



**AMADOR COUNTY  
ADMINISTRATIVE AGENCY**

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March 10, 2006

Ms. Rhonda L. Morningstar Pope  
Tribal Chairperson  
Buena Vista Rancheria of Me-Wuk Indians of California  
P.O. Box 162283  
Sacramento, CA 95816

Attention: Comments on Notice of Preparation

Dear Madam Chair:

The County is in receipt of the Notice of Preparation (NOP) of the Draft Tribal Environmental Impact Report (DTEIR) for the proposed Buena Vista Rancheria Casino Project and submits this letter to provide initial comments. The mission of the elected officials and staff of Amador County is to maintain and protect the quality of life for all our residents. Our review of potential projects strives to achieve the following:

- Ensure the safety of Amador County residents;
- Maintain the quality of life in Amador County for residents by protecting our infrastructure, environment, agriculture, historical integrity, and open space areas;
- Ensure cost effective operation of County services without undue and unfair financial burdens on County residents and to protect the County from negative financial impacts.

It is important to note from the start that the proposed Project will have substantial impacts on the County and its residents. It is entirely possible that this Project on any given day will increase the number of people in the County by 50%. The County and its allied agencies simply cannot absorb the impacts of this Project with existing resources. This situation underscores the importance of the environmental review process which, as required by the Amended Compact, must analyze not only environmental but also programmatic impacts and then propose specific mitigation to address each impact. Section 10.8.1 of the Amended Compact requires the TEIR to clearly describe and identify all "direct and indirect significant effects on the off-reservation environment" of the proposed project and identify "feasible measures which could minimize

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significant adverse effects....” The Amended Compact also requires that “Formulation of mitigation measures should not be deferred until some future time.” (Emphasis added; Id.)<sup>1</sup>

Accordingly, the DTEIR must in detail describe how each impact is to be mitigated. Many of the existing services in the Project area are designed to support a very rural and extremely small population farming community. The infrastructure to support such a large commercial project as the proposed Casino simply does not exist. This differs from a larger county where a marginal increase in program services may be sufficient to service a casino. Here entirely new programs will need to be created to safely address the impacts that this large commercial project will create. Thus, the Tribe in its DTEIR must describe how to develop, fund, and maintain the programs and infrastructure necessary to support this Project. Part of the solution must be a strategy that describes how the Tribe will mitigate unexpected impacts that arise after the Casino opens or are different than projected in the TEIR.

The County strongly encourages the Tribe to conduct public workshops in the vicinity of the proposed Project. There is great uncertainty in the community as to the Tribe’s vision and goals for the future. Public workshops not only allow the community to hear directly from the Tribe but also provide the Tribe an unparalleled forum in which to hear community concerns which can then later be addressed in the DTEIR.

It is also important to note that the County has already submitted very detailed and comprehensive comments as part of the unsuccessful environmental review process conducted by the Tribe in 2005. Not only have these comments already been submitted to the Tribe but also they remain available on the County’s website, [www.co.amador.ca.us](http://www.co.amador.ca.us). The County encourages the Tribe to review all of the comments submitted. The County does reserve the right to supplement and expand upon these matters as more information about the project becomes available, including through the DTEIR.

Lastly, it is extremely important that the DTEIR propose specific quantifiable mitigation that is based upon verifiable assumptions. The DTEIR is the only opportunity the County and public have to review and provide feedback to the Tribe as to the environmental review’s adequacy. If mitigation is incomplete or deferred, the County and public are deprived of the ability to meaningfully review the Project’s impacts and associated mitigation. Specific, quantifiable and verifiable mitigation measures will provide the type of information contemplated in the Compact as essential to a successful DTEIR. In addition, the NOP contemplates on page two that agencies will be asked to use the TEIR for any permits that

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<sup>1</sup> We urge your new consultants to thoroughly familiarize themselves with the requirements of the Amended Compact, and particularly paragraph 10,8, as concerns the mandatory elements of the TEIR. To our knowledge this will be the first proposed project to come under the provisions of the Amended Compact, which confers substantially greater rights and protections on local jurisdictions and residents and requires a more balanced development process. Adherence to past development practices will not pass muster.

agency may be asked to approve. The County notes that if the Tribe proposes to use the TEIR as the environmental analysis for any County issued permits or projects, the TEIR must then comply with CEQA in addition to the Compact's environmental analysis procedure. The DTEIR should clarify the Tribe's intentions in this regard.

