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September 22, 2009

VIA ELECTRONIC MAIL

Mayor Gayle McLaughlin and Members
of the Richmond City Council
Richmond City Hall
450 Civic Center Plaza
Richmond, CA 94804

Re: Draft Environmental Impact Statement and Environmental Impact Report for the Point Molate Mixed-Use Tribal Destination Resort and Casino Project

Honorable Mayor Gayle McLaughlin and Members of the City Council:

This letter is submitted on behalf of Stand up for California and other interested parties, regarding the joint Draft Environmental Impact Statement and Environmental Impact Report (“EIR”) for the Point Molate Mixed-Use Tribal Destination Resort and Casino (the “Project”) issued in July 2009.

The EIR’s discussion of the Project’s cumulative impacts is fundamentally flawed, in that the time frame for evaluation of cumulative impacts does not allow any meaningful analysis of the Project’s cumulative impacts. In particular, page 4.15-4 of the EIR states:

The time frame of the cumulative analysis generally extends to 2010, which corresponds to the future planning period analyzed in the current City of Richmond General Plan. The transportation and air quality analyses project significantly further in the future (2025) to correspond with the temporal extent of the most recent version of the Contra Costa County Travel Demand Model.

Here, the EIR analyzes the vast majority of cumulative impacts up to the year 2010—a time frame that expires less than four months from now.¹ This analysis is entirely inconsistent with

¹ It should also be noted that the EIR bases this time frame on a document—the City’s General Plan—that will be outdated in a matter of months.



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CEQA's definition of a "cumulative impact." In particular, CEQA Guidelines section 15355(b) provides:

(b) The cumulative impact from several projects is the change in the environment which results from the incremental impact of the project when added to other closely related past, present, and reasonable probable future projects. Cumulative impacts can result from individually minor but collectively significant projects *taking place over a period of time.*

(14 Cal. Code Regs., § 15355(b) (emphasis added).) If the phrase "over a period of time" is to be accorded any meaning, it must mean a greater length of time than the few scant months contemplated in the EIR. This is particularly true when possible project approval, and certainly project implementation, will not occur within the identified time frame

The EIR's use of a 2010 time frame for analysis of cumulative impacts is even more inexplicable, when one considers that the Project's full build-out conditions will not occur until 2012, even under the most optimistic of conditions. Given the Project's anticipated timing, it is readily apparent that a cumulative impact analysis extending until the year 2010 cannot possibly provide an adequate analysis of the full scope of the Project's cumulative impacts. The exceedingly narrow scope of the EIR's cumulative impacts analysis is inaccurate, misleading, and must be revised. (*See Bakersfield Citizens from Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184, 1216 (decertifying EIR, in part, because cumulative impacts analysis for Wal-Mart shopping center that limited the geographic scope of the project to a small "project area" and excluded another proposed Wal-Mart shopping center 3.6 miles away was "inaccurate and misleading".))

For these reasons, this letter requests that the time frame for analysis of cumulative impacts be revised to a reasonable horizon that, at the very least, contemplates environmental analysis under full build-out conditions. Because, among other things, a revised analysis may disclose potentially significant new cumulative impacts that have not been previously identified, this would be considered significant new information, requiring recirculation of the EIR. (Pub. Resources Code, § 21092.1; 14 Cal. Code Regs., § 15088.5.)



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In short, by adopting a woefully truncated time frame, the EIR has deprived the public of an opportunity to comment on potential significant cumulative impacts of the project. (See 14 Cal. Code Regs., §§ 15087 and 15130.) The EIR should be revised to remedy this defect and should be recirculated to the public.

Very truly yours,

Timothy M. Taylor

TMT:tlr

cc: Randy Riddle, City Attorney
Bill Lindsay, City Manager