIS evaluates noise impacts from construction, stationary operations, and mobile sources in Section 4.11 of the Draft EIS. Cumulative noise impacts are evaluated in Section 4.16 of the Draft EIS.

The Draft EIS discusses noise levels from construction activities at the nearest sensitive receptors and compares them to both existing noise levels and city

thresholds. Mitigation Measure 4.11.1a limits the hours of construction to reduce potential impacts of sleep disturbance.

Table 3.11-1 of the Draft EIS shows existing noise measurements in the area. Noise levels cannot be physically measured for other configurations.

The Draft EIS discusses State of California General Plan Guidelines Noise, as well as City of Cloverdale noise thresholds. See Figure 4.11-1.

The Noise Element of the City of Cloverdale General Plan (2008) uses the Land Use and Noise Compatibility Standards from the State of California General Plan Guidelines as their exterior noise limits as shown in Figure 4.11-1 of the Draft EIS.

The 2008 SEIR for the Sonoma-Marin Area Rail Transit Project (SMART) stated in section C.3.4 Noise and Vibration that the increase in ambient noise caused by the SMART project was determined to be less than significant.

The Draft EIS states that the nearest residence at 250 feet to construction would be exposed to approximately 75 dBA Leq during excavation, the loudest of the activities that would occur during construction. The residences located about 500 feet on Otto Boni Drive would be exposed to approximately 69 dBA Leq during excavation. Therefore noise levels would be below 100+ dBA. Any levels reaching 100 dBA would be immediately adjacent to equipment and not at off-site receptors.

As stated in the Draft EIS an approximate 40 foot landscaped area, 30 foot slope, and a retaining wall would be located in between the proposed hotel/spa garden and the nearest residence on Santana Drive for Alternative A (other alternatives are similar). With these features future noise levels at sensitive receptors would likely be similar to existing conditions. As for transportation related noise, the Draft EIS states that future noise levels resulting from the increased traffic would not be substantially greater than the existing ambient noise levels.

As noise levels are less than significant at surrounding residences, no noise complaint procedures would be necessary.

The nearest sensitive receptors are located on Santana Drive and Otto Boni Drive. See also Response to Comment G-9.96.

I-17.15 Chemicals used in the construction and operation phases of the proposed project are standard products used in the construction and hotel management industry and would be supplied to the project site in commercial packaging and quantities. All chemical products would be transported, stored, used, and disposed in accordance with federal agency regulations (i.e. OSHA, DOT, EPA). See Draft EIS, Section 4.12, *Hazardous Materials.* The MGM brake manufacturing site clean-up is currently under jurisdiction of the RWQCB and monitoring and remediation has

been underway. Groundwater is continually monitored on and away from the project site (see Draft EIS **Appendix K**). Changes in concentrations of the previously identified groundwater contaminants would be identified and the RWQCB would require corrective actions if contaminate levels increased or new contaminants were identified. Mitigation Measure 5.12-1 from the Draft EIS addresses potential adverse effects from discovered hazardous groundwater, soils, or other unknown materials onsite during construction. A qualified Registered Environmental Assessor (REA) certified through the State of California would perform the assessment of contaminants if discovered on-site. Please see comment G-4.12 and G-9.76 regarding required safe drinking water regulations.

I-17.16 Trust land is not subject to local land use policies. In addition to mitigation, the project includes landscape screening for the parking structure, casino, and hotel to obscure views of these structures from most vantage points. While it would take time for the trees to grow, having a short-term view of the project is not considered blight.

Night lighting, signage and glare are addressed in Section 4.13 and mitigation is provided in Section 5.0.

Water for landscaping is included within the assumptions for water for the project and alternatives (Section 2.0 and Section 4.10).

I-17.17 Given that data is analyzed at the census tract level and the 2010 Census information is not yet available, the 2000 Census is appropriately used. The data is compared to the City of Cloverdale for another point of reference.

Comment Letter I-18

I-18.1 The comment states an opinion regarding the project and provides some background on the wine industry and groundwater but does not address the adequacy of the Draft EIS. Please refer to the Draft EIS Section 4.3 Water Resources and Response to Comment G-4.13.

Comment Letter I-19

I-19.1 Comment noted.

I-19.2 The EIS analyzes both private and municipal options for water and wastewater. Impacts are discussed in Sections 4.3 and 4.10.

I-19.3 See Response to Comment I-3.1.

Comment Letter I-20

I-20.1 The Notice of Intent provided several key facts about the Proposed Action including, location, size of parcel, project access routes and areas of environmental concern. The commenter confuses the scoping period with a commenting period. The scoping hearing is itself optional under NEPA (40 CFR 1501.7b). The scoping report (ESA, 2008) provides evidence that the public and agencies were able to submit substantive comments on the Proposed Action.

I-20.2 Comment noted. This is a legal issue and related to a pending lawsuit. As the issue does not affect the environmental analysis within the EIS no response is provided.

I-20.3 See Response to Comment G-9.87.

I-20.4 The groundwater pumping analysis reveals that the capture zone and area of groundwater draw down would be very localized to the pumping well on the project parcel. Neighboring wells are not expected to be affected. Please see Response to Comment G-4.13 for further discussion regarding impacts to existing wells in the vicinity of the project.

I-20.5 The soils in the 14.6 acre spray field area should accommodate the effluent and after residence time in the soils, a certain quantity of the water, not remaining in the soil column or taken up by the cover crop evapotranspiration, could infiltrate to groundwater and eventually enter the Russian River via groundwater flow. However, it is important to note that the effluent is tertiary treated to California Title 22 standards and can be applied to the land without further treatment. As described in the Draft EIS, Section 5, Mitigation Measures, Mitigation Measure 5.5-3, the Tribe would be required to monitor groundwater quality. The alternative to spray field application is the municipal option, which is described in the Draft EIS, Section 2, Alternatives. This option would provide the Tribe with sewer service from the City of Cloverdale.

I-20.6 Discussions are ongoing. The EIS analyzes both a municipal and a private option for water and wastewater and does not rely on the assumption of municipal connection.

I-20.7 Please refer to the Draft EIS, Section 4.3 Water Resources, Response to Comments G-4.13, G-10.26, G-10.27, G-10.59, and I-1.2.

Appendix T

Response to Fee-to-Trust Application Comments

ESA

RESPONSE TO FEE-TO-TRUST APPLICATION COMMENTS

The Bureau of Indian Affairs issued a Notice of (Gaming) Land Acquisition Application pursuant to 24 CFR §151.10 which gives notice of the application filed by the Cloverdale Rancheria of Pomo Indians of California to have real property accepted into trust by the U.S. government. The notice was published on April 12, 2012 and included an invitation to interested parties to comment within 30 days. Two comments were included within the letters which concern environmental issues which were not previously raised in comments on the Draft EIS. Response to these comments is provided below and followed by the applicable comments letters. The remainder of the comments are outside of the scope of the National Environmental Policy Act (NEPA) process, or are addressed in the Draft EIS and Response to Comments.

Waters of the State

The North Coast Regional Water Quality Control Board requested that impacts to waters of the State (which has a broader definition of waters of the U.S.) be evaluated and that impacts be minimized or avoided. All surface water features within the project site qualified as waters of the U.S. for which impacts were analyzed in Section 4.5 of the Draft EIS. There are no surface water features within the project site boundaries which would only qualify as waters of the State and not waters of the U.S. North coast riparian scrub habitat occurring within the project area is considered an important biological community (in terms of providing habitat) and is less regionally abundant than other types within the project area. This habitat is not federally jurisdictional (waters of the U.S.), but may be considered waters of the State, as defined in California State Water Code Section 13050. Regardless to whether this habitat is considered waters of the State, Impact 4.5.3-1: Effects to Upland Habitats, addressed this potential impact of 0.11-acres to North coast riparian scrub habitat, and mitigates with the requirement of onsite restoration and creation of this habitat (Mitigation Measure 5.5-1).

Tribal Needs Discussed in the Fee-to-Trust Application

The City of Cloverdale and Sonoma County requested clarification on whether child care, housing, a cultural center or other tribal facilities would be located on the parcels proposed for trust status. These uses were listed as Tribal needs in the fee-to-trust application. Tribal administrative offices are included within the Proposed Action and alternatives (described in Section 2 of the Draft EIS); however, no other Tribal facilities are proposed. The full use of the property and development plans under the Proposed Action and alternatives, which are

reasonably foreseeable at this time, are disclosed in the EIS. Tribal needs are not the same as reasonably foreseeable Tribal development. Until the Tribe has improved economic conditions, development of additional facilities or application for additional trust lands is speculative (as to the timing, size and nature), and thus not required to be addressed by NEPA.

CALIFORNIA
Water Boards

EDMUND G. BROWN JR.
GOVERNOR

MATTHEW RODRIQUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

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North Coast Regional Water Quality Control Board 2012 MAY 14 PM 2:17

PACIFIC REGIONAL
OFFICE

May 10, 2012

Arvada Wolfin
U.S. Bureau of Indian Afairs
2800 Cottage Way
Sacramento, CA 95825

Dear Arvada Wolfin:

Subject: Comments on the Notice of Land Acquisition Application for the Cloverdale Rancheria of Pomo Indians Project, SCH No. 2012-03

Thank you for the opportunity to comment on the Notice of Land Acquisition Application for the Cloverdale Rancheria of Pomo Indians Project (project) located on parcels 116-310-005, -044, -020, -035, -039, and -040 in Sonoma County. The North Coast Regional Water Quality Control Board (Regional Water Board) is a responsible agency for this project, with jurisdiction over the quality of ground and surface waters (including wetlands) and the protection of the beneficial uses of those waters.

The proposed project consists of transferring land from private ownership to Indian trust land and developing a 2-story casino, hotel, convention center, entertainment center, and other ancillary facilities along with a tribal government building on the south end of the project site.

We have the following suggestions:

Storm Water and Low Impact Development

The Regional Water Board suggests the use of Low Impact Development (LID) and best management practices (BMPs) to mitigate potential impacts to water quality. LID BMPs that treat and retain (infiltrate, capture, evapotranspirate and store) storm water runoff on the project site are efficient and cost effective.

LID is a development site design strategy with a goal of maintaining or reproducing the pre-development hydrologic system through the use of design techniques to create a functionally equivalent hydrologic setting. LID emphasizes conservation and the use of on-site natural features integrated with engineered, small-scale hydrologic controls to more closely reflect pre-development hydrologic functions. Hydrologic functions of storage, infiltration, and ground water recharge, as well as the volume and frequency of discharges, are maintained through the use of integrated and distributed storm water retention and detention areas, reduction of impervious surfaces, and the lengthening of flow paths and runoff time. LID seeks to mimic the pre-development site hydrology through infiltration, interception, reuse, and evapotranspiration. LID intentions are that the storm water runoff volume from small storms be retained onsite.

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Other LID strategies include the preservation and protection of environmentally sensitive site features such as riparian buffers, wetlands, steep slopes, valuable trees, flood plains, woodlands, native vegetation and permeable soils. Natural vegetation and soil filters storm water runoff and reduces the volume and pollutant loads of storm water runoff. Other benefits from LID implementation include reducing global warming impacts from new development (preserving carbon sequestering in native soils and retaining native vegetation), increasing water supply (by encouraging ground water recharge) and reducing energy consumption.

LID requires the use of landscape-based BMPs that filter storm water runoff using vegetation and amended soil prior to infiltration. Examples of these types of BMPs are rain gardens and vegetated swales. LID BMPs need to be sized to treat the storm water runoff from all impervious surfaces (e.g. roads, roofs, walkways, patios) using the Storm Water Low Impact Development Technical Design Manual found at www.srcity.org/stormwaterLID (recommended to be used for projects within Santa Rosa and parts of Sonoma County, but also recommended for projects elsewhere), or using the following sizing criteria:

1. The volume of runoff produced from the 85th percentile of 24-hour rainfall event, as determined from the local historical rainfall record; or

2. The volume of runoff produced by the 85th percentile 24-hour rainfall event, determined using the maximized capture storm water volume for the area, from the formula recommended in Urban Runoff Quality Management, WEF Manual of Practice No. 23/ASCE Manual of Practice No. 87, p. 170-178 (1998); or

3. The volume of annual runoff based on unit basin storage water quality volume, to achieve 80 percent or more volume treatment by the method recommended in California Storm Water Best Management Practices Handbook-Industrial/Commercial (1993).

BMPs to prevent erosion and the release of sediment or hazardous materials during construction activities should be included to prevent sediment and other pollutants reaching surface waters or leaving the site in storm water runoff. These can include scheduling grading to take place during the dry season, identifying staging areas for work vehicles that are separated from sensitive areas, training employees in procedures for cleaning up spills of hazardous materials, and erosion and sediment control techniques.

Wetlands and Waters of the State

The Regional Water Board's Water Quality Control Plan for the North Coast Basin (Basin Plan) and the California Water Code define waters of the state as follows: "'Waters of the state' refers to any surface water or groundwater, including saline waters, within the boundaries of the state (Water Code §13050 (e)." This definition is broader than that of "waters of the United States" and consequently should always be acknowledged and considered when determining impacts upon water resources.

Any adverse impacts to, or loss of, natural or constructed wetlands and their beneficial uses due to development and construction activities are recommended to be fully mitigated. Impacts to waters of the State should first be adequately evaluated to determine if the impacts can be avoided or minimized. All efforts to first avoid and second to minimize impacts to waters of the State are recommended to be fully exhausted prior to deciding to mitigate for their loss. If a

project's impacts to waters of the State are deemed unavoidable, then compensatory mitigation (for acreage, function and value) would be beneficial for any unavoidable impacts.

Impaired Waters

Please note that the Russian River and its tributaries are CWA section 303(d) listed for excess sedimentation, siltation, and temperature related impacts. The Regional Water Board has the responsibility to protect the Russian River and its tributaries from water quality impacts due to existing and new sources of pollution. The Regional Water Board recommends the project to implement LID techniques (such as EPA Green Infrastructure) for all developed areas of this project.

If you have any questions or comments, please contact me at (707) 570-3761 or at mdougherty@waterboards.ca.gov.

Sincerely,

Mona Dougherty
Senior Water Resources Control Engineer

120510_MA_ResponseCloverdaleRancheriaOfPomoIndiansFeeToTrust

cc: Scott Morgan, State Clearinghouse, P.O. Box, 3044, Sacramento, CA 95812
Re: SCH No. 2012-03

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Reg Dir
Dep RD Trust
Dep RD IS
Route
Response Required NO
Due Date
Memo Ltr
Fax
FIC

June 18, 2012

Amy Dutschke
Regional Director
Pacific Region
Bureau of Indian Affairs
2800 Cottage Way
Sacramento, CA 95825

Re: Comments on Application to Acquire Land in the Name of the United States in Trust for the Cloverdale Rancheria of Pomo Indians of California

Dear Ms. Dutschke:

The City of Cloverdale (the "City") appreciates the opportunity to review and comment on the Application to Acquire Land in the Name of the United States in Trust for the Cloverdale Rancheria of Pomo Indians of California and certain Exhibits (the "Application"), which we understand was submitted to your office on December 31, 2010 by the Cloverdale Rancheria of Pomo Indians (the "Tribe"). The City received a Notice of (Gaming) Land Acquisition Application (the "Notice") from your office by facsimile on April 19, 2012 and was granted by letter dated May 4, 2012 a 30-day extension of time, to and including June 18, 2012, to provide its written comments. The Notice invites the City's comments on the Application and requests specified information from the City.