**I. Public Safety**

**A. Sheriff**

The extent to which Sheriff services will be affected depends upon the law enforcement model that the Tribe proposes. Options range from local law enforcement handling all services to the Tribe establishing its own police entity. Regardless of the model, a number of service areas will be affected, including law enforcement services, jail population, emergency dispatch services, and Sheriff's administration. These impacts will be magnified if the Tribe chooses to serve alcohol.

The County recommends that the Tribe engage a public safety specialist to examine the County's existing law enforcement systems and propose as mitigation a model which not only maintains the existing level of service for residents but also meets the Project's needs. The analysis should statistically project the impacts of the proposed Project, identify how these issues impact existing law enforcement systems and propose specific sustainable mitigation programs to provide adequate service.

**B. Jail**

The increase in crime and subsequent arrests generated by the proposed casino will have a disastrous effect on the jail. The County jail already far exceeds its rated inmate capacity on a daily basis. There simply is no additional space in the jail to accommodate any further increase in booking or inmate population. The only solution is to build additional bed space and provide for additional staffing required for that bed space. In addition to securing more bed space, there will be associated costs to incarcerate inmates who can be identified as being in the jail as a result of criminal conduct related to the casino or attendance at the casino.

The County recommends that the Tribe engage a public safety specialist to examine the County's jail population and how it might be affected by the proposed Project. This analysis should statistically project the amount of bed space required by the proposed Project for both male and female inmates, identify how the Tribe proposes to provide sufficient bed space, the associated increased operational costs including medical services and propose specific sustainable mitigation programs to implement.

**C. Emergency Dispatch Services**

Emergency dispatch services are currently approaching the capacity level for the current staffing in the County Emergency Dispatch Center, operated by the Sheriff. The Center dispatches for the Sheriff, Ione Police, Jackson Police, Sutter Creek Police, Amador City and Plymouth law enforcement services, the American Legion Ambulance, County Animal Control, Amador County District Attorney, and Amador County Probation Dept. and after hours for the Amador County Public Works/Road Department and the center is the only "911/Public Safety Answering Point" for the entire County.

The addition of dispatching emergency services to and around the casino will have an impact on the ability of the Emergency Dispatch Center to keep up with the demands for emergency services and may require additional staffing and equipment. As part of the aforementioned public safety analysis, the County recommends that the Tribe analyze the impacts and propose specific solutions to address dispatch services.

**D. Sheriff's Administration**

Sheriff's administration must organize, support, and pay for the operations of all of the Sheriff's services. If the aforementioned analysis requires additional positions, appropriate administration resources must also be included.

**E. Office of Emergency Services**

The Office of Emergency Services (OES) will be impacted by the operation of the Casino. It will be the responsibility of OES to work with the Casino in the development of emergency and disaster response plans and integrate those plans into the County response. The response plans can not be developed in a vacuum by the Tribe. Those plans must integrate with the multitude of local emergency response agencies. OES will be the point agency for the County to integrate Casino disaster response plans into the County response plan. The Tribe should analyze the impact to the OES workload and propose appropriate mitigations.

**F. District Attorney**

In small rural counties with casinos, a significant percentage of the District Attorney's caseload can be casino created. In Amador County it is anticipated that the proposed Project will generate a greater increase in crime than the existing casino facility due primarily to the serving of alcoholic beverages and the increased size of the project. Crimes may occur not only at the Project site but also by Casino patrons either en route to or returning from the Casino. Examples of crimes include drunk driving, vehicular manslaughter, driving on a suspended license, and other traffic-related offenses, as well as narcotics-related offenses. Every case referred to the

DA's office involves the attorneys, supported by investigative services, and clerical staff. Significant staff time and resources will be involved in handling the increased caseload as the result of the proposed Buena Vista casino.

