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

SEP 0 7 2010

Dale Morris, Regional Director
Bureau of Indian Affairs
Pacific Region Office
2800 Cottage Way
Sacramento, California 95825-1846

Subject: Final Environmental Impact Statement, North Fork Rancheria of Mono Indians Fee-to-Trust and Hotel/Casino Project, Madera County, California (CEQ# 20100302)

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.

EPA reviewed the Draft Environmental Impact Statement (DEIS) and provided comments to the Bureau of Indian Affairs (BIA) on April 7, 2008. We rated the DEIS as Environmental Concerns - Insufficient Information (EC-2) because of the uncertainty regarding the implementation and enforcement of the extensive list of mitigation measures, some of which are necessary to reduce impacts to below significance, as well as the lack of information regarding the preferred wastewater treatment option, which affects the ability to mitigate groundwater impacts. As a cooperating agency on the project, we also reviewed the Administrative Final EIS and provided comments to BIA on December 4, 2008.

We commend BIA and the Tribe for the mitigation and enforcement program included in Appendix Z, which indicates that the tribe will be responsible for nearly all mitigation. We recommend that commitments for implementing all mitigation measures be identified in BIA's Record of Decision (ROD). We also commend BIA and the Tribe for reducing impervious parking surfaces by 15%, helping to reduce storm water runoff.

The FEIS still does not indicate a preferred wastewater treatment option. We understand the desire for flexibility regarding wastewater treatment options. We continue to recommend maximum water reuse and note that an onsite wastewater treatment plant offers reuse opportunities (for toilet flushing, onsite and offsite irrigation, etc.). We recommend that commitments to water reuse be included in the ROD or added to the project description for the onsite wastewater treatment option. Additionally, if this option is chosen, BIA and the Tribe should ensure that the site has sufficient capacity for both stormwater and wastewater retention, considering it lies within the 100-year floodplain. We recommend that the ROD include a commitment to this investigation prior to development.

We appreciate the clarifications regarding responsible parties for implementing mitigation measures; however, corrections are needed to some of the information provided in the appendices. Page 3-1 of Appendix I erroneously states that EPA is responsible for regulating land disposal of wastewater. EPA does not have regulatory authority for this method of wastewater disposal. In addition, the text for mitigation measure R in Appendix Z (p. 45) continues to identify EPA as responsible for monitoring and/or reporting on maintaining the water temperature for wastewater discharges to waters for Alternative D. Although EPA is the regulatory agency for any National Pollutant Discharge Elimination System (NPDES) permits, the permittee would be responsible for monitoring and reporting temperature change in the nearby aquatic systems. These authorities should be corrected in the ROD.

EPA is pleased by the tribe's renewed interest in pursuing Leadership in Energy and Environmental Design (LEED) certification for the hotel portion of the project and we recommend including this specification in the project description in the ROD. We also continue to encourage the tribe to pursue LEED certification for the entire complex. Surveys completed by J.D. Power and Associates show that a large majority of customers prefer environment-friendly facilities and a smoke-free environment in all common areas of the hotel, not just in the guest rooms. (See: http://www.jdpower.com/travel/articles/2007-North-America-Hotel-Guest-Satisfaction. The 2009 survey reported that awareness of "green" programs has a strong impact on overall hotel guest satisfaction. See: http://www.jdpower.com/travel/articles/2009-North-America-Hotel-Guest-Satisfaction-Study).

EPA appreciates the opportunity to review this FEIS. When the ROD is signed, please send a 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 or Hanna Scardina, the lead reviewers for this project, at (415) 947-4178 or vitulano.karen@epa.gov.

Sincerely,

Kathleen M. Goforth, Manager
Environmental Review Office

cc: Elaine Fink, Chairperson, North Fork Rancheria
Brett Matzke, Environmental Director, North Fork Rancheria