I. Introduction

In the following we provide the requested information and comment on the Application and the foreseeable impacts on the City of the proposed project as described in the Notice: i.e., "a casino, hotel, convention center, entertainment center and other ancillary facilities… [and a] tribal government building . . . ." (the "Project").

Unfortunately, the information that has been made available concerning the Project is lacking in critical areas, contains significant inconsistencies and inaccuracies, and does not provide an adequate basis for assessing Project impacts, particularly impacts the Project would have on the City. Because of these problems in the record, and because of significant, negative impacts the Project would have on the City that can be gleaned from the limited

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available information, the City strongly opposes the proposed acquisition. In addition, the Application fails to meet the requirements for approval by the Secretary of the Interior or designee (the "Secretary") in accordance with the regulations governing acquisition of land by the United States in trust for tribes.[1] The Application is incomplete and premature, because it does not include and is not supported by sufficient information to allow the Secretary to determine whether the prerequisites for acquisition in trust for the Tribe have been met.

The Application and supporting material are insufficient for a meaningful assessment by the City or any other affected government body of the proposed acquisition, the planned Project, and its numerous and significant impacts on the City, the surrounding unincorporated area and Sonoma County as a whole. Much of the information that would be necessary to adequately assess the acquisition and the Project has not been prepared or has not been made available, either to cooperating agencies like the City, or to the public. For example, no Final Environmental Impact Statement ("FEIS") has been released concerning the Project, and there is no information available on how the numerous, significant inadequacies of the Project Draft Environmental Impact Statement ("DEIS") as identified by the City and other agencies commenting on the DEIS will be addressed. In addition, the market study prepared for the Project, on which numerous, key assertions in the Application rely, has not been made public, based on the assertion that the document is proprietary. Without review of the market study, it is impossible to adequately carry out the "hard look" review required under the National Environmental Protection Act ("NEPA") or to seriously examine the assertions regarding the Project economic impacts contained in the Application. The Tribe's position that the market study is proprietary is preventing the Application from satisfying NEPA requirements, and preventing other government bodies affected by the Application, including the City, from examining the basis for the conclusory statements regarding Project economic impacts contained in the Application and the DEIS.

Many of the inadequacies identified in the DEIS involve fundamental questions about the economic impacts of the proposed acquisition and the Project. As a result, the Application record is inadequate for addressing such critical economic issues as: the viability and sustainability of the Project in the current economy, in view of current and future casinos in the vicinity; the availability of City or viability of Tribe water and wastewater facilities for the Project, and the facilities' cost; the economic, public safety and health risks to the Project and nearby critical City facilities resulting from the placement of Project facilities in the flood plain; the lack of available housing and transportation for Project employees, and the cost of such transportation and housing, and related infrastructure; the cost of law enforcement, emergency and social service impacts of the Project; and the cost to the City's economic future of permanent removal of critical developable industrial land from the City's planning jurisdiction. Given the inadequacy of the record for assessing the proposed acquisition, the

[1] 25 CFR 151.1 *et seq.*

Project, and the Project impacts, including the Project economic impacts on the City, the City reserves all of its rights regarding the acquisition and the Project, including the right to provide additional comments as more information becomes available, such as the Final Environmental Impact Statement for the Project, and any amendments or supplements to the Application.

In the following, after providing some context, we provide information requested in the Notice regarding removal of the land proposed for acquisition from the tax rolls. We also address the inadequacy of the Application under the regulations governing acquisition of property in trust. Because the limited information sought in the Notice is inadequate as a basis for the Secretary to assess the extent of the economic impact of the proposed acquisition and Project on the City, in the following we also provide additional information that better characterizes the nature and magnitude of the impacts that would result from the proposed acquisition and the Project, and that addresses some of the fundamental questions regarding the Project economic impacts. In addition, the following discussion will address some key inaccuracies and inconsistencies in the Application.

II. Background

The City first became aware of the Tribe's intention to acquire land for a casino project in November, 2007. Following a series of meetings to obtain community input, in May, 2008 the Cloverdale City Council (the "Council") adopted Resolution No. 056-2008, (attached). The resolution expressly supports Tribal economic development generally, but opposes the casino Project because it would, among other things, remove much of the remaining land available for industrial uses in the City, increase demand on public infrastructure, conflict with important land use goals established in the City's General Plan, adversely impact the City's downtown businesses, erode the City's small-town character, diminish residents' quality of life, increase crime, and have an adverse negative social and economic impact on users of the casino. Thereafter, in 2009, the City participated as a cooperating agency in reviewing and commenting on an Administrative Draft Environmental Impact Statement ("ADEIS") for the proposed Project. In 2010, the City submitted comments on the DEIS, and in 2011 the City responded as a cooperating agency with comments on an Administrative Final Environmental Impact Statement ("AFEIS"). To date, we are not aware of the FEIS having been released, and thus have not yet had an opportunity to comment on it, although we fully intend to do so. In summary, the City has been evaluating the limited and evolving information made available regarding the proposed Project, in its various permutations, for a number of years.

The Notice describes the Project as a casino, hotel, convention center, entertainment center, and ancillary facilities, with a tribal government building proposed on the south end of the Project site. The two-story casino would include gaming, food and beverage, retail shopping, and administrative facilities, including 80,000 square feet of gaming, 2,000 slot machines and 45 gaming tables. The food and beverage facilities would take up 52,445 square feet and accommodate 984 seats. Support facilities would cover 79,455 square feet.

The casino would be open 24 hours a day, 7 days a week. This appears to correspond with Project alternative A presented in the DEIS. The DEIS indicates that the hotel would be up to 5 stories tall and have 244 rooms, that the entertainment center would be up to 2 stories tall and have 1,300 seats, and that the tribal government building would occupy 20,000 square feet, for total facilities square footage of 595,600, and approximately 3,400 parking spaces in surface and garage parking.

The Notice indicates that 6 parcels, numbers 116-310-005, 116-310-020, 116-310-035, 116-310-039, 116-310-040, and 116-310-044 are proposed for acquisition. However, the Notice is in error. Parcel 116-310-044 no longer exists. As is discussed further below, part of the land contained in what the Notice identifies as parcel 116-310-044 is owned in fee by the City and is developed with a wastewater treatment pond. The Application correctly notes that only one parcel proposed for acquisition in trust, 116-310-020, is currently within City limits. However, all of the parcels proposed for acquisition are within an area that is critical to the future economic health of the City. All of the parcels sought to be acquired are within the City's voter approved urban growth boundary. All of the parcels sought are also within the study area of the City's 2009 General Plan, and the City's sphere of influence. Therefore, as should be clear, the City's General Plan has identified the property sought for acquisition in trust for future annexation into the City. The parcels sought on the East side of the railroad tracks have a General Plan land use designation of Conservation Feature. The eastern portion of the parcels on the West side of the railroad tracks have a General Plan land use designation of General Industrial, and the western portion of the parcels on the West side of the railroad tracks have a General Plan land use designation of Business Park.

III. Information Requested in the Notice

The Notice invites the City's comments on the proposed acquisition, and requests that the City provide the following:

1. If known, the annual 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;

3. Any government services that are currently provided to the property by your organization;

4. If subject to zoning, how the intended use is consistent, or inconsistent, with current zoning.

The City's responses to the information sought in the Notice follow:

1. Section F of the Application correctly indicates that of the parcels proposed for acquisition, only one, APN 116-310-020, is currently in the City limits. The City's share

of the property tax on this parcel in 2011 was $175. Obviously, the City's share of annual property tax from the parcel is not a major sum. However, according to the Application, the annual taxes for the land proposed to be acquired in trust totaled $138,870.16 for 2009-2010. The City's share of that amount would be approximately $42,425 annually of General Fund revenue following annexation of the property into the City, as is anticipated in the City's General Plan. Therefore, removal of the property proposed for acquisition from the City's future tax rolls, as anticipated in the General Plan, results in a significant reduction in future tax revenue for the City.

More importantly, direct property tax proceeds from the land proposed for acquisition are not an adequate measure of the impact of acquisition of the land in trust on the City's economy. The proposed acquisition would have a monumental impact on the City's economy, now and for the future, not because of loss of direct tax proceeds, but because the acquisition would remove from the City planning process and policies and future jurisdiction the vast majority of the undeveloped land within the City's Sphere of Influence that is designated for industrial use, and that has municipal services (water and wastewater) readily available. The proposed acquisition would appropriate the City's means for creating economic growth through new industrial business, new jobs for skilled workers, and for attracting new businesses and residents needing other goods and services, and promoting the City's economic vitality. This industrial land has been carefully preserved by a succession of City Councils, despite pressure during the residential development boom years to re-designate the land to permit residential development. Past City Councils have insisted on maintaining the industrial designation of the land proposed for acquisition because it is viewed as the City's economic future. The proposed acquisition would literally take that future away. This profound economic impact of the proposed acquisition is further discussed below.

2. As far as we know, there are no special assessments currently assessed to parcel APN 116-310-020 for the benefit of the City.

3. The City currently provides and/or has available to APN 116-310-020 the full range of municipal services that are available to all properties in the City, including police, animal control, water, wastewater, planning, etc. Water and sewer utilities are available and nearby to the parcel in Santana Drive. This fact underscores the importance of parcel 116-310-020, and the other parcels proposed for acquisition in trust, to the City's plans for future economic development and jobs creation.

4. The proposed Casino use is completely inconsistent with the current General Plan land use designation of Conservation Features for the part of the land proposed for acquisition East of the railroad tracks, and the General Plan land use designations of Business Park/General Industrial for the land West of the railroad tracks. The proposed Casino use is also completely at odds with the land use policies and goals that apply to and make sense for the land proposed to be acquired, in terms of providing for a sound economic future for the City.

The Business Park designation in the General Plan is intended to provide additional service-oriented employment opportunities in Cloverdale via primary uses such as professional office and research and development uses, and secondary uses including limited light industry, industrial parks, wineries, warehouses and nurseries.[2] The General Industrial land use designation in the General Plan is intended to provide additional employment opportunities in Cloverdale through primary uses such as light manufacturing, limited manufacturing, industrial parks, wineries, lumber mills, assembly, warehousing and distribution, and secondary uses such as professional office and research and development.[3] The General Plan land use designation of Conservation Features is intended to manage and preserve valuable biological, visual and agricultural resources in the Cloverdale planning area through primary uses of river/stream-related recreation, open space buffers, and agricultural production.[4]

The proposed massive, Nevada-style casino (comprising more than half a million total square feet of building space, and over 3,000 parking spaces - more than 1 parking space for every 3 Cloverdale residents) would derail the voter-approved Urban Growth Boundary policy that anticipates industrial, urban development on the part of the property west of the railroad tracks, to produce high paying jobs, and conservation of the property east of the railroad tracks, to protect river-related recreation and existing biological, visual and agricultural resources. The proposed use is simply a disaster in terms of the General Plan land use policies, goals and objectives applicable to the land proposed for acquisition, and the importance of such policies for the future of the City.

IV. The Application Fails to Meet the Requirements of the Statutory and Regulatory Authority For Approval of Acquisition of the Property by the United States in Trust For the Tribe

Title 25, Part 151, of the Code of Federal Regulations sets forth the criteria for determining whether the Secretary may grant the Application. Pursuant to that authority, the Application is deficient in the following respects.

1. Timing of Release of the Application

As a threshold matter, consideration of the Application should be deferred until release of the FEIS for this Project. Further, upon such release, a new Notice of Application should be disseminated for public comment pursuant to 25 CFR, Part 151. The City (and other government agencies) provided detailed comments on the DEIS in October 2010. The City also commented on the ADFEIS in August, 2011 At present, the City is prevented by the

[2] 2009 General Plan §2.3, p. 29.

[3] 2009 General Plan §2.3, p. 29.

[4] 2009 General Plan §2.3, p. 29.

unavailability of the FEIS from assessing both: (1) whether and to what extent the City's numerous, substantive comments have been addressed, and (2) the nature of comments from others that may be relevant to the City's position on and concerns about the Application. The description of the property and Project contained in both the Notice and the 2010 Application itself are woefully inadequate as a basis for meaningful comment on impacts of the proposed Project, as is further illustrated in the discussion that follows.

2. Property Description

As part of the Application, the land contained within the exterior boundaries of the Tribe's reservation or adjacent thereto must be adequately, and accurately, described.[5] The August 2010 DEIS lists the acreage proposed for acquisition as approximately 69.77 acres. The December 31, 2010 Application lists six parcels totaling "approximately 64.48 acres." The total acreage of the property as identified in the Secretary's December 1, 2008 Indian Lands Determination (the "ILD") issued by the Secretary is approximately seventy (70) acres of land. Using the barely legible map contained within the ILD, the Sonoma County Clerk-Recorder-Assessor has calculated the acreage at 76.35 acres. The Secretary, as well as the City and the public, are entitled to an accurate description of the size of the property subject to the Application.

Also, as noted above, there are errors in the parcels depicted in the Notice and the Application, and the Assessor's parcel numbers cited in both documents. Although the Application lists the property proposed for acquisition as parcels 116-310-005, -020, -035, -039, -040, and -044, parcel number 310-116-044, also included in the Notice of Application, is an invalid number. It has been replaced by parcel numbers 116-310-079 and 116-310-080. The City of Cloverdale is the owner of 116-310-080 in fee, although it is not identified as such in either the Application or the Notice. Parcel 116-310-080 contains a wastewater treatment pond that is part of the City's waste treatment facilities. The inaccurate description and depiction of the property sought to be acquired prevents the City, the public, and the Secretary from accurately assessing the actual parcels sought to be acquired. The Application to acquire land in trust may not include City fee property containing City facilities.

In addition, neither the Notice nor the Application clearly indicates which of the parcels is contiguous, and which of the parcels is non-contiguous, with the Tribe's original reservation. The Application appears to state that four of the parcels are within or are contiguous to all or portions of the exterior boundaries of the original Cloverdale Rancheria. Precise identification of the status of each parcel is critical, because the standards for evaluating on-reservation and off-reservation acquisitions are distinct.[6] As the distance between a tribe's

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[5] 25 CFR § 151.3.