Here too the County recommends that the Tribe engage a specialist to analyze and propose appropriate solutions. Questions to be addressed include how many crimes the Tribe predicts will occur onsite or offsite that involve patrons of the Casino, and the basis for such predictions. Does the District Attorney's Office have sufficient staff to prosecute? If not, what is needed? How much will this cost? How does the Tribe propose to fund? This level of detail should be included in the DTEIR so that the County may analyze the Tribe's proposed mitigation and determine its sufficiency.

#### **G. Court Services**

Based on the analysis conducted into the impact on law enforcement services, District Attorney services and the jail, the tribe will need to analyze how those impacts extrapolate to the impacts on the local court system. There are many potential spin off impacts to adversely affecting the court system by adding more cases to the process. One spin off result is that inmates remain in jail longer waiting for their case to be adjudicated. This further exacerbates the problem of jail overcrowding. The tribe should analyze the impact of the increased workload on the court system and propose adequate mitigations.

#### **H. Public Defender**

The Public Defender's office will experience an increase in caseload directly related to the increase in on and off-casino crime and arrests, as described above. The County recommends the same type of analysis as suggested for the District Attorney's Office. The crime statistic projections prepared for the law enforcement and District Attorney sections of the DTEIR should correlate to the Public Defender caseload estimates and proposed mitigation.

#### **I. Probation**

Recent research shows many gamblers experience the same euphoria and let downs from gambling as drug addicts do from drugs. Taken to the limits, addicts of any kind lose the ability to appropriately prioritize their lives and actions. This can lead to poor parenting, destruction of healthy families, and even crime. A problem can be created when employees working shift work lose contact with their children's activities. A child with poor supervision may tend to become truant and even criminal in severe cases.

The Probation Department's drug offender caseload is filled with people who cannot control the temptation of drugs. Preliminary reviews of the statistics indicate a large number of

them were arrested at the casino. Other caseloads also contain offenders from the casino. Any new offender requires appropriate assessment and supervision.

Again, the County asks that the Tribe analyze the impacts to the Probation Department in a statistically valid manner. Caseload projections should be identified with appropriate supporting assumptions, analysis provided to determine the resources needed to adequately serve the caseload noted above and specific mitigation proposed that is both quantifiable and sustainable.

#### **J. Fire Protection, Emergency Medical and Related Services**

The Buena Vista Rancheria is wholly surrounded by and is contiguous on all sides to private lands protected by the Jackson Valley Fire Protection District (JVFPD). JVFPD provides volunteer first responder services for fire protection, emergency medical services, rescue services, and hazardous materials response. At present, JVFPD does not have any paid employees.

Construction of the proposed casino and multi-level parking structure accommodating 3,500 to 4,000 guest and employee vehicles will increase the number of emergency responses for each of the above classifications.

Potential impacts to public services, including fire protection and emergency medical services, are significant since access routes to the proposed Buena Vista Rancheria Casino project include State Highway 88 and numerous narrow two lane roads maintained by Amador County. The incidence of vehicle accidents will increase significantly based on the following factors:

1. Vehicle trips on these state and county roadways will increase exponentially.
2. The majority of guests and employees will be unfamiliar with the roadways.
3. During winter months, weather conditions are often unfavorable, especially in the form of fog that inundates the area for days or weeks at a time.
4. Depending on the decision of the Buena Vista Rancheria Tribal Council, the Buena Vista Rancheria Casino may engage in the on-site sale of alcoholic beverages with substantial impacts on off-site roadways.

To a lesser extent, the number of vehicle fires and the number of wild land fires caused by casino guests within the JVFPD boundaries will also increase.

