

The Board of Supervisors

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Martinez, California 94553

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Contra Costa County



John Cullen
Clerk of the Board
and
County Administrator
(925) 335-1900

April 28, 2008

Amy Dutschke, Acting Regional Director
Pacific Regional Office, Bureau of Indian Affairs
2800 Cottage Way, Room W-2820
Sacramento, CA 95825

RE: Final EIS Comments--Scotts Valley Band of Pomo Indians Proposed Fee-To-Trust Casino Project

Dear Ms. Dutschke:

Attached please find Contra Costa County's comments on the Final Environmental Impact Statement (FEIS) on the Scotts Valley Band of Pomo Indians' Fee-to-Trust Application and Gaming Development Project.

The casino project site is located in North Richmond, a highly urbanized, low-income minority community in unincorporated Contra Costa County. The western part of Contra Costa County already has an existing tribal casino on the Lytton Band of Pomo Indians' trust land less than two miles away from the site proposed by Scotts Valley Band of Pomo Indians. The Lytton casino operates approximately 1000 "Class II" gambling machines. The Guidiville Band of Pomo Indians is also pursuing restored trust land status (under the exceptions in Section 20 of the Indian Gaming Regulatory Act) for a tribal casino less than three miles away, which proposes to operate 2500 actual slot machines. The cumulative effect of all these casinos will forever change the community character of this region of the county.

As we have pointed out in the past, the proposed casino project would have a negative impact on the greater North Richmond community and its members. The casino would stymie the community revitalization efforts of our Redevelopment Agency, which include construction of new residential and commercial development near the casino site. In its comments on the Draft EIS, the County respectfully requested that the BIA not release the FEIS until substantial revisions were made to the document, in order to correct serious deficiencies identified by the County. Unfortunately, that did not occur. As with the Draft EIS, the FEIS fails to properly identify levels of significance or what would constitute potentially significant impacts for major areas of concern. Traffic, a driving force behind other impacts such as the demand for first responders (fire, EMS, law enforcement), is woefully underestimated, with the PM peak rate understated by more than half.

Moreover, mitigation measures are not necessarily responsive to the impacts. Particularly disturbing is the continued reliance on the Municipal Services Agreement with the City of Richmond for mitigation. The MSA is legally questionable, may not be legally enforceable and incorrectly presumes the right of the City to preempt the jurisdictional authority of the County and State of California within unincorporated areas. The Lake County fee land project alternative is

inappropriately dismissed, despite the fact that it is feasible from a technical and economic standpoint and makes sense in terms of where most Tribal members live, as well as being the historic home of the Tribe.

Additionally, despite the acknowledged lack of connection between the Tribe and the County, the FEIS assumes that the land will be taken into trust as “restored land” and so does not include “no detriment to the community” as a purpose and need of the project, with a resulting inadequate scope. These and other flaws in the FEIS lead the County to conclude that the document does not meet the standard described in the Bureau of Indian Affairs NEPA Handbook (30 BIAM Supplement 1):

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

Please contact Sara Hoffman, Indian Affairs Advisor, at 925-890-1344, or Cathy Christian of Nielsen, Merksamer, Parrinello, Mueller and Naylor, the County’s outside counsel for tribal issues, at 916-446-6752, if you would like further information or have questions about the County’s comments.

Sincerely,



FEDERAL GLOVER, Chair
Board of Supervisors

- cc: Senator Dianne Feinstein
- Senator Barbara Boxer
- Congressman George Miller
- Congresswoman Ellen O. Tauscher
- Congressman Gerald McNerney
- Governor Arnold Schwarzenegger
- Senator Tom Torlakson
- Senator Don Perata
- Assemblymember Mark DeSaulnier
- Assemblymember Loni Hancock
- Members, Contra Costa Board of Supervisors
- Silvano Marchesi, County Counsel
- Cathy Christian, Nielsen, Merksamer, Parrinello, Mueller & Naylor, LLP