[6] See 25 CFR §§ 151.10, 151.11.

reservation and the land to be acquired increases, the Secretary "shall give greater scrutiny to the tribe's justification of anticipated benefits from the acquisition," and "shall give greater weight to the concerns raised" by the State and local governments having regulatory jurisdiction over the land to be acquired.[7] Each parcel to be acquired must be considered on the basis of contiguity. Three of the parcels listed in the Notice and the Application are separated from the remaining property proposed for acquisition by a strip of land that the City understands is owned in fee by the North Coast Railroad Authority (parcel 116-310-053). Accordingly, it is necessary to specify, on a parcel-by-parcel basis, the contiguity or lack of contiguity of the parcel to the original reservation before the Secretary may approve the Application. The City requests clarification of which parcels, if any, are subject to the more relaxed "on-reservation" evaluative standard so that the City may provide supplemental comments on the ability of the Secretary to approve the Application.

In addition, regardless of which of the parcels sought are subject to the "on-reservation" or "off reservation" standard, the Secretary must determine whether any liens, encumbrances or infirmities exist with respect to title to the property, and "shall require" their removal on a finding that they make title to the land unmarketable.[8] As noted above, parcel 116-310-080 is land the City owns in fee and that contains City wastewater facilities. As a result, the Application cannot be approved as submitted. Also, according to records of the County assessor, ownership of parcel 116-310-020 has reverted to Ruiz due to foreclosure. Apparently the Tribe is also unable to transfer parcel 116-310-020 to the United States at this time. Lack of ownership of parcel 116-310-020 should also be considered as part of the contiguity analysis discussed above. The Application asserts that the proposed acquisition includes a parcel that is within the boundaries of the original Cloverdale Rancheria. The ownership status of the property proposed to be acquired should be reexamined to determine if that is in fact correct.

The land proposed for acquisition has further title issues. In addition to the railroad fee property that bisects the parcels sought, a major trunk sewer for the City crosses several of the parcels. As shown in the title exceptions accompanying the Notice, the City holds the following five easements affecting the property proposed to be acquired in trust: an easement for sanitary sewer and incidental purposes (Instrument No. 1997-0028638 recorded on April 8, 1997), an easement for sanitary sewer and incidental purposes (Instrument No. 1997-0028644 recorded on April 8, 1997), an easement for sewer main and incidental purposes (Instrument No. 1988-63921 recorded on August 3, 1988), an easement for sanitary sewer and incidental purposes (Instrument No. 1997-0028640 recorded on April 8, 1997), and an easement for sewer and incidental purposes (Instrument No. 2010-113034 recorded on December 13, 2010). The City must maintain and is unwilling to subordinate these easements. They are necessary for the maintenance and operation of existing, critical

[7] 25 CFR § 151.11 (b) and (d).

[8] 25 CFR § 151.13.

City trunk line sewers. In view of the numerous title issues affecting the property proposed to be acquired, some parcels of which are not even owned by or for the benefit of the Tribe, the Tribe's statement in the Application that "[t]itle to the Property shall be transferred to the United States free and clear of all liens and encumbrances that might preclude the United States from accepting title into trust for the Tribe" is not supportable.

Finally, the Tribe baldly asserts in its Application that the decision in *Carcieri v. Salazar* is inapplicable.[9] In that decision, the Supreme Court held that the Secretary may take land into trust only for those tribes that were federally recognized or under federal jurisdiction in 1934 when the Indian Reorganization Act, 25 USC § 465 was enacted into law. The Application acknowledges that the Tribe was not restored to federally-recognized status until 1983. Accordingly, the Secretary is obliged to make a determination as to whether the Tribe was under federal jurisdiction in 1934 before the Secretary can approve the Application. The City reserves the right to challenge the Tribe's satisfaction of this fundamental requirement.

3. Project Description/Proposed Land Use:

The Application must specify the purposes for which the land proposed for acquisition will be used, and the Secretary will consider the proposed purposes along with the other criteria to be considered in evaluating requests for acquisition of land in trust.[10]

Under the headings "Tribal Need" and "Purpose For Which The Land Will Be Used," the Application states the Tribe's intention to establish "a gaming facility" on the proposed trust land. The Application then cites proposed new programs relating to housing services, a child care center, tribal offices, and a cultural program, among other anticipated uses of projected revenue. According to the Application, "the Tribe intends to develop and operate a gaming facility ... as well as associated Tribal infrastructure" on the property, and "the specific nature of the Tribe's anticipated use of the Property is more fully described in the proposed . . . DEIS." Given the Tribe's use of both upper case "Property" and lower case "property" within a single paragraph, the City cannot discern where these auxiliary uses will be located. Furthermore, proposed uses such as a child care center have not been analyzed either in the Application or the DEIS.

In contrast, the Notice, in keeping with the DEIS, describes the proposed Project as "a casino, hotel, convention center, entertainment center and other ancillary facilities." The DEIS does not analyze such uses as housing, a child care center or a cultural center, or the possible acquisition of additional land for such programs with revenue from the gaming facility. The proposed uses of the land sought to be acquired in trust must be clarified before the Secretary can evaluate the Application, and the DEIS should be revised and

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[9] *Carcieri v. Salazar* (2009) 129 S. Ct. 1058, 1063

[10] 25 CFR §151.10(c)

recirculated as necessary to address any aspects of the proposed Project, such as housing, a child care center or cultural center or other facilities, not already considered in the Project environmental analysis. The City reserves its right to comment on such facilities, and such environmental analysis, once the Application has been revised to accurately reflect the proposed uses.

4. Current Use/Taxes and Zoning:

According to the Tribe, in 2008 the City received $800 in property taxes for the one parcel proposed for acquisition that is currently located within City limits (116-310-020). The Tribe states that any lost property tax revenue will be more than offset by the estimated "indirect business revenues" from construction and operation of a casino. The Tribe acknowledges, however, that the City will not receive any sales tax revenue from the gaming facility. Nor will the City receive any transient occupancy tax revenue from the proposed hotel. Nor has the Tribe provided sufficient factual information or analysis to demonstrate that the negative financial impacts of the Project, which are not limited to loss of property tax revenue, as discussed above, will be offset by positive financial effects. On the contrary, the opposite is the case, as can be seen from the following discussion.

The DEIS estimates that construction of the Project will cost $319,600,000 and generate 1,065 jobs (based on Alternative A). However, the DEIS also indicates that Project construction will be complete after approximately 24-28 months. Therefore, the construction-related employment benefits of the Project will be short-lived.

The DEIS estimates $179,800,000 in annual Project operations revenues: $155,900,000 from gambling, $12,100,000 from food and beverage sales, $1,800,000 from retail, $8,100,000 from lodging, and $1,900,000 from entertainment. However, the DEIS acknowledges that significant amounts of each revenue category will come from existing Sonoma County residents, or be "cannibalized" from existing businesses. From the standpoint of existing City businesses and their role in the City's economy, the Project's absorption of existing local business is an extremely negative economic impact, particularly given the Project's size in comparison with existing City businesses. Worse, the negative impact on the City's economy is compounded, because cannibalization of local sales by the Project shifts revenue from existing businesses that generate sales and transient occupancy tax revenues that fund City services, to the Project, which would not generate local tax revenue. The Project would not generate property tax, and Project revenues would not generate sales tax or transient occupancy tax.

The DEIS estimates that 23% of annual casino revenues, 42% of annual hotel revenues, and 32% of annual entertainment center revenues will be "cannibalized." The market study prepared for the DEIS has not been made available, so it is impossible for the City to determine the basis for concluding that the Project would shift $35,900,000 in annual casino revenue from the Dry Creek Rancheria in Healdsburg, even though the Dry Creek Rancheria is significantly closer to Bay Area population centers. It is also impossible to determine the

effect of the planned Graton Rancheria casino, which would be closer still to Bay Area population centers, and which now has an approved gaming compact, (although the compact is currently subject to court challenge) on Project revenue assumptions.

Nonetheless, it can be seen from the DEIS economic analysis that the Project would cannibalize an estimated $7,625,000 annually from existing businesses: $3,402,000 annually in local lodging sales, $3,163,000 annually in local food and beverage sales, $452,000 annually in local retail sales, and $608,000 annually in local entertainment sales. The DEIS concludes that the Project would have a net positive effect on the Sonoma due to an estimated $137,100,000 in new annual sales, and that therefore no mitigation is required under NEPA. However, the DEIS primarily considers the economic impacts of the Project on a county-wide basis, and therefore fails to consider the profound impact the Project would have on the City's economy. The DEIS cannibalization estimates are county-County economy wide, and not limited to Cloverdale. Nonetheless, given the magnitude of the cannibalization projected in the DEIS, and the City's proximity to the Project, there is no doubt that Project cannibalization of existing business would be particularly significant in Cloverdale. It is instructive to consider Project cannibalization estimates in comparison with the sales volume of relevant Cloverdale business sectors, to gain a sense of how overwhelming Project cannibalization impacts on the City could be. For example, the DEIS estimates that the Project would annually cannibalize $6,565,000 from existing accommodation and food and beverage providers. The 2010 census data indicates City annual accommodation and food service sales of $7,023,000. That amount is just $458,000 higher than the estimated Project cannibalization from accommodation, food and beverage providers. How many local hotel or restaurant businesses could survive the Project? It is absurd to conclude that the only economic impact of the Project on the City is beneficial, and that no mitigation is required, given the data in the DEIS itself, incomplete though it is, concerning foreseeable impacts on the City's economy.

The DEIS includes estimates of longer-term operational employment (as opposed to short-term construction employment) that would result from the Project. According to the DEIS, Project Alternative A would produce 1,610 jobs, approximately 1,225 of which would be new as opposed to cannibalized jobs from existing businesses. It is important to note that 94% of the operations jobs generated by the Project would be low-paying administrative and service jobs paying about $14.15 per hour. The highest non-management annual salary listed is $27,980, for security workers. The lowest annual salaries listed are in sales, at $23,640. The vast majority of long-term employment opportunities created by the Project would be low-paying jobs, barely providing a living wage. According to 2010 U.S. Census data, the per-capita income in Cloverdale for the period 2006-2010 was $26,725, and the median household income in Cloverdale for the same period was $54,309. Sonoma County data for the same period give a per-capita income of $32,597, and a median household income of $63,274. This means that almost all of the jobs created by the Project would fall in a range below or just slightly above the Cloverdale per-capita income for 2006-2010, and significantly below the Sonoma County median income for the same period. The Project would not produce high-paying jobs. Instead it would add more than 1,000 jobs barely

earning a living wage. Further, these salary comparisons show that the low per-capita incomes that already exist in Cloverdale in comparison with the rest of Sonoma County would be perpetuated and exacerbated as a result of the Project. That is why the City policy of maintaining the industrial designation for the land sought for acquisition in trust is such an important one, so as to foster higher paying jobs to enhance the City's economic future. That is also why the loss of the industrial designated land to the Project, which would cannibalize City business revenue, and yield mostly low-paying jobs well below County per-capita incomes, would be so tragic.

The Project DEIS economic data shows that the foreseeable economic impacts of the Project on the City's economy are negative, not positive. Project sales would threaten, if not eradicate, some local business sectors, without contributing to local taxes to fund essential government services, even though the Project would negatively impact essential government services, such as law enforcement services, among others. The DEIS economic data also shows that in repurposing land designated for industrial uses, the Project would create primarily low-paying jobs, and not the more desirable, higher paid positions that could be anticipated from the industrial uses for which the City has reserved the property proposed for acquisition. As is clear from even the limited information in the Project DEIS, the Project would derail the City's economic present and future.

5. Jurisdictional Issues

As the Application acknowledges, acquisition of the Project land into trust for the benefit of the Tribe would remove the land from state and local jurisdiction for purposes of land use and other laws. However, with regard to potential land use conflicts and other jurisdictional issues that might arise following acquisition in trust, the Application concludes that the proposed casino and related uses do not represent a substantial departure from present land use laws.[11] In accordance with the discussion above, this conclusion in the Application is simply false. The departure of the proposed use from the current City land use designations, and their objectives, is extreme. There is no substantive support in the Application for the assertion that any difference between the casino and related uses and the existing land use laws will be mitigated to ensure that Tribal laws will address the substantive provisions of current county and local laws. This unsupported assertion in the Application provides no reassurance. There would be no requirement that the Tribe legislate consistent with existing local land use laws after the land proposed for acquisition is removed from state and local land use jurisdiction. Further, doing so would make little sense where the proposed casino and related uses are in such extreme conflict with existing City land use policies, as discussed above.

The Tribe asserts that law enforcement services following acquisition in trust would continue to be a responsibility of the City's Police Department. However, that is incorrect.

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[11] 25 CFR § 151.10(f).

The City would lack criminal jurisdiction concerning the trust land pursuant to Public Law 83-280. Public Law 83-280 established state criminal law jurisdiction over tribal lands in California. Nonetheless, the Project would have significant law enforcement impacts in the City's jurisdiction outside the trust land that would have the effect of reducing the responsiveness of law enforcement services in the City and/or increasing the City's law enforcement costs if not adequately addressed to mitigate the Project's law enforcement impacts on the City.

The City is a small community, with a population of about 8,618, and is not contiguous to a larger city.[12] As a result, the City is fortunate to have a relatively low crime rate. Over the past three years, the City averaged 13,500 calls for police services per year, of which only about 2% would be considered serious crimes. Even these more serious crimes are predominately thefts and assaults. The Project would not only result in increased calls for police services, but would also increase the frequency of more serious crimes, such as DUIs, drunk and disorderly conduct, and assaults.

The DEIS indicates that the Project would create the need for an additional police officer to adequately provide public safety services to the community, and recommends that the City and the Tribe enter a service contract and that the Tribe fund its fair share of needed new police facilities. The City disagrees with the DEIS recommendation that only 1 additional police officer would be sufficient for the increased need for police services resulting from the Project. The City has consistently maintained that at least 2.3 new officer positions would be required as a result of increased calls for service due to the Project. Moreover, the Application makes no mention of the need for additional police officers created by the Project, or even of the recommendation in the DEIS, and appears to simply assume that the City must continue to provide law enforcement services. As a result, the discussion in the Application concerning jurisdictional problems that may result from the proposed acquisition of trust land is completely inadequate. Despite its many problems, even the DEIS acknowledges that the Project would have significant law enforcement impacts on the City that would require mitigation. The Application is silent on how the Tribe plans to address these significant, jurisdictional problems that would result from acquisition of the Project land in trust for the Tribe.

6. Impact on Services Currently Provided by the BIA

The City is unable to assess the additional responsibilities to the Bureau of Indian Affairs resulting from the acquisition in trust.[13]

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[12] 2010 Census data.

[13] 25 CFR § 151.10(g).