Historically, JVFPD has been successful in delivering an acceptable level of fire service within the district and has been able to provide mutual aid responses to adjacent districts. The context for this statement, however, is that JVFPD serves a rural agricultural community with only minor residential development. A volunteer fire department, however, will not be able to adequately serve this extremely large commercial project. Discussion regarding mitigation of off-site impacts should include the following:

1. Acquisition of a site and construction of a fully equipped fire station near this project; please identify a particular proposed site or sites so impacts and costs can be determined.
2. Provision of paid Advance Life Support personnel to staff that station.
3. Purchase of fully equipped specialized apparatus capable of addressing fire related issues inherent in a multi-level casino and/or parking structure.

Analysis should also be made of the most effective way to provide adequate emergency medical/ambulance services to the project and the personnel and equipment needed to assure such services are available.

The County notes that there are fire and emergency medical service consultants who specialize in designing appropriate fire protection models for both changing communities and specialized projects. Such an analysis is appropriate in this case since the existing all volunteer system is inadequate to service the proposed Project. The consultant should be asked to project fire and emergency service related incidents both on and off site and propose a fire and emergency service protection system capable of meeting these significantly increased needs.

#### **K. Flood Control**

The north end of the proposed project site is shown on the FEMA Flood Hazard Area maps as being in Zone A, Special Flood Hazard Areas inundated by 100-year Flood with no base flood elevations determined. This is a concern not only for development of the Casino itself but also as it affects evacuation/transportation routes to and from the site in the event of a flood. Of particular concern is historical flooding that has occurred on Coal Mine Road and Buena Vista Road, and the effects this flooding could have on public safety if guests are unable to easily evacuate the casino or emergency vehicles can not quickly respond to emergencies at the casino. The DTEIR should analyze the impacts of the 100-year floodplain designation and the historical flooding on the local roads accessing the site, and should identify appropriate mitigation.

**L. Social Services**

The County's Child Protective Services (CPS) caseload experience indicates that casinos do impact CPS. The Tribe should project CPS caseload increases, increased department operational costs and any ancillary department costs, such as County Counsel and then correlate appropriate mitigation to the projected caseload.

**M. Public Health**

The County's Public Health Department is regularly invited to conduct communicable disease investigations at the currently operating casino. An additional potential impact includes bioterrorism planning and response. Finally, Casino employees will access County Public Health programs such as disease prevention, immunization clinics and reproductive health planning. The County recommends that the Tribe seek existing data, quantify and project potential impacts and then propose appropriate mitigation.

**N. Alcohol and Drug Abuse Prevention**

The Tribe has indicated a desire to serve alcohol. The addition of an extremely large commercial operation serving alcohol will dramatically impact the County's behavioral health programs (indeed, it is likely the Tribe would be the largest on-sale purveyor of alcoholic beverages in the County). Additionally, there is an increased potential for drug-related services (see Probation comments). Preliminary estimates indicate drug use and its impacts will significantly impact the community and require appropriate mitigation. The County notes that existing experiences from other casinos may assist the Tribe in projecting verifiable impacts and designing appropriate mitigation.

**O. Animal Control**

Existing casino operations impact the County Animal Control Department. The County recommends that the Tribe project potential Animal Control related needs and propose appropriate mitigation.

**P. Other Agencies**

It is important to note that numerous other, non County, agencies also submitted comments during the previous environmental review process. The method by which the Tribe proposes mitigation for these agencies may impact the County. For example, insufficient mitigation for the California Highway Patrol or Ione Police results in a direct need for additional Sheriff's Office law enforcement mitigation. The same symbiotic relationship exists between the Ione Fire Department, Jackson City Fire Department, Sutter Creek Fire Department, Jackson



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Valley Fire Protection District, Amador Fire Protection District and the California Department of Forestry and Fire Protection. The County encourages the Tribe to take a holistic approach to modeling impacts and proposing mitigation. For each impact, the DTEIR should describe the range of programs impacted and propose regional solutions that include all impacted agencies.

Additionally, the Amador County Recreation Agency has identified an increased need for parks, hiking and biking trails as a result of this project. The Amador County Library System notes that additional residents will increase their program contacts. Finally, the Sutter Amador Hospital projects an increase in need directly related to the Casino, particularly in the Emergency Room which may require additional space and personnel. Each of these should be analyzed.

## **II. Infrastructure and Environment**

A project of this scope will significantly increase traffic with commensurate impacts on air quality, noise, safety, and infrastructure. The casino project description needs to describe not only on site structures but also any offsite improvements required to support the casino. For example if water, wastewater spray fields, parking or any other use is to be accessed or located off the rancheria proper, the project description should identify and include such facilities. Until this is done, it will be impossible to adequately identify and address potential environmental concerns. However, given the current project description, the County has identified the following concerns regarding infrastructure and the environment.

### **A. Roads**

The County recommends that the Tribe complete a regional traffic impact study (TIS) that meets or exceeds Cal Tran's traffic impact study guidelines. The TIS should address traffic concerns, pedestrian and bicyclist safety, the adequacy of the local roadway infrastructure/pavement conditions to accommodate project-generated traffic, and increased roadway maintenance requirements. Once complete, the County recommends that the Tribe utilize the TIS results to propose specific roadway improvement projects and describe how each project will be completed and include preliminary project design. This analysis should include the five standard Cal Trans cost components including design, environmental clearance/mitigation, right of way, construction and project support. Questions specific to each improvement which need to be addressed include what is the total estimated cost of the project, how will each project be funded, which agency will serve as lead agency, who will construct, what method of project administration and construction is proposed, who will conduct environmental review, who will acquire right of way, how much right of way is required, whether County encroachment or other permits will be required, how will cost overruns be addressed and will project completion be required prior to Project opening. Only with this level of information can the County, other agencies and the public adequately determine the full scale of the project's traffic impacts.

In addition, should the Tribe contemplate using off site parking for any purpose, this concept should be included and analyzed within the DTEIR analysis.

**B. Drainage**

The drainage impacts of the proposed project on off-reservation lands and waterways should be studied and mitigated, both during construction and afterwards. The DTEIR should address the following drainage issues:

1. Avoid any unnecessary paving, covering over or compaction of soil during all construction activities.
2. Eliminate storm water pollution and soil erosion through the following strategies:
  - a. Construction activities involving grading and excavation shall be conducted between April 15 and October 15 when major storms are not likely to occur, otherwise, a winterization plan for the October 15 to April 15 period must be developed and included within the DTEIR for review. The required measures must be in place by October 14.
  - b. Submit a drainage study as part of the DTEIR for the entire project, prepared by a Registered Civil Engineer, conforming to the criteria listed below.
    - i. The study shall include calculations and a plan showing drainage areas, demonstrate adequate positive storm drainage facilities both on and off the subject property and indicate any potential off-site impacts; particularly to down-stream properties which may be caused by on-site improvements. The drainage study of the entire project area must be completed and included within the DTEIR. The study shall identify any increases in runoff due to project construction and propose methods to either: (1) detain such increases on site, and/or (2) make improvements to off-site facilities to ensure safe conveyance of such increases via existing drainages. Provisions for ongoing maintenance of such facilities shall be made and such responsibility designated prior to approval of said study.
  - c. Design the drainage plan in conformance with criteria as designated in County Ordinance Chapter 17.90.120, including rights-of-way, conduits, channels, swales and appurtenances as needed to provide adequate positive storm drainage facilities.

- d. Channel runoff from parking areas and roadways into retention ponds to meter flow into surface water systems and to act as catch basins for impurities in accordance with Best Management Practices.
- e. Include complete erosion control plans within the DTEIR.

**C. Solid Waste Management**

Impacts to the Buena Vista Transfer Station capacity need to be addressed. The DTEIR should quantify the amount of proposed waste and describe whether the existing Transfer Station and the destination landfill have sufficient capacity for all project components. Aggressive recycling strategies should be described and implemented to voluntarily meet State recycling and diversion requirements.

The Tribe should also describe how roadside litter resulting from increased Project patron traffic will be addressed.