7. NEPA Compliance Documentation

As noted, the City has provided extensive comments on the DEIS and awaits an opportunity to review and comment on the FEIS, which has not yet been released, in order to evaluate whether the City's concerns have been adequately addressed by proposed mitigation measures. A copy of the City's October 19, 2010 comment letter concerning the DEIS is attached. At present the City is unable to agree that the Tribe has provided sufficient information to allow the Secretary to comply with NEPA Implementing Procedures.[14]

8. Business Plan

Concerning the requirement that the Tribe provide a plan that specifies the anticipated economic benefits from use of the land proposed to be acquired in trust, the City is unable to comment on the Tribe's proposed business plan, which remains confidential, except to note that the unavailability of the business plan for public comment severely hampers the ability of government entities that would be impacted by the Project, such as the City, to adequately analyze Project impacts, and engage in meaningful discussion with the Tribe concerning such impacts.[15]

However, we also note the assertion contained in the Application that the gaming facility "will be appropriately sized, and designed to be aesthetically compatible with the surrounding environment." Concerning the size of the proposed Project, the assertion is ludicrous. Even from the limited information that has been made available concerning the Project, it can easily be seen that the proposed Project is a behemoth, completely out of scale for its location, the City and surrounding environment. The foreseeable disastrous impacts of the Project on the City's economy have been discussed above, and are very much a function of the gargantuan scope of the Project. It can be no accident that the DEIS analyzes the Project impacts primarily in terms of their impact on the entire county, since analysis focused on City impacts clearly shows that the Project is completely disproportionate to the City. As is discussed above, the amounts of annual Project revenue cannibalization calculated in the DEIS nearly equal the corresponding total annual City business revenue for certain services. The unsupportable assertion in the Application notwithstanding, the proposed Project is anything but appropriately sized.

Concerning Project aesthetics, there is insufficient publicly available Project information to adequately address Project design. A very limited amount of what appear to be Project design renderings have been made publicly available, but no Project layouts or plans other than the general conceptual layout are included in the Application.

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[14] 25 CFR § 151.10(h).

[15] 25 CFR § 11(c).

The Application correctly notes that the proposed Project site is in close proximity to City water and wastewater utilities. In addition, the Application anticipates that the Tribe and the City will sign services MOUs, and refers to the stand-alone Tribal utility services alternative mentioned in the DEIS. However, the City lacks sufficient Project information to assess whether City water and wastewater facilities could accommodate the Project, and what the cost and other impacts would be if so. The Secretary similarly lacks this information, since it is not included in either the DEIS or the Application. Also, although there is some cursory analysis of potential stand-alone, Tribal water and wastewater facilities in the DEIS, there is no discussion of the impact of such facilities on the City's nearby well fields adjacent to the Russian River, or on the City's nearby wastewater treatment facilities.

9. Mitigation Actions the Tribe Plans to Reduce Adverse Impacts

The Tribe notes in the Application that it foresees no adverse impacts from removing the property sought as trust land from state and local land use and regulatory jurisdiction, even though the Project record, while incomplete, clearly includes numerous examples of adverse, unmitigated impacts, particularly adverse impacts on the City, as discussed above.

10. Title Requirements

The Application asserts that all of the land sought to be placed in trust has been acquired by End to End Enterprises. However, as we have noted above, it is clear that not all of the land described in the Application as proposed for trust acquisition has been obtained. At a minimum, the City owns parcel 116-310-080 (part of the land identified in the Application as parcel 116-310-044). Also, it appears that parcel 116-310-020 is owned by Ruiz. Clearly, the property identified in the Application cannot be transferred to the United States "free and clear of all liens." (See also the discussion above regarding encumbrances for existing City facilities that cannot be extinguished.)

V. Additional, Unmitigated Economic Impacts of the Proposed Acquisition and Project

In addition to the discussion, above, concerning Application deficiencies regarding legal requirements for the proposed acquisition in trust, in the following we address some of the major, foreseeable economic impacts related to inadequacies in the Project environmental analysis that the City has already identified and addressed to the Bureau. Virtually all of the inadequacies in the Project environmental analysis that the City has addressed in prior comments have economic as well as environmental impacts. Accordingly, we have attached to and hereby incorporate in this letter a copy of the City's comments on the DEIS that were submitted to the Bureau on October 19, 2010 concerning economic impacts the Project would have on the City that are not otherwise discussed in detail in this letter.

1. Questionable Project Viability, Potential for Blight Due to Project Failure

The DEIS fails to evaluate potential impacts on the City if the Project fails to perform as intended. As discussed above, the DEIS concludes that all socioeconomic impacts of the Project will be beneficial. However, potential economic failure of the project may be a real possibility given the Project's gargantuan scope, and the apparent failure of the DEIS to realistically consider the foreseeable financial impacts on the Project of nearby existing and planned casinos. The DEIS assumes that the Project will take market share from the existing Dry Creek casino, and the planned Graton Rancheria casino/hotel/conference center. This assumption has not been supported by any analysis in the record concerning the Project, and is contradicted by the history of casino projects in Mendocino and Sonoma County. Both the Dry Creek and Graton casinos are south of the proposed Project on Highway 101. Historically, casino projects that are more southerly along Highway 101, and closer to Bay Area population centers, have taken market share or "cannibalized" sales from more northerly casinos. When the Dry Creek Rancheria in Healdsburg opened, it had significant, negative impacts on revenues of the Hopland casino to the north.

The planned Graton Rancheria casino/hotel/conference center is a project similar in size and scope to the proposed Project that would be located south of the proposed Project and south of the Dry Creek Rancheria. In addition, the planned Graton project already has land accepted in trust and an approved gaming compact with the state (although the compact is the subject of litigation). It appears at least plausible that if the Tribe is able to cure the substantive defects in the Application, have land accepted in trust for the Tribe's benefit and proceed with the Project, the Project would be preceded by the Graton project. If so, potential Project customers would be required to drive north for about an hour on Highway 101 past not one but two casinos before visiting the proposed project. (The DEIS acknowledges that 90% of the anticipated visitors to the Project would come from the population centers to the south.) Moreover, about 15 minutes by car to the north of the proposed Project is the Hopland casino, and about 30 minutes by car to the north is a Ukiah casino. Consequently, it is unlikely that the proposed project would draw significant numbers of customers from the existing, nearby casinos to the north.

It is unclear from the Project record how the Project will sustainably draw away from other casinos closer to population centers to the south a sufficient share of the estimated 369,400 customers within 50 miles of the Project to so as to make the project financially viable. However, it is clear that the DEIS does not consider the potential impacts on the City and the surrounding area of potential failure of the project, including such impacts as visual blight from unused, underused or incomplete Project facilities, including water and wastewater facilities. The Project market study should be made publicly available so the soundness of the Project financial assumptions can be adequately assessed, and the Project environmental documents should be supplemented and recirculated to address potential impacts of Project failure on the City and the surrounding area.

2. Unclear Availability of Water and Wastewater Services

The DEIS analysis of both the municipal option for providing Project water and waste water requirements, and the on-site option, are fundamentally inadequate. Besides significant, foreseeable environmental impacts that are not adequately addressed in the DEIS (see the City's October 19, 2010 comments, attached), either option could have significant economic impacts on the City.

Concerning the municipal option, accommodating water volumes needed to serve the Project, in addition to requiring a new 16 inch water main along Asti Road, as identified in the DEIS, would likely require significantly increased water storage capacity to serve the Project and still satisfy required fire protection flows. Accommodating waste water volumes needed to serve the Project, despite assertions to the contrary in the DEIS, would require upsizing of waste water mains between the Project and the City facilities. More importantly, the DEIS does not address whether City water production volumes and waste water processing capacity are even capable of accommodating the Project, both in terms of the physical capacity of these facilities and in terms of their permitted capacities under existing permits and regulatory requirements. As well, the DEIS does not consider the economic impact on the City of absorbing critical water and wastewater capacity needed to serve the projected build out population in the City's General Plan on the City's economic future. The long term effect on the City may be inability for the City, and its economy, to grow in accordance with General Plan projections. Because of the lack of adequate information concerning the project water and wastewater utility needs, and of any serious or substantive communications from the Tribe concerning the Project requirements for a potential municipal water and waste water option, the feasibility of such an option and the full extent of the potential impacts on the City cannot be determined at this time.

Concerning the on-site option, the DEIS does not adequately assess the potential impact on existing ground water supplies of utilizing ground water to serve the Project. The DEIS addresses neither potential subsidence due to overdraft of the ground water basin, nor potential impact on the production capacity and/or water quality of the City's nearby well fields. In addition, the DEIS does not address how ground water wells and waste treatment facilities in such close proximity will avoid increased groundwater contamination and water quality degradation. Finally, the DEIS acknowledges that the on-site option includes construction of water and wastewater facilities in the 100 year flood plain, making existing, critical City utilities (and Tribe water and waste water facilities) susceptible to flooding, effluent discharge, etc., without any proposed mitigation.

These considerations involve fundamental questions about feasibility of the water and wastewater facilities options identified to serve the Project. Not only do they raise questions about the viability of the Project itself, they underscore the potential for drastic impacts on the City due to potential absorption of City's available source of future water supply and waste water processing capacity, reduction in City water production capacity, and reduction in City water quality. The Project's utility needs and the inadequate related consideration

contained in the record are another example of the Project essentially appropriating the City's economic future while characterizing that impact as positive.

4. Lack of Available Housing, Transportation for Project Employees

The DEIS concludes, completely unrealistically, that virtually none of the 1,600 employees that the Project would add would reside in the City and the immediate vicinity, and that instead all would commute from elsewhere, mostly from Santa Rosa and Rohnert Park. Accordingly, the DEIS asserts that there will be little impact on the City's housing. In order to reach this conclusion, the DEIS reasons that Project employees will be able to commute to the Project via bus, or the Sonoma-Marin Area Rail Transit ("SMART") train service. However, as we have already shown in our comments on the DEIS, there is simply insufficient bus service in Sonoma County to serve such a large number of employees for a facility that is open 24 hours a day, 7 days a week. Also, SMART service is not projected to be available until 2014 at the earliest, and in its first phase the train is not planned to reach Cloverdale. In addition to being contradicted by the realities of available transit opportunities, the DEIS transportation analysis is also internally inconsistent. It assumes that most Project employees would live in Santa Rosa and Rohnert Park, and that almost 90 % of the housing for Project employees would be located in unincorporated parts of Sonoma County, and that existing mass transit will be sufficient to serve Project employees commuting to work from unincorporated areas (even though the limited available mass transit opportunities are mostly focused in the more populated parts of the county).

The DEIS analysis of Project employee housing and transportation makes little sense. Given the facts of the estimated number of Project employees, limited available mass transit service, day and night hours of Project operations, and the cost of living in and commuting from outlying areas, clearly most of the Project employees would ultimately seek to reside in the City and nearby areas. This would mean that the Project could supply most or all of the future City residents anticipated in the City's General Plan at build out, more than 90% of whom would be low-paid workers. However, available housing in the City is insufficient to absorb such an influx. Census housing data for 2006 to 2010 for the City estimates 227 vacant housing units, and vacancy rates of 5.4% for homeowners and 3.6% for renters.

The DEIS attempts to avoid major workforce housing and transportation problems that the Project would create with patently inadequate, inconsistent data and analysis. The project record supports that the City can anticipate major housing impacts and strain, and major transportation impacts, if the Application is approved and the Project proceeds. Further, the employment data in the DEIS shows that employee housing is another element of the proposed Project that City decision makers and citizens can anticipate would essentially usurp the brighter economic future envisioned in the City's General Plan.

VI. Conclusion

In the Application, the Tribe maintains that it foresees no adverse impacts from the acquisition of land identified in the Application in trust for the Tribe, and removal of the land from state and local land use and other regulatory jurisdiction. Although the Application and the DEIS for the Project lack critical information and analysis needed to fully assess the Project impacts, it is clear from the DEIS that the Project would result in numerous, major, negative impacts on the City and its economy. Most such impacts relate to the proposed location of the Project on the majority of the developable land designated for industrial use in the City's General Plan, and removal of such land from the City's planning authority, and the sheer overwhelming size and scope of the Project, and the corresponding impacts it would have on local natural resources, government services, on local businesses, and on the local economy.

In addition, the Application fails to satisfy important regulatory requirements necessary for the Secretary to approve acquisition of the land in trust for the Tribe. These procedural inadequacies include the failure to accurately identify the land proposed for acquisition, and failure to obtain the land proposed for acquisition.

Since the City, other affected government agencies, and the public have been unable to review and comment on the Project FEIS, and therefore do not know and have been unable to address how the Tribe proposes to treat the many problems already identified in Project NEPA documents, the City respectfully urges that the Secretary should take no action on the Application until the FEIS has been circulated and the comment period closed. In addition, based on the Project information that has been disclosed so far, the City opposes approval of the Application for all the reasons identified above. The City believes that the current Project record, incomplete as it is, strongly supports denial of the Application. The Application pits the Project and economic development of the Tribe against the economic health and sustainability of the City, and makes little serious effort to reconcile the two. If the Secretary will not defer acting on the Application until the FEIS has been made available and the comment period closed, the City strongly encourages the Secretary to deny the Application, which is the only action supported by the current record.

Sincerely,

Eric W. Danly
Cloverdale City Attorney

EWD:RPD

Attachments

City of Cloverdale Resolution No. 056-2008
City of Cloverdale Comments on the DEIS submitted October 19, 2010

c: Honorable Mayor and City of Cloverdale City Council Members
Nina D. Regor, City Manager
Bruce Goldstein, Sonoma County Counsel
Honorable Mike McGuire, Sonoma County Supervisor
Honorable Wesley Chesbro, California Assembly
Honorable Noreen Evans, California Senate
Honorable Mike Thompson, U.S. House of Representatives
Honorable Lynn Woolsey, U.S. House of Representatives
Honorable Barbara Boxer, U.S. Senate
Honorable Dianne Feinstein, U.S. Senate

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IAN TRUEBLOOD

June 13, 2012

Reg Dir 3/3
Dep RD Trust
Dep RD IS
Route RPM
Response Required NO
Due Date
Memo Ltr
Fax
F12

VIA FEDERAL EXPRESS

Ms. Amy Dutschke, Regional Director
Bureau of Indian Affairs
Pacific Regional Office
2800 Cottage Way
Sacramento, California 95825

Re: County of Sonoma Comments on Cloverdale Rancheria of Pomo Indians Fee-to-Trust Application

Dear Ms. Dutschke:

Attached please find the comments of the County of Sonoma on the Application for (Gaming) Land Acquisition submitted by the Cloverdale Rancheria of Pomo Indians of California. The County of Sonoma thanks the Bureau of Indian Affairs for the opportunity to review and comment on the Application. The County also looks forward to working with the Bureau and the Tribe to address the issues raised in the County's comments.

Please contact me at (707) 565-6007, if you have any questions or concerns about the attached comments.