**D. Air Quality**

The Project is anticipated to generate substantial levels of nitrogen oxides and reactive organic compounds, which are precursors to ozone generation. Because Amador County is designated as a non-attainment area for the 8-hour ozone standard, the Project's generation of these pollutants would be expected to substantially exacerbate this non-attainment condition. The Project would also be expected to generate substantial particulate matter during site construction and operation. A detailed analysis of the emissions generated by the proposed construction and operation of the project should be included in the DTEIR. This analysis should include appropriate modeling that identifies all of the emission sources associated with the Project including emissions from guest, employee and service vehicles driving to and from the site, on-site equipment operations (e.g., water and wastewater treatment systems, heating and air conditioning systems, generators, etc.) and construction activities.

An analysis of the air quality impacts for rural residents exposed to substantially increased traffic volumes along the roads accessing the site should also be identified. Specifically, a health risk assessment should be included in the DTEIR that identifies the direct health effects on residents associated with project-generated traffic. The health risk assessment should include an analysis of the residential exposure to toxic air contaminants including diesel emissions from trucks accessing the site.

Because the proposed Project is not identified in local air quality attainment plans, its implementation would substantially diminish the ability of the Amador Air District to attain federal and state air quality standards. A detailed assessment of the Project's impacts on the

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local attainment plan should be included in the DTEIR. Also, a detailed discussion should be provided regarding the Project's compatibility and consistency with the Amador Air District's air quality rules and regulations.

Due to the large volume of pollutants that would be generated with Project implementation, localized air quality could be substantially degraded. Therefore, the installation and maintenance of an ambient air monitoring station within the local area should be included as a mitigation component of the DTEIR. This station should at a minimum monitor for ozone and PM2.5 in a location approved by the State Air Resources Board as being appropriate for monitoring and representative of emissions related to the facility operation.

The air quality analysis should also include a detailed discussion of odor impacts that would be anticipated with site operations including odors generated from water and wastewater treatment facilities, from restaurant uses and from solid waste storage areas.

Mitigation measures should be identified and discussed. A detailed discussion of transportation demand management strategies to be implemented by the Tribe to minimize single-occupant vehicle trips to the site should be included in the DTEIR. This includes a detailed public transportation program to be implemented by the Tribe.

#### **E. Water**

The Notice of Preparation states that the Project includes the construction of three water supply wells. However, no detail is provided regarding the location of these wells or whether they will be located on or off of the site. The NOP further states that both on and offsite sources are expected to supply the facility's water demands. The DTEIR should clearly identify the proposed water sources and any infrastructure necessary to connect the water supplies to the Project site. In addition, a detailed analysis of the regional implications of the Project's increased water demands on the identified water sources should be described. For any groundwater wells, the locations of the wells should be identified and a detailed hydrogeologic analysis should be prepared that evaluates the long-term impacts of the Project's groundwater withdrawal on local aquifers, adjacent wells, surface water flows, and groundwater quality. A detailed mitigation strategy should be included that identifies how groundwater impacts on adjacent residential and agricultural wells will be minimized and monitored.

It is unclear from the NOP whether the Tribe still proposes to haul water via truck to the project site. The County continues to oppose the use of hauled water for the Project. Existing State policy prohibits hauled water as a water source for new commercial development. Hauled water cannot be considered safe and reliable and is an unrealistic solution for any length of time. Participation in a regional water treatment plant owned and operated by a qualified public entity is the preferred option. This strategy should be evaluated.

Reuse of reclaimed water on site has some potential for cross connections and potential risk to guests in the event of plant upset. Any discharge of water to on-site drainage ways will result in the reclaimed water moving off-site to lands and waterways, the effects of which should be carefully evaluated, disclosed and mitigated. Sale to off-site users will require approval by the Regional Water Quality Control Board and may result in adverse impacts to public health and the environment, particularly in light of the potential for plant upset. Participation in a regional wastewater plant owned and operated by a qualified public entity would be the preferred option, but no such plant currently exists. This option should be evaluated.

Lastly, the County notes that overall the Tribe must identify a sustainable long term source of water for the Project as part of the DTEIR. Hauled water is not a viable option. The County also finds it highly unlikely that groundwater will be a sustainable long term option. A hydrogeologic study that analyzes both on and offsite impacts as well as sustainability must be included within the DTEIR.

#### **F. Hazardous materials**

The Project will likely result in at least a modest potential for the increase in the transport, use, and disposal of hazardous material. The NOP scope contains no discussion of the extension of a natural gas pipeline to the project site, which suggests the presence of a fairly significant volume of propane stored on site at the facility. Energy sources for the proposed project should be discussed, including the following. How much propane will be stored on the property for use? Will chlorine be stored on the premises for treating water if on-site sources are used? Will gasoline and diesel for vehicles/equipment be stored on premises? Will a gas station be one of the auxiliary guest support uses? If not, will these uses be prohibited? How will the prohibitions be enforced?

Additional fuels for backup power supply, landscaping chemicals, etc., will increase the potential for impacts to the surrounding community. Potential hazmat situations will result in impacts to County resources responding to the event, and to OES in developing the emergency response plans for such events.

#### **G. Character of the area: Incompatible land uses**

Development of the proposed casino project adjacent to two mining operations (to the east and the west) creates the potential for land use conflicts between the two uses. Area agricultural operations may create noise, odors, dust, etc., during the course of normal operations which may be objectionable to casino guests. The County's right to farm ordinance should be reviewed for consistency with the Tribe's proposed project. The DTEIR should address any potential conflicts.

In addition, a cogeneration power plant is located on Coal Mine Road directly across the road from the proposed Buena Vista Casino. Jackson Valley Energy Partners closed the facility in 1999 and placed it into bankruptcy. It hasn't operated since, however there have been numerous inquiries about Air District requirements that would allow the facility to reopen and generate power. Though the facility is now inactive, it could be reactivated or put to some other use which may not be desirable to the casino or its patrons. An operating power plant could be the subject of complaints about smoke and odor from visitors to the proposed casino, which the District would be required to investigate, increasing outlay of Air District resources.

#### **H. Aesthetic impact**

Development of the proposed casino will result in the construction of large-scale commercial buildings that extend approximately 185 feet above the base elevation of the rural Jackson Valley. Based on its visually prominent location above Jackson Valley, the Casino will substantially alter the rural visual character of the Jackson Valley area and will likely be visible from State Route 88. Due to the dramatic change in the area's visual character, detailed computer simulations of the Project from several off-site locations (e.g., Buena Vista Road, Jackson Valley Road, the Oaks residential development, State Route 88) should be included in the DTEIR.

Based on its rural character, few light sources are currently present within Jackson Valley. Therefore, the introduction of a 24-hour casino operation that includes extensive aesthetic and security lighting both at the casino and within the parking areas would alter the area's nighttime lighting. The DTEIR should include a detailed discussion of the Project's impacts on nighttime lighting and should include a detailed lighting plan for the facility entrance, the casino and the parking structure. Measures to control off site light pollution should be identified.

Based on the visibility of Project buildings from the surrounding area, the DTEIR should include a detailed discussion of the proposed architectural characteristics of the proposed buildings and their compatibility with the surrounding visual environment. This should include a description of the site's signage program. The use of any lighted signage visible from off of the site should be described. Any proposed offsite advertising (e.g., billboards) or directional signage should also be identified. Specific architectural design measures should be identified to minimize the Casino's massive scale and to soften the contrast between the Project and the surrounding rural visual environment.

**I. Buena Vista Peaks**

Grading, lights, traffic, and structures directly associated with the Project as well as subsequent resulting growth could adversely affect the appearance of the Buena Vista Peaks, considered a scenic landmark in the valley.

The Buena Vista Peaks are also reported to be of special importance to one or more Native American groups; this should be evaluated. Would development as proposed adversely impact their significance in the opinion of the groups that hold the Peaks in special regard?

**J. Growth inducement**

Bringing potable/domestic water to the Buena Vista area has the potential to increase development of areas in and around Buena Vista from its current five acre density to a one acre or higher density. This will need to be addressed as a growth-inducing impact.