Very truly yours,

BRUCE D. GOLDSTEIN
COUNTY COUNSEL

By: Jennifer C. Klein
Jennifer C. Klein
Deputy County Counsel

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RES 6-18-12

cc: Hon. Patricia Hermosillo, Chairperson, Cloverdale Rancheria Band of Pomo Indians

THE COUNTY OF SONOMA'S COMMENTS

ON THE APPLICATION OF THE CLOVERDALE RANCHERIA TO THE SECRETARY OF THE INTERIOR TO ACCEPT LAND INTO TRUST FOR GAMING PURPOSES

SUBMITTED: June 14, 2012

COUNTYOF SONOMA

Shirlee Zane

Hon. Shirlee Zane, Chairwoman
Sonoma County Board of Supervisors

Date: 6/12/12

Attest:

Veronica A. Ferguson
Clerk of the Board by M. Chellano

Date: 6/12/12

TABLE OF CONTENTS

I. INTRODUCTION 1

II. TRIBE'S PROPOSAL 1

III. THE APPLICATION APPLIES THE WRONG REGULATORY CRITERIA 2

A. Wrong Standard Applied to Some of the Parcels Proposed for Acquisition. 2

B. Application's Analysis under Section 151.11(c) (Economic Benefits to Tribe) is Omitted. 3

IV. THE APPLICATION DOES NOT MEET THE REGULATORY REQUIRMENTS TO SUPPORT ACCEPTANCE OF LAND INTO TRUST 3

A. Application Fails to Demonstrate Secretary's Authority to take Land into Trust (25 C.F.R. § 151.11 (a), referencing §151.10(a).). 3

1. Application Fails To Affirmatively Demonstrate That Secretary Has Authority To Take Land Into Trust Under Indian Reorganization Act. 4

2. Application Fails to Affirmatively Demonstrate that it Meets the Department's Land Acquisition Policy. 4

3. Land is Encumbered by a Williamson Act Contract and Does Not Have Clear Title to Support Trust Acquisition. 4

B. The Application Also Has Not Demonstrated: 5

1. Need for Additional Land (25 C.F.R. § 151.11 (a), referencing § 151.10 (b)), ... 5

2. The Purposes for Which the Land Will Be Used (25 (25 C.F.R. § 151.11 (a), referencing § 151.10(c)), or 5

3. Compliance with 516 DM 6, appendix 4, NEPA Revised Implementing Procedures, or 602 DM 2, Land Acquisitions: Hazardous Substances Determinations (25 C.F.R. §151.11(a), referencing 151.10(h)). 5

C. The Application Fails To Properly Analyze The Impact On The State And Its Political Subdivisions Resulting From The Removal Of The Land From The Tax Rolls (25 C.F.R. § 151.11(a), referencing §151.10(e)). 7

1. Impact to Taxes & Assessments. 7

2. Public Services to the Property. 9

a. Law Enforcement & Criminal Justice. 9

b. Fire Protection & Other Emergency Services. 9

c. Health & Human Services. 10

d. Transportation & Public Works. 10

D. The Level Of Jurisdictional Problems And Potential Conflicts Of Land Use Require That The Application Be Denied (25 C.F.R. § 151.11(a), referencing 25 C.F.R. § 151.10(f)). 11

1. Williamson Act Conflicts. 11

3. Sonoma County General Plan and Zoning Ordinance Conflicts. 13

4. Land Use Conflicts & Jurisdictional Issues Related to Water & Wastewater 14

5. Railroad Jurisdictional Conflicts. 15

6. Other Jurisdictional Problems: Lack of Mitigation Agreements and Tribal Ordinances. 16

E. The Bureau Of Indian Affairs Is Not Equipped To Discharge The Additional Responsibilities Resulting From The Acquisition Of The Land In Trust Status (25 C.F.R. § 151.11(a), referencing 25 C.F.R. § 151.10(g)). 17

F. The Extent To Which The Tribe Has Provided Information That Allows The Secretary To Comply With The National Environmental Policy Act (25 C.F.R. § 151.11(A), Referencing 25 C.F.R. § 151.10(H)). 17

V. PROCEDURAL DEFECTS 18

A. Threshold Requirements: Request for Approval of Acquisitions (25 C.F.R. §151.9). 18

1. Application Deficient & Notice Inadequate. 18

2. Land Not Clearly or Properly Described. 19

3. Failure to Give Notice to Affected Agencies. 20

4. Failure to Identify Correct Criteria in Notice. 21

VI. CONCLUSION 21

I. INTRODUCTION

The County of Sonoma appreciates the purpose behind the federal fee to trust land process and the desire of the Cloverdale Rancheria of Pomo Indians of California ("Tribe") to take land into trust to support its self sufficiency and exercise of sovereignty. However, the present Application by the Tribe to Take Land into Trust for Gaming Purposes ("Application") is fundamentally flawed on both a substantive and procedural basis and must be denied.[1] The Application, to take land into trust for a massive resort-casino development, must be rejected due to pervasive deficiencies, including but not limited to that: 1) the proposal applies the wrong regulatory criteria to some of the parcels; 2) correct application of the criteria demonstrate that the proposal does not qualify for trust status; 3) due process was violated, to the prejudice of the public, as the Application did not clearly identify the land subject to the proposed action and all affected parties did not receive notice; 4) the Application violates the National Environmental Policy Act (NEPA) in that a complete environmental analysis was not completed prior to the finalization and service of the Application; 5) the project would create significant negative environmental, financial, social, and jurisdictional impacts to the local community, which are presently unmitigated and weigh heavily against acceptance of the land into trust for gaming; 6) the Application wrongly implicitly assumes that the fundamental conflicts of the land's encumbrance by a Williamson Act (Agricultural Preservation) contract can be overcome by taking the land into trust; and 6) the Tribe has failed to affirmatively demonstrate that the Secretary has the legal authority to accept the land into trust on its behalf. The Secretary, therefore, cannot legally approve the Application for the substantive and procedural reasons identified in these Comments.

II. TRIBE'S PROPOSAL

The Property is located in northern Sonoma County east of the City of Cloverdale, and partially within the city limits of Cloverdale. The Property is bisected by a railroad right-of-way, and flanked on the east by the Russian River[2] and on the west by U.S. Highway 101, the major highway linking California, Oregon, and Washington. To the east, the Property is zoned Land Intensive Agriculture (LIA), and is restricted by a Williamson Act contract, which requires that the land be devoted to an agricultural use. To the west, the property lies within the unincorporated portion of the County's jurisdiction and is zoned Rural Residential, with a Limited Industrial General Plan designation, a designation which would not allow the type of intensive visitor serving use proposed by the Tribe.

---

[1] On or about April 16, 2012, the County of Sonoma ("County"), through its Board of Supervisors, received Notice of (Gaming) Land Acquisition Application ("Notice") issued by the Bureau of Indian Affairs ("BIA") on behalf of the Tribe to take an amount of (not clearly identified) land into trust (the "Property"). The County subsequently obtained a copy of the Tribe's Application to Acquire Land in the Name of the United States for the Cloverdale Rancheria of Pomo Indians of California ("Application"), and exhibits A-E, L, M, & Q to the Application. The BIA granted the County an extension of time to respond to the Notice, up to and including June 14, 2005. Previously, on or about October 20, 2010, the County of Sonoma submitted comments on the Draft Environmental Impact Statement (DEIS), for which the acquisition and planned casino project was issued. At the time these comments were prepared, the final EIS had not issued.

[2] The Russian River is a "navigable water of the United States," under the Clean Water Act. *Northern California River Watch v. City of Healdsburg,* (C.A. 9 (Cal.) 552 U.S. 1180.

The Application briefly states the Tribe's intent to develop and operate a gaming facility on the property as well as "associated Tribal infrastructure." It then refers to the DEIS for a more detailed description of the Tribe's anticipated use of the Property. The DEIS describes construction and operation of development totaling approximately 600,000 square feet, and including a casino, hotel, convention center, entertainment center, food and beverage facilities, resort support facilities, tribal government building, and surface and garage parking facilities. The casino-resort is proposed to have approximately 2,000 slots and 45 tables, with a five-story, 244-room hotel, 984 seats of food and beverage facilities; a 984-seat convention center; a 1,300 seat entertainment center; and a four-to-five-story parking garage. The project also proposes, if the City and Tribe do not reach an agreement for wastewater services, the development of onsite wastewater treatment plant, treatment ponds, and sprayfields on parcels under Williamson Act contracts. The Application is unclear if the Tribe will also use the Property for housing, a child care center, or a cultural center – three things for which the Tribe describes as a present need.

III. THE APPLICATION APPLIES THE WRONG REGULATORY CRITERIA

A. Wrong Standard Applied to Some of the Parcels Proposed for Acquisition.

In exercising its discretion in approving a fee to trust proposal the Department of Interior is bound by the regulatory criteria set forth in 25 C.F.R. § 151.11 for Off-Reservation acquisitions and 25 C.F.R. § 151.10 for properties within or directly contiguous to existing trust land. The difference between the two sets of criteria is significant. For example, under 25 C.F.R. 151.11(c), the Tribe is required to provide a "plan which specifies the anticipated economic benefits associated with the proposed [business] use."[3]

The Notice of Application does not clearly identify the criteria applicable to the BIA's decision for *each* parcel under review. Moreover, the Application itself fails to apply the correct criteria under 25 C.F.R. §151.11, by implying that some of the parcels are subject to the lesser standard for acquisition found at 25 C.F.R §151.10, when in fact all of the parcels are subject to the heightened scrutiny and criteria found at 25 C.F.R. §151.11. In addition, as a result of this misapplication of the appropriate standard, the Tribe's Application does not mention or address the additional criteria under §151.11, at subdivisions (b) (greater weight to local government concerns) or (c) (plan specifying anticipated economic benefits associated with proposed business use), and is materially deficient for that reason. This is a fatal flaw in the Application.

None of the six parcels proposed for acquisition are adjacent to an existing reservation or existing trust land, and the proposed acquisition is not mandated. For those reasons, the entire proposed acquisition should have been treated as an "off-reservation," acquisition under 25 C.F.R. §151.11. While three of the six proposed parcels are adjacent to land that used to be the Cloverdale Rancheria, they nonetheless are not adjacent to a current reservation and their

[3] Additionally, under 25 C.F.R. 151.11 (b) the distance to the "tribe's reservation," shall be considered, and as the distance between the land to be acquired and the reservation increases, the Secretary shall give greater scrutiny to the tribe's justification of anticipated benefits from the acquisition, and the Secretary shall give greater weight to the concerns raised by local government under subsection (d) of 25 C.F.R. §151.11.

proposed acquisition should be subject to 25 C.F.R § 151.11. The Notice states that it was issued pursuant to 25 C.F.R. §151.10 and §151.11, but does not indicate which parcels the BIA considers subject to §151.10 and which parcels it considers subject to §151.11. In any event, since there is no current reservation, any request to have land taken into trust by the Tribe will be subject to §151.11, and the Application and Notice of Application are inadequate for failing to identify and address these requirements. Therefore on its face, the Application fails to address all of the required criteria under §151.11, and cannot support a decision to take the land into trust.

B. Application's Analysis under Section 151.11(c) (Economic Benefits to Tribe) is Omitted.

Even when the Application acknowledges that 25 C.F.R. §151.11 applies, it omits analysis of key criterion. For example, the Application at page 9 acknowledges the criteria at §151.11(c), which requires the tribe to define the economic benefits justifying the trust acquisition, and references a business plan specifying the anticipated economic benefits associated with the casino project at Exhibit O, however, no analysis is provided. Exhibit O (as well as Exhibit P) was designated as confidential and the County was unable to obtain a copy. The County requests a copy of Exhibits O and P, under the Freedom of Information Act. Public availability and review of the Tribe's business plan and analysis of economic benefits is particularly important as, at the time the Tribe submitted its Application, there was only one casino in Sonoma County, operated by the Dry Creek Band of Pomo Indians. Now, the Federated Indians of the Graton Rancheria has obtained land in trust for gaming and is constructing a casino resort near Rohnert Park, less than 36 miles south of the proposed Cloverdale Rancheria site, and within the same Highway 101 corridor. It is unknown if the business plan addresses competition from Graton or other recently developed casinos in neighboring Lake and Mendocino counties, or otherwise addresses the economic viability of a gaming operation in the proposed location.[4]

The viability of the presently proposed casino by the Cloverdale Rancheria must be analyzed in light of the existing field of competing casinos in the region. Moreover, the Tribe's Application argues that various indirect economic benefits 'off-set' loss tax revenue, but the County is unable to evaluate this statement absent access to an analysis of predicted economic benefits. Failure to analyze this key requirement requires rejection of the Application or, at a minimum, the Department should not take action until the County has had an opportunity to review and provide supplemental comments on this important section.

IV. THE APPLICATION DOES NOT MEET THE REGULATORY REQUIRMENTS TO SUPPORT ACCEPTANCE OF LAND INTO TRUST

A. Application Fails to Demonstrate Secretary's Authority to take Land into Trust (25 C.F.R. § 151.11 (a), referencing §151.10(a).).

[4] Casinos in Lake County: Konocti Vista Casino, Robinson Rancheria Casino, Running Creek Casino, Twin Pine Casino. Casinos in Mendocino County: Black Bart Casino, Coyote Valley Casino, Garcia River Casino, Hopland Sho-Ka-Wah Casino, Red Fox Casino.

1. Application Fails To Affirmatively Demonstrate That Secretary Has Authority To Take Land Into Trust Under Indian Reorganization Act.

The Application cites 25 U.S.C. §465 and §220 as authority for its Application. The Application asserts that the United States Supreme Court decision in *Carcieri v. Salazar*, 555 U.S. 379, (Feb. 24, 2009), is inapplicable to the Cloverdale Rancheria. However, the Application has not shown that it meets the judicially imposed criteria applicable to trust applications under *Carcieri v. Salazar*, which requires an affirmative showing that the Cloverdale Band of Pomo Indians was under federal jurisdiction at the time the Indian Reorganization Act was passed in 1934. Exhibit B to the Application provides a 1921 legal description and list of lands purchased for "California Indians," with moneys appropriated in by the Acts of June 21, 1906 and June 8, 1908. The list identifies "Cloverdale," but no number of Indians falling into that band. Evidence showing federal jurisdiction *in 1934* is required under *Carcieri*. The list of California Indians, the 1921 legal description, nor federal termination in 1958, sufficiently demonstrate that this requirement has been met. Moreover, the Application has not met its burden under *Carcieri v. Salazar* to show that the Secretary currently has authority to accept the land into trust, and that the stipulated judgment in the *Tillie Hardwick* case was legally adequate to confer federal recognition to the Tribe, following its termination under the California Rancheria Act. For these reasons, the Tribe has not met its affirmative burden to demonstrate that the Secretary has authority to accept the land into trust.

2. Application Fails to Affirmatively Demonstrate that it Meets the Department's Land Acquisition Policy.

The BIA's Land Acquisition Policy (25 C.F.R. § 151.3) provides that land may be acquired for a tribe in trust status under the following conditions: 1) the property is located within or adjacent to a tribe's reservation; 2) the tribe owns an interest in the land; or 3) the Secretary determines the land's acquisition is necessary to facilitate tribal self determination, economic development, or Indian housing. The Tribe asserts that the second and third conditions apply. However, the second prong is not satisfied as the Tribe does not presently own an interest in any of the parcels. (*See* Discussion in Section IV.D .1 below.) Because the first condition does not apply, as discussed earlier, only the third condition has possible application here. As discussed above, due, in part, to misapplication of the regulatory criteria, the Tribe has not provided sufficient analysis to demonstrate that this land acquisition will significantly further economic development (as Indian housing is not proposed).

3. Land is Encumbered by a Williamson Act Contract and Does Not Have Clear Title to Support Trust Acquisition.

The ability to take the land into trust is also limited by the encumbrances on the Property under the Williamson Act. Trust regulations, including 25 C.F.R. 151.13, essentially require clear title on land subject to a trust acquisition. The Williamson Act, also known as the California Land Conservation Act of 1965, is designed to protect the public interest by

preserving agricultural land. (*See* Govt. Code § 51200 *et seq.*) It allows property owners to enter contracts with local governments to voluntarily restrict the use of their land to agricultural and compatible uses in exchange for lower property tax rates. The owner of the land is forbidden from using the encumbered portion of the land for wastewater treatment purposes, or as any non-agricultural use or any use not expressly permitted in the County's Uniform Rules for Agricultural Preserves, which are incorporated into the terms of each contract.

Williamson Act contracts initially include a ten-year term, but the contracts automatically renew every year for another ten-year term. Property owners may terminate the contracts by filing a notice of non-renewal that prevents the automatic extension. The notice of non-renewal does not immediately terminate a contract, however, as the restriction continues in full force for the remaining nine years. Property owners may also petition for immediate contract cancellation, although this method may be used only in emergency or extraordinary situations when the public interest no longer dictates contract enforcement. The rationale for the non-renewal termination preference is, in part, that a long-term commitment to agricultural use prevents short-term speculators and developers from taking advantage of low-cost Williamson Act land. The cancellation procedure is rarely used; Sonoma County has not approved a Williamson Act cancellation in more than twenty years. In some cases a contract may be immediately rescinded in exchange for placing other equivalent land under an agricultural conservation easement. Such an 'easement exchange,' requires that certain findings be made by the County, and also requires State review and approval. Title 25 C.F.R. §151.13 addresses examination of title for the proposed land acquisition. For the Secretary to find that ownership of the land is held as an "unrestricted" fee, as described in that section, the Williamson Act contract restriction must be terminated, as described above. *Until then the fee is restricted.*

Williamson Act contracts run with the land and bind successors-in-interest. They are recorded on the property title so successors are notified of the restrictions. By purchasing Williamson Act land, the successors voluntarily agree to the contract terms until the contract terminates. Until then, the Property remains restricted by the Williamson Act contract, even if acquired in trust for the Tribe. The existence of the Williamson Act contract on approximately fifty percent of the land included in the Application encumbers the title and makes it inappropriate for trust and the purposes proposed by the Tribe.

B. The Application Also Has Not Demonstrated:

1. **Need for Additional Land (25 C.F.R. § 151.11 (a), referencing § 151.10 (b)),**
2. **The Purposes for Which the Land Will Be Used (25 (25 C.F.R. § 151.11 (a), referencing § 151.10(c)), or**
3. **Compliance with 516 DM 6, appendix 4, NEPA Revised Implementing Procedures, or 602 DM 2, Land Acquisitions: Hazardous Substances Determinations (25 C.F.R. §151.11(a), referencing 151.10(h)).**

The Tribe's stated needs for additional land raises questions about the purpose of the proposed acquisition. As stated by the DEIS, and referenced by the Application, the land will be

developed and used for a casino, hotel, convention center, entertainment center, food and beverage facilities, resort support facilities, a tribal government building, and surface and garage parking facilities. The Application also identifies a present need for tribal housing, child care center, tribal administrative offices, and a cultural center to house the Tribe's history. With the possible exception of tribal administrative offices that could be housed in the planned tribal government building, none of these currently needed facilities are identified or analyzed in the DEIS. The Tribe's Application states that the Tribe has 540 members, and if 25% of them require housing then that is 135 potential housing units. If the Tribe hopes to attract distant members to the trust land, then even more potential housing units may be needed. Since use of the Property or other additional land for housing, child care, and cultural center is reasonably anticipated, but has not been described or analyzed in the Application or DEIS, the BIA does not have full information about the future use of the Property.

To the extent the Tribe claims that it will not use any of the 60 to 80 acres of proposed trust land to directly satisfy these fundamental tribal needs, then it is reasonably foreseeable that the Tribe will seek to acquire additional land for trust status. In that case, the BIA should analyze all reasonably foreseeable trust applications at the same time, with one environmental document, in order to fully and meaningfully analyze the impacts to the surrounding community and local government. A failure to do so creates a piecemeal approach that does not consider the cumulative affect that multiple trust acquisitions and expansion of tribal uses may have on the environment, local community, local government, and BIA resources. It also allows an opportunity to analyze potentially conflicting uses at the same time. If the Tribe will not permit tribal housing, child care center, or cultural center to be located on the Property, then that should be clarified.

Given the statement of tribal need, the purposes and uses of the Property are potentially far beyond the proposed casino resort analyzed in the DEIS, and include housing, a child care center, and cultural center. These potential future uses must be thoroughly investigated before the BIA may accept the Property into trust. (*Village of Ruidoso v. Albuquerque Director, BIA* (1998) 32 I.B.I.A. 130.) The Application should be supplemented and the DEIS revised and recirculated to address the need for all reasonably anticipated uses of the land – or describe a need for additional land - in order for the BIA to fulfill this duty.

Finally, the Tribe concedes in its DEIS that one of the purposes of the NEPA analysis was to support the trust application. To date, the NEPA process has not been completed and, as demonstrated in the County's comments to the DEIS, was seriously flawed. By circulating the Application prior to completion of the NEPA process, the Department has acted inappropriately as well as placing itself out of compliance with its own guidelines. *See* 516 DM 6, appendix 4, NEPA Revised Implementing Procedures, or 602 DM 2, Land Acquisitions: Hazardous Substances Determinations (25 C.F.R. §151.11(a), referencing 151.10(h).[5]

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[5] Page 9 of the Application indicates that, under "a separate cover, a Draft Environmental Impact Statement (DEIS) has been prepared and submitted to the Bureau of Indian Affairs....that will allow the Secretary to comply with 516 DM 6 [NEPA]....and 602 DM 2 [Hazardous Substances]." However, the Application does not explain how the document, which is in *draft* form, allows the Secretary to comply with §151.11(a), referencing §151.10(h), or otherwise satisfies either the NEPA or Hazardous Substances Determination requirements.

C. The Application Fails To Properly Analyze The Impact On The State And Its Political Subdivisions Resulting From The Removal Of The Land From The Tax Rolls (25 C.F.R. § 151.11(a), referencing §151.10(e)).

1. Impact to Taxes & Assessments.

The Application is required to analyze "the impact on the State and its political subdivisions resulting from the removal of the land from the tax rolls." The Tribe incorrectly states that removal of the Property from the tax rolls will have a "de minimus" effect and "not likely to have any significant impact on the County." (Application at pg. 7.) The Tribe cites to the total taxes collected by the County for FY 2008 to show that the taxes collected for 2009-10 are not significant. This analysis is not only misleading, but cites incorrect figures. The amount of taxes allocated to the County's General Fund, for 2008-09 was $141,098,000 ($132,486,000 net after redevelopment contributions); and for 2009-10 it was $139,302,000 ($131,217,000 net after redevelopment contributions).[6] The Tribe cites $250,770,000 as the amount of property taxes collected by the County of Sonoma for fiscal year 2008. The amount stated by the Tribe is significantly higher than the amount the County actually received, and significantly lower than the amount actually collected, which includes amounts collected on behalf of schools and other entities.[7]

The Tribe also misrepresents how taxes are calculated and distributed, comparing the total amount of taxes collected on the property, which include amounts distributed to multiple agencies, special districts, and to debt service. *See* **Attachment A** for a breakdown of tax distribution and allocation for the parcels.

If the Property is taken into trust, the County and State will suffer a material financial impact every year, and every decade, unless and until the Property is ever removed from trust. Over the ten-year life of the Williamson Act contract, to use just one measurement, the jurisdictions will suffer an impact of between approximately $560,000 and $1,390,000, depending on the market value of the property, and absent any new construction or changes of ownership, both of which are events that trigger reassessment. The loss of between $560,000 and $1,390,000, or more, in tax revenue every decade, for all time, cannot fairly be called immaterial.

The reason that the impact range is so dramatic is because three of the parcels (APNs 116-310-039, -035, and -040), went into what is known as Proposition 8 status in 2009, which is when the current market value of a property dips below its factored base year value under Proposition 13. Proposition 8 status is temporary. As the market recovers, the Assessor restores value to the roll for the parcels, until they reach their factored base year value under Proposition 13. See **Attachment B** for a comparison of temporary Proposition 8 values to base year values.

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[6] The amount of total secured property taxes levied by the County for 2011-12 is estimated at $636,499,000, for 2010-11 the amount was $641,854,000; for 2009-10 the amount was $658,144,000; and for 2008-09 the amount was $667,319,000. As demonstrated by Attachment A, many entities receive a portion of these revenues beyond the County General Fund.

[7] *See* footnote 6.

The tax break conferred for the Williamson Act parcels in exchange for maintaining those parcels in agricultural use, resulted in a more generous benefit than Proposition 8 status, and so those parcels did not go into Proposition 8 status. APN 116-310-020, which is about 2.05 acres is not in Proposition 8 status or the Williamson Act.

The impact of lost tax revenue will increase by approximately $200,000 per decade following termination of the present Williamson Act contract. The contract depresses the assessed value of two of the six parcels by a total of approximately $2,000,000. To compare, the unrestricted factored base year values for the Williamson Act restricted parcels, APN 116-310-005 and APN 116-310-079 (formerly a part of APN 116-310-044) for 2011-12 are $887,961 and $1,914,735 respectively[8]; but their Williamson Act values for 2011-12 are $321,568 and $446,616 respectively. For both parcels, the difference is approximately $2 million in assessed value and $20,000 per year in property taxes, without adjustments under Proposition 8 if applicable. *See* **Attachment B**. The Tribe's current plans for the Property, or an alternative industrial or office use of the property, would require nonrenewal or termination of the contract. If the land is in trust, and these plans are realized, the tax impact on the County and other political subdivision would substantially increase.

Moreover, if the Property stays in County's taxing jurisdiction, then the County will benefit over time from any reassessments triggered by changes in ownership of the property and/or the construction of new improvements. If the Property is annexed to the City of Cloverdale and developed at its highest and best use, for industrial and office uses[9], recognizing that the western parcels have more developable acreage than the eastern parcels, the County projects that the land and improvements would be valued at over $56 million, which would translate into $840,000 in property taxes (1% tax rate) annually, not including direct charges or special assessments. (*See* **Attachment C** for Assessor's analysis and projection of value for industrial and office use.) If the land is taken into trust, there will be no opportunity for the property to be developed consistent with this highest and best use, and no opportunity for the taxing agencies to realize corresponding increase in their tax base – an increase projected to be 10 to 20 times current values. As discussed below, the corresponding increased tax revenues are used to support public services that directly and indirectly benefit the property.

To appreciate the true impact to the County of the loss of land from its ad valorem tax roll, one must look at the status of the Property over time, and at the lost opportunity for taxable development of the Property. The current Application snapshot reveals five of six parcels that are essentially undeveloped and have extremely reduced assessments due to the Williamson Act or due to Proposition 8 temporary decline in market status. It is highly unlikely that the Property will stay in that ultra-reduced assessment mode long term.

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[8] These unrestricted amounts represent the sum of unrestricted values for real property fixtures, land value, structure value, and growing improvements, as shown at **Attachment B**.

[9] It is established that leisure and hospitality jobs pay less than manufacturing and other types of light industrial jobs. (*See* **Attachment F** for Sonoma County average pay across industries.) This is true even when accounting for the high prevalence of part time leisure and hospitality workers, who are often denied benefits including health coverage.

The Secretary has specifically requested that the County identify the annual amount of property taxes allocated to the County, and any governmental services currently provided by the County. This information is detailed for each parcel for the current and last two tax years at **Attachment A**. For 2009-10, the County General Fund received $37,629.98 (post-ERAF), $15,248.01 for 2010-11, and $11,085.39 for 2011-10. As explained earlier, the decline over these three years is due to the operation of Proposition 8, which is a temporary status. The County currently provides local governmental services to all parcels in the unincorporated area. These services include law enforcement and criminal justice, fire protection and other emergency services, health and human services, and transportation and public works.

2. Public Services to the Property.

Under 25 C.F.R. 151.11(a) and 151.10(e) the BIA must consider the impact on the County from removal of the land from tax rolls, which in this case is not only the lost revenue but also the adverse impact on government services. For the portion of the Property that is in the unincorporated area of the County, the County will have an increased demand for services with insufficient, and now reduced tax revenue to support. The impacts of Application approval include those adverse service impacts identified below.

a. Law Enforcement & Criminal Justice.

It is well established that California is a mandatory Public Law 280 state. Under P.L. 280, the Sonoma County Sheriff's Office has criminal jurisdiction and enforcement authority over the land and activities on it. The services provided by the Sonoma County Sheriff's Office are one aspect of the services provided by the criminal justice system, which also includes SWAT, helicopter, and bomb squad services, as well as jail, district attorney, public defender, and court services. The Sonoma County Sheriff's Office has repeatedly advised the Tribe that the proposed project will adversely impact law enforcement services by increasing the volume of calls for law enforcement services, the number of visitors to the area, response times, and crime rates. If the project is completed, the Sheriff's Office would require additional funding for at least one new 24-hour/7 days per week patrol fixed post position. A fixed post position requires at least six deputy sheriff allocations and overtime to cover the necessary shifts. Other divisions of the criminal justice system, including the jail, district attorney, public defender, and courts will be impacted relative to the number of offenders that enter the system as a result of conduct on or related to the casino property. The analysis fails to show how these impacts have been mitigated rather than aggravated by the loss of tax revenue.

b. Fire Protection & Other Emergency Services.

The Sonoma County Fire and Emergency Services Department is responsible for Fire Code enforcement as related to new development on the Property. Cloverdale Fire Department, (which was not on the distribution list for the Application Notice), currently provides fire services to the Property. Special districts, including fire districts, are experiencing reductions in funding and a corresponding reduction in personnel and capacity. The entire system is overburdened. The Application is silent as to whether Cloverdale Fire Department has the

capacity to provide services to the Property if developed consistent with the Tribe's plans. Given the unclear capacity of Cloverdale Fire and similar fire districts, and the responsibility of County Service Area departments to provide mutual aide, the reduction of tax revenue further impacts the County's ability to provide these critical life and safety services to the proposed trust property.

c. Health & Human Services.

The County Departments of Health Services and Human Services are currently responsible for services to the Property. However, because the land is primarily undeveloped, the County Department of Health Services is not actively providing specific services to the Property. If the property is developed as a resort casino, the areas of new demand for the Department of Health Services are: problem and pathological gambling, alcohol-related problems, increased domestic violence and sexual assault, indoor air quality – environmental tobacco smoke exposure, food-borne illnesses, pool illness and safety hazards, emergency medical services (EMS) impacts, inspection of business activities impacting health, and animal care and control issues. The areas of concern for the Department of Human Services overlap in several areas with those of the Department of Health Services, primarily regarding problem and pathological gambling, alcohol-related problems, and increased domestic violence and sexual assault, as these types of problems have a demonstrated connection to the safety of children, intimate partners, and vulnerable adults, primarily seniors. *See* Ontario Problem Gambling Study, June 2007, in which researchers studied 182 gamblers, with 62% of them self-reporting perpetration of a physical assault on an intimate partner. Again, the impacts on public services are exacerbated by the project which will also cause a decrease in current and future tax revenue.

d. Transportation & Public Works.

The Sonoma Department of Transportation and Public Works (DTPW) is presently responsible for maintaining the portion of Asti Road that provides direct access to the proposed project on the Property. The proposed acquisition presents significant transportation and traffic related impacts that have not been mitigated. First, the region is woefully underserved by public transportation. Adding a business that relies heavily on lower paid unskilled labor, many of whom may be dependent on public transportation, not to mention customers who also may be dependant on public transportation, will further and significantly impact these resources and the public agencies that provide them. Second, DTPW has repeatedly commented, as early as April 2009, that a roundabout was the preferred and technically superior means of mitigating traffic impacts created by the proposed development at the intersection of Asti Road and the main casino-complex entrance, instead of the traffic signal recommended by the DEIS. DTPW estimates the current cost to maintain and operate a signal system at a 3-legged intersection at $200 per month. Third, impacts to Asti Road itself are anticipated based on the traffic numbers reported in the DEIS. Increased demand for maintenance of Asti Road presents an additional burden on the County. These tax and related impacts demonstrate that, without a clear binding mitigation plan, the Secretary should exercise his discretion to deny the Application.

D. The Level Of Jurisdictional Problems And Potential Conflicts Of Land Use Require That The Application Be Denied (25 C.F.R. § 151.11(a), referencing 25 C.F.R. § 151.10(f)).

In considering the Application the Secretary must carefully consider the: "Jurisdictional problems and potential conflicts of land use which may arise." (25 C.F.R. §151.11(a) referencing 151.10(f).) As discussed both above and below, the direct and cumulative impacts of placing a massive entertainment and lodging facility on this land would create serious jurisdictional conflicts. Extensive planning efforts and tax concessions have gone into maintaining the agricultural quality of eastern portion of the land. Similarly, for the western portion of the land, the current zoning and General Plan designations were imposed to ensure land uses consistent with community needs – high paying industrial jobs, agriculture, and housing. Breach of these land use, zoning, and contractual protections would degrade both the east and west sides, contradict the needs of the surrounding community, and threaten the County's continuing efforts to protect farmland, and create opportunities for higher paying industrial jobs and housing.

1. Williamson Act Conflicts.

The Tribe's proposed uses for the eastern portion of the Property conflict with the uses permitted under the Williamson Act, and County Uniform Rules for Administering Agricultural Preserves, which are incorporated into the terms of the Williamson Act contract. (Williamson Act, Govt. Code §51200 *et seq.*) The eastern portion of the Property that is restricted by the Williamson Act contract is more than forty acres[10] in size. The two parcels that comprise the eastern portion of the Property are currently owned by Sirrah, LLC.[11] The contractual restriction was recorded in the chain of title on February 28, 1983, by Sonoma-Lodi Joint Venture, predecessor-in-interest of Sirrah, LLC, which now owns the parcels[12]. Thus, at the time Sirrah, LLC, voluntarily acquired the Property it had notice of and agreed to be bound by the terms of the contract. If the Tribe or the federal government acquires the land before the Williamson Act contract has terminated, then either entity would be subject to the contract's restrictions as well. The terms of the voluntary contract restrict the use of the Property, which consists of prime agricultural land, to agricultural and compatible uses in exchange for lower tax rates. The landowner can initiate the process called 'non-renewal' that begins the 'phase-out' of the contract over its ten-year term. To date, Sirrah, LLC has not begun the process of phasing out the contract, or otherwise applied to terminate the contract by other means consistent with the Williamson Act and the County's Uniform Rules for Administering Agricultural Preserves.

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[10] APN 116-310-005 (+/-10.80 acres) & APN 116-310-079 (+/-30.26 acres (formerly portion of APN 116-310-044) are both restricted by the Williamson Act contract which is recorded at Official Record Number 83011838.

[11] The third parcel that comprises the eastern portion of the land, which is included in the description of land provided by the Application and Notice, is owned by the City of Cloverdale, and is also subject to the Williamson Act contract. However, as to the City's land, the contract is phasing out following the recording of a Notice of Non-Renewal.

[12] The Application indicates that all parcels are owned by E2E, LLC, but this is not shown in the County chain of recorded documents.

The Tribe's Application does not mention that a portion of the property is encumbered by a Williamson Act contract. The DEIS briefly mentions the Williamson Act restriction, but dismisses it, without justification or even a complete federal "Farmland Conversion Impact Rating Form (AD1006)." That form is provided at Appendix M to the DEIS but does not conform to the federal requirements at 7 C.F.R 658.5, since, among other things, the federal agency charged with completing it failed to provide any data at Part IV.

A Williamson Act contract does not extinguish automatically upon the land being taken into trust. In *Friends of East Willits Valley v. County of Mendocino*, 101 Cal. App. 4th 191 (2002), the petitioners challenged a county's cancellation of a Williamson Act contract for a parcel subsequently taken into trust. The tribe in that case argued that the BIA's granting of the trust application voided the Williamson Act restrictions and rendered them inapplicable. (*Id.* at 198.) The Court rejected this argument, holding that no state or federal law "invalidates contractual commitments made before the passage of land into trust." (*Id.* at 201.) The Court noted that the tribe had voluntarily accepted the Williamson Act restrictions, and that holding that these restrictions are "automatically voided by the passage of land into trust" would violate both law and policy. (*Id.* at 203 [noting that "sovereignty and self-determination are promoted when tribes are free to decide what voluntary agreements they will or will not enter into" and that upholding the restrictions would preserve "the ability of tribes to negotiate and plan"].)

Here, too, the Tribe (through End to End Enterprises (E2E), LLC) apparently intends to voluntarily purchase the Property and, in so doing, become successors-in-interest to the Williamson Act contract. Nothing in the Williamson Act or any state or federal law invalidates these voluntary contractual commitments, nor renders them inapplicable to the Property if it passes into trust. To the contrary, the Williamson Act's restrictions regarding agricultural and compatible uses continue to apply and limit the Tribe's future use of the Property.

To comply with the Williamson Act contractual restrictions on the land, the property must be devoted to agricultural use, which means the production of an agricultural commodity (either food or fiber), and any non-agricultural uses must be a compatible uses listed in the County's Uniform Rules for the Administration of Agricultural Preserves, which are incorporated into the terms of the contract. If the Tribe and City of Cloverdale do not reach an agreement for wastewater services, the Tribe plans to develop an onsite wastewater treatment plant, treatment ponds, and sprayfields on parcels under the Williamson Act contract. None of these uses are permitted 'compatible uses' under the Williamson Act, contract, or Uniform Rules. Nor would these wastewater related uses be considered remotely agricultural in nature.

As stated earlier, the Application's statement of Tribal Need strongly suggests that the Tribe has a need to provide housing, a child care center, and a cultural center for its members. These needs are described as immediate, yet none of the land (between approximately 60 and 80 acres in size, depending on what part of the Application is consulted), is proposed to be used for housing, child care, or cultural preservation, now or in the future. This conclusion is supported by the DEIS, which does not identify these uses as components of the proposed Project, despite the fact that they are reasonably anticipated needs of the tribe, and not speculative in the least. (If these uses are speculative, then the stated tribal need for housing, child care, and cultural center facilities is also largely speculative.) Use of the eastern portion of the Property for housing

(beyond what is necessary for farm workers tending the land), large scale child care facilities (beyond a home day care type setting), or for a cultural center these uses is not be permitted under the Contract as uses compatible with agriculture, particularly if they displace agricultural uses to the point that the land is no longer devoted to agricultural uses.

The voluntary Williamson Act contractual restriction presents, and will continue to present, a substantial, direct, and unavoidable land use conflict with the Tribe's fee-to-trust application and proposed development project. In addition, as stated earlier, it will continue to be an encumbrance on the eastern parcels to which any subsequent owner, including the Tribe or federal government will be subject.

3. Sonoma County General Plan and Zoning Ordinance Conflicts.

The proposed Project is in conflict with the Sonoma County General Plan and zoning.

On the western parcels, the project proposes a massive entertainment and lodging facility that is wholly inconsistent with the Limited Industrial General Plan designation and the RR (Rural Residential) zoning. To be consistent, the General Plan designation would need to be changed to Recreational and Visitor Serving Commercial. Such a change would require compliance with the recreation and Visitor Serving Commercial site designation criteria on page LU-40 of the General Plan. These criteria include the generation of Transient Occupancy Tax (TOT) eligible for County appropriation for affordable housing, and uses of the site that are compatible with nearby agricultural operations. (General Plan, p. LU-40, Designation Criteria (4) and (6).)

On the eastern parcels, as stated above, the project proposes wastewater and water supply facilities that are wholly inconsistent with the Land Intensive Agricultural (LIA) General Plan designation and zoning. Land Intensive Agriculture ("LIA") is a category designed to "enhance and protect lands capable of and generally used for the production of food, fiber, and plant materials." (General Plan Policy 2.7.1.) The Permitted Uses in this category include agricultural production, processing, and services, but does not include the proposed waste water or water facilities. (General Plan Policy 2.7.1.) These uses further conflict with the General Plan Agricultural Element, which provides that:

> The primary use of any parcel [designated LIA] *shall be agricultural production and related processing*, support services, and visitor serving uses. Residential uses in these areas shall recognize that the primary use of the land may create agricultural "nuisance" situations, such as flies, noise, odors, and spraying of chemicals.

and that:

> Local concentrations of commercial or industrial uses, even if related to surrounding agricultural activities, are *detrimental* to the primary use of the land for the production of food, fiber and plant materials and *shall be avoided.*

(General Plan Policies AR-4a and 5e [emphasis added].) A majority of the Tribe's proposed wastewater and water facilities uses would hinder and prove detrimental to the primary, agricultural use of the Property, and would thus create a land use conflict with the County General Plan.

Unless the Tribe and the County reach a government-to-government agreement for mitigation of these impacts and jurisdictional conflicts, there is nothing the BIA can identify that shows these impacts have been meaningfully addressed or mitigated to an extent to permit transfer of the land into trust.

4. Land Use Conflicts & Jurisdictional Issues Related to Water & Wastewater.

The County is also very concerned about the impacts to water supplies and groundwater resources created by the Project. Agencies and entities with an interest in and/or jurisdiction over water resources include the Regional Water Quality Control Board, California Department of Fish and Wildlife, the Sonoma County Water Agency, City of Cloverdale, County of Sonoma, and federal agencies including the National Marine Fisheries Service, and the Army Corps of Engineers. Most of these agencies are not on the BIA's distribution list for Notice of the Application. The County asks that all of these entities be provide with a copy of the Notice and an opportunity to comment on the Application. (*See* **Attachment D-1** for agency addresses.)

From the project description in the DEIS, the Tribe proposes to use either on-site wells or the City of Cloverdale for water. It is unclear from the DEIS or the Application if either of these sources is realistic or adequate to service the Project. However, it is anticipated that jurisdictional conflicts would arise under either the 'private' or 'onsite well' water supply option, if the demand for water outpaced the supply, because either the City's supply is directly impacted, or the groundwater table from which the Tribe's well(s) draw from would be negatively impacted.

Also from the project description in the DEIS, the Tribe proposes wastewater treatment ponds for the eastern portion of the property. The DEIS lacks important information and detail regarding several environmental impacts, including impacts to water quality, the water table, and the Russian River, from the proposed percolation of treated effluent. The DEIS also lacks information concerning the possibility of the City of Cloverdale serving as the wastewater treatment contractor. However, it is anticipated that jurisdictional conflicts would arise in the event of groundwater contamination where the Tribe utilizes less rigorous water quality standards than are applicable in the surrounding region.

Moreover, because the eastern parcels are proximate to the Russian River and in a floodplain, surface runoff from the Tribe's wastewater treatment ponds or spray fields on those parcels presents a threat to water quality of the Russian River and the surrounding area. This is a major concern because the County is informed that the state and federal governments have identified threatened and endangered salmon and steelhead in the area. In addition, the County is informed that the Regional Water Quality Control Board is already monitoring sites in the Cloverdale area that impact the Russian River and water quality. The County is unaware of any government-to-government agreements with the Tribe that address coordination with the

agencies charged with monitoring water quality for the region. Such agreements should be enforceable and ensure consistency in monitoring, data sharing and transparency, and overall quality and safety of water resources, both for human consumption and the health and safety of fish and wildlife. Without such an agreement the jurisdictional conflicts described above will not be mitigated or resolved, creating uncoordinated actions and policies at best, and significant harm to public health, safety, and the environment at worse.

The County has already provided comments on the Tribe's analysis of impacts to water in the DEIS. These comments are incorporated into this document, and provided at **Attachment E.**

It is unknown if the final environmental document will contain any additional information concerning or analyzing this aspect of the project and its impacts. Until the final environmental impact statement is released, the County does not have enough information to fully comment on land use and jurisdictional conflicts created by the proposed land acquisition, as they relate to water supply and groundwater.

5. Railroad Jurisdictional Conflicts.

The County has significant concerns about the jurisdictional conflict created by accepting land on both sides of a railroad into trust. The County is informed that the underlying fee for the railroad property that bisects the Property is owned by the North Coast Rail Authority. The Sonoma Marin Rail Transit District (SMART) owns an operating easement over the railroad property. The SMART train is approved to run from Larkspur Landing to Cloverdale. The Cloverdale train station is just north of the proposed trust land. The California Public Utilities Commission also has regulatory authority over the line, and the Federal Rail Authority also has jurisdiction over it.

The types of jurisdictional conflicts that may arise if the land is taken into trust include: (1) an inability of state, local, and federal authorities to meet safety or other requirements for the planned operation of the rail line to Cloverdale where additional area is needed on either or both sides of the rail line to ensure safe and legal train operations, but where such additional area cannot be acquired, accessed, or condemned because it is permanently in trust status; and (2) an inability of the Tribe to cross, access, or build pipelines or crossings across the rail property between the east and west portions of the proposed trust land. There is no implied right to cross or access rail property and the tribe would need an agreement with the appropriate authorities to do so.

The California legislature declared in the legislation authorizing SMART that: "It is the intent of the Legislature in enacting this part to provide for a unified, comprehensive institutional structure for the ownership and governance of a passenger rail system within the Counties of Sonoma and Marin that shall operate in harmony with existing freight service that operates upon the same rail line and serves the Counties of Humboldt, Marin, Mendocino, Napa, and Sonoma." (Cal Pub Util Code § 105001.) Under Title 25 C.F.R. §151.11(a), citing §151.10(f), the Secretary must consider "jurisdictional problems," and "potential conflicts of land use." Thus, under the regulations the Secretary is to consider precisely the types of jurisdictional problems associated with the rail line running through the Property. If the land is taken into trust, and the right of

way, operational easement, or underlying fee cannot be expanded to address safety and other operational concerns at the federal, state, or local level, then the trust acquisition could seriously frustrate and prevent train service from reaching Cloverdale as contemplated by the State legislature, and the voters who approved the "SMART" train. This jurisdictional conflict weighs heavily against accepting the land into trust.

6. Other Jurisdictional Problems: Lack of Mitigation Agreements and Tribal Ordinances.

In its Application the Tribe refers to potential future government-to-government 'discussions', but does not express a compelling desire, much less a commitment to entering into any enforceable government-to-government agreements with the County to address negative impacts from the acceptance of the land into trust, or development of the resort casino. This is disappointing. Instead, the Tribe throughout its Application seeks to minimize impacts, and argues that loss of tax revenues would be off-set by 'indirect business taxes.' This is inaccurate and mischaracterizes the loss to the County. The reality, as demonstrated throughout these comments, is that there are real impacts to the County if the land is taken into trust. Moreover, if the Property is developed consistent with zoning, the County would enjoy property taxes, and all direct and indirect business taxes, so the concept of one type of tax providing an 'off-set' is meaningless. Moreover, if the Property is developed consistent with zoning and the General Plan, then industrial type employment opportunities will be lost. These types of jobs are more beneficial to the community because they generally pay better, have better benefits and job security than leisure and hospitality type jobs. (*See* **Attachment F** for compilation of wage statistics from the California Employment Development Department.) For there truly to be an "off-set," there would need to be a government-to-government agreement that addresses the County's costs and tribal funding of those costs, so that Sonoma County tax payers do not subsidize the Tribe's business ventures. Indeed, the lack of demonstrated and firm commitment in the Application to *reaching* government-to-government agreements to ensure that no such subsidy occurs is contrary to the policy favoring tribal self-sufficiency.

For these reasons, the BIA cannot point to an existing or anticipated government-to-government agreement to show that the impacts identified in these and other comments have been mitigated. Making matters worse is the fact that there is no Tribal ordinance (or at least one that has been made public) that addresses the many issues raised in the comments to the DEIS, and raised here to the Application regarding environmental protection, health, and safety. As a result, the BIA cannot point to an existing Tribal ordinance to show that identified impacts will be mitigated. While the BIA certainly has a policy in favor of encouraging self sufficiency, self-determination, and economic development for tribes; that policy is not incompatible with requiring recognition and mitigation of impacts to local governments. This is clearly contemplated by the terms of 25 C.F.R § 151.10 and 151.11, which requires the BIA to evaluate impacts to local governments.

E. The Bureau Of Indian Affairs Is Not Equipped To Discharge The Additional Responsibilities Resulting From The Acquisition Of The Land In Trust Status (25 C.F.R. § 151.11(a), referencing 25 C.F.R. § 151.10(g)).

The Trust Application incorrectly asserts that "[a]ccepting the Property into trust will not impose any significant additional responsibilities or burdens on the BIA beyond those already inherent in the Federal trust relationship between the BIA and the Tribe." (Application at p. 9.) To the contrary, accepting the Property into trust will impose substantial new burdens on the BIA.

At a minimum the BIA will need to monitor and ensure compliance with the Williamson Act contractual encumbrance on the land, water quality issues, and land use disputes with a number of agencies, including rail and resource governmental bodies that will continue to have jurisdiction affecting the land. The County therefore requests that the BIA decline to act on the Trust Application until it is complete and affords the BIA an opportunity to realistically investigate its future responsibilities to oversee compliance with the Williamson Act, and the many other issues that will be generated and compounded if the Property is taken into trust.

F. The Extent To Which The Tribe Has Provided Information That Allows The Secretary To Comply With The National Environmental Policy Act (25 C.F.R. § 151.11(A), Referencing 25 C.F.R. § 151.10(H)).

The Tribe has not provided information that allows the Secretary to comply with the National Environmental Policy Act, and the BIA has not issued a final Environmental Impact Statement for the project that addresses the deficiencies in the draft Environmental Impact Statement (DEIS) previously identified by the County and others.

As an initial matter, the Tribe's Application states that the DEIS is presently available for review and comment. (Application, p. 6.) This is not a correct statement. It was not even a correct statement at the time the Tribe submitted its Application on December 31, 2010. While the County has participated and will continue to participate in the environmental review process, the County objects to Application as misleading the public into believing that comments may still be submitted and considered on the DEIS. This is important because of the link between the DEIS and the Application concerning the project description. The DEIS refers to the (at the time non-existent) Fee-to-Trust Application for "detailed information on the land being taken into trust, an effects analysis which details the potential effects on the surrounding community, and consultation to determine the costs and benefits of the fee-to-trust transfer would have for the Tribal Government and the affected local jurisdiction(s)." However, the Fee-to-Trust Application when describing the Tribe's anticipated use of the Property, refers right back to the DEIS to "fully describe," such use. The cross reference creates a moving target for the public and the County, when trying to determine, analyze, and provide comments on impacts of the proposed project, including the trust acquisition Application.

The County also has significant concerns regarding the timing of environment review and review of the Fee-to-Trust Application because at the time the BIA's Notice of (Gaming) Acquisition Application went out there was no final environmental document to respond to the

host of problems with the DEIS identified by the County and others. To date, there still is no final environmental document. The County does not know if the final environmental document will address the many comments the County submitted on the DEIS in October 2010. As a result, the County is being asked to comment on the Application without the benefit of a final environmental document. Without a final environmental document or revised and complete Application detailing the project and its impacts, the County cannot fully comment on the impacts of taking the land into trust. The County requests that the BIA refrain from taking the land into trust until these matters are addressed and to the documents recirculated for additional comment.

As discussed in the County's October 20, 2010 comments to the DEIS, which are attached and incorporated into these comments at **Attachment E,** the proposed project continues to present potentially significant impacts in the following areas: air quality; public services, including law enforcement, fire, and emergency services; socioeconomic and health impacts; traffic, transportation and parking impacts; water resources including water supply, groundwater, sanitation, wastewater, flood control, and stormwater runoff; land use, agricultural, and general plan consistency; visual impacts; noise effects; biological resource impacts; and cumulative impacts. The County's comments on the DEIS identified areas where additional information and more detailed mitigation measures are needed, to better ensure that any final project does not result in significant adverse impacts on the off-site environment, community, and County of Sonoma. To date, the Final Environmental Impact Statement has not been released. Unless and until there is a Final EIS that addresses the matters raised in the County's comments, neither the BIA, County, nor the public will have full information concerning the description of the project, and its impact. This uncertainty, along with the other due process violations discussed below, makes the Application process severely procedurally flawed and legally deficient.

V. PROCEDURAL DEFECTS

A. Threshold Requirements: Request for Approval of Acquisitions (25 C.F.R. §151.9).

1. Application Deficient & Notice Inadequate.

Under §151.9, the request for trust acquisition, "shall set out the identity of the parties, a description of the land to be acquired, and other information which would show that the acquisition comes within the terms of this part." As will be shown below, the Application does not meet this fundamental threshold requirement because the land is not clearly described.

The Application should be rejected because it does not adequately describe the land that the Tribe seeks to have taken into trust. Similarly, the Notice is invalid and does not provide adequate notice of the proposed action because the land described in the notice is not the same as the land that the Tribe actually seeks to (or can) have taken into trust. Specifically, the Notice and Application include land that is not owned by the Tribe or any of it partners, and that is owned by the City of Cloverdale. These errors are repeated in the Indian Lands Determination. Moreover, Notice has not been provided to several entities that have a direct interest in the acquisition.

2. Land Not Clearly or Properly Described.

As explained below, in addition to the above errors, the Application inconsistently describes the acreage sought for trust status as somewhere between 59.08+/- acres and 79+/- acres, depending on what part of the Application one looks at. This is a twenty acre discrepancy. The Application should be rejected based on this material flaw which prevents fully evaluating impacts since the amount of land is inconsistently and not clearly described.

The first page of the Application refers to Exhibit A, to identify the land that the Tribe is seeking to have taken into trust. Exhibit A, which is an amended version of General Council Resolution 2007-11-136, requests that the Secretary of the Interior place real property in Sonoma County into trust for the benefit of the Tribe, and purports to correct parcel legal descriptions and size contained in the original resolution. The resolution initially states that the acreage for the proposed acquisition is 79+/- acres, and refers to Exhibit 1 for the description of the land. However, Exhibit 1 only lists four parcels, with the following stated acreages:

APN:	Acreage
116-310-044	35.52
116-310-020	2.05
116-310-035	16.44
116-310-039	5.07
TOTAL:	59.08

A 2008 Assessor's map showing the parcels is attached to the amended resolution, along with a one and a half page legal description citing APN 116-310-005 and 116-310-044, but no acreage is specified. If these additional attachments are to amend the list above, there is still a parcel missing (116-310-040), when compared to other parts of the Application. Under the amended resolution, the General Council delegated authority to the Tribal Council to change or add parcels listed in Exhibit 1, if certain conditions are met. There is no evidence provided in the Application that any of these conditions have been met, even though parcels have been changed and added. As a result, the Application does not show it is properly authorized by the Tribe, and should be rejected for that reason as well.

Later, the Application at page 3 (and also at pg. 7) describes the land as "approximately 64.48 acres," and cites to Exhibit E, a 2009 map from Adobe Land Surveyors, which summarizes acreage as either 67.55 acres or 69.77 acres.

APN:	adjusted Acreage	APN Acreage
116-310-044	25.53	25.53
116-310-020	2.05	2.05
116-310-035	15.10	16.44
116-310-039	4.49	5.00
116-310-005	12.21	12.22
116-310-040	8.16	8.53
TOTAL:	67.55	69.77

Assessor's Parcel Number 116-310-044 is an invalid parcel number. It was split into APN 116-310-079 and -080, by Instrument Number 2010113034, Official Records of Sonoma County, recorded December 13, 2010, when the City of Cloverdale acquired a portion of it totaling approximately 5.26 acres. Two weeks later the Tribe submitted the present Application, which does not account for the parcel split and deed to the City. (*See* Map at **Attachment G**.) The Application should be amended and recirculated to cure this defect.

Adding to the confusion is the Application's reference to the Draft Environmental Impact Statement (DEIS) to more fully describe, "the specific nature of the Tribe's anticipated use of the Property," that is the subject of the Application. The DEIS, identifies the land as "six parcels of land totaling approximately 69.77 acres."

As stated above, the Notice of the Application is invalid because it does not accurately describe the land that the Tribe seeks to have taken into trust, which impairs the County's ability to fully evaluate impacts of the proposed acquisition. Moreover, even if the Notice invalidity is remedied, the Application should still be rejected based on the failure to clearly describe the property to which the Application applies.[13] Finally, under 25 C.F.R. §151.13, the proposed acquisition does not meet the federal *Standards for the Preparation of Title Evidence In Land Acquisitions by the United States*, which requires that a deed to the United States, "contain a proper description of land." (*Standards* at Part 8(g).)

3. Failure to Give Notice to Affected Agencies.

There are sixteen taxing agencies that receive a portion of property taxes from the proposed Property, but only one – the County was notified of the Application based on the distribution list. The County is aware that the City of Cloverdale subsequently requested a copy of the Notice of Application. Five agencies impose direct charges on the proposed Property, but none of them were notified of the Application based on the distribution list. Four agencies impose charges for ad valorem debt service obligations, but none were notified based on the distribution list. In addition to taxing agencies, other agencies, including the Regional Water Quality Control Board, presently have jurisdiction over the area and should be notified of the pending Application.

The Notice states, "If any party receiving this notice is aware of additional governmental entities that may be affected by the subject acquisition, please forward a copy of this notice to said party or timely provide our office with the name and address of said party." (*See* ***Attachment D-2***, List of names and addresses of agencies affected by the proposed acquisition.)

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[13] The Indian Lands Determination letter at Exhibit Q to the Application suffers from the same failure to clearly describe the land to which it applies. The letter states that the, "Tribe seeks to have approximately seventy (70) acres of land taken into trust in Cloverdale, California," and that the property, "as a whole consists of six (6) individual parcels." The map included in the letter is illegible in all copies the County has been able to obtain. Since the determination was issued in 2008, before Adobe Associates, Inc., surveyed the property (2009), and before the City of Cloverdale acquired a portion of what was APN 116-310-044, the County expects that map included with the Indian lands determination also does not accurately describe the land that could be acquired for gaming purposes. For these reasons, the County asserts that the Indian lands determination is invalid and does not support the Application.

To correct this due process issue, the Department should send notice of the proposed action to these agencies, and provide an opportunity for each to comment.

4. Failure to Identify Correct Criteria in Notice.

As explained earlier in these Comments, the criteria at 25 C.F.R §151.11 are applicable to a determination of whether to accept any land into trust for the Tribe. The Notice wrongly identifies 25 C.F.R. §151.10 and §151.11 as the applicable provisions, when only §151.11 applies. The Notice is thus misleading and inadequate to provide proper due process, and cannot support a decision on the Application.

VI. CONCLUSION

For all of the above reasons and light of the facts set forth in these Comments, the County of Sonoma strongly opposes the Application and urges the BIA to deny it. We remain available to discuss these comments with the BIA and the Tribe upon request.

INDEX OF ATTACHMENTS

ITEM	DESCRIPTION
A	2009, 2010, 2011 Property Tax Reports
B	Assessment Data for Parcels
C	Assessor Development Analysis and Estimated Assessed Value at Highest and Best Use
D-1	Distribution List Corrections: Interested Entities
D-2	Distribution List Corrections: Taxing Entities
E	County's October 20, 2010 Letter and Comments on the Draft EIS
F	Employment Development Department Wage Statistics
G	Assessor Map