The DTEIR should describe how the Project will affect the existing industrial and agricultural character and use of the area, including whether it would affect the ability of nearby business operations to remain viable due to insurance and dealing with complaints lodged by the project proponents, their guests, and persons related to the subsequent induced growth. This would likely result in the conversion of farmland to other uses such as residential or commercial development to take advantage of the market created by the Project.

With an average existing unemployment rate of only 4.7% in Amador County, and with the projected requirements of the Casino, the study should evaluate whether it is possible to staff the operation using only existing residents; the County believes it is likely the project will require numerous jobs which exceed the locally available labor force. It is unlikely that these jobs will pay enough to warrant a significant commute; therefore, a demand for additional housing in fairly close proximity will result, and should be studied. The Casino may not displace existing housing but the increased employment will create a need for housing, raising more issues of growth-inducement, required public services and the jobs-housing balance. This demand may induce surrounding property owners to change their land uses. It is possible that the Project may trigger an application by The Oaks Mobile Home Park to expand beyond their existing permitted size to accommodate some of the demand for housing.

The workforce will also require support services, such as child care. Given the Project parameters, the County assumes that the Buena Vista Casino would require at least 1,500 to 1,800 employees. If only a very low number of those employees have children in need of child care, for example 30%, this would add an additional 500 to 600 children. This assumption is low when compared to the family survey completed by the Amador Child Care Council in 2004,

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which showed 75% of families having children in child care; using that percentage, the number of children added exceeds 1100.

The Amador Child Care Council Needs Assessment 2003-04 indicates that there were 3,249 children ages 0-13 in Amador County with parents in the workforce, with licensed child care slots available for only 24% of those children. Where will these new families be able to find care for their children, especially if they are working "non-traditional" shifts overnight and on weekends?

The Jackson Rancheria has set an example to other Indian gaming operations by providing a child care center for the children of its employees. The Tribe should study that option. Should the Tribe choose to build and operate a child care center, the County strongly suggests that it comply with existing Title 22 regulations for licensing child care facilities in the State of California.

The DTEIR should analyze whether the proposed project may impact schools due to the number of jobs created and the potential immigration of workers and their families to the area.

#### **K. Wastewater**

The NOP does not identify how excess treated wastewater would be disposed. However, based on the NPDES Permit Application submitted by the Tribe to USEPA in 2005, treated wastewater would be disposed directly into local drainages, through the use of spray irrigation fields and through subsurface discharge. A detailed assessment of the potential offsite impacts associated with these wastewater disposal options needs to be included in the DTEIR.

The NOP states that tertiary-treated effluent water would be reused for non-potable water uses and as landscape irrigation. The DTEIR should discuss the seasonal variability of landscape irrigation requirements and the inability to dispose of this water via landscape irrigation during winter months.

A review of the wastewater documentation developed by the Tribe identified potential design flaws that could result in offsite impacts. According to the NOP, the facility has been designed for a peak weekend flow of 350,000 gallons per day (gpd). However, the description of the treatment process in the NPDES Permit documentation states that wastewater would flow to two parallel aeration basins of 57,600 gallons each with an average daily residence time of approximately 24 hours. Based on this residence time, the two parallel aeration basins only have sufficient capacity to accommodate 115,200 gallons of wastewater per day. Based on this design, the system does not have adequate capacity to accommodate the projected peak flows of 350,000 gpd. This lack of adequate treatment capacity seems to be exacerbated by the fact that wastewater would be recirculated from the membrane basins back to the anoxic basin at a rate of



approximately 4:1, which would increase the system's capacity requirements. The lack of adequate wastewater treatment capacity could adversely affect the public health of guests and residents in the local area.

The flow rates included in the NPDES Permit documentation conflict with the flow rates identified in the Water and Wastewater Feasibility Study (Hydroscience Engineers, Inc., 2005) prepared for the site. The Feasibility Study identifies a weekday flow of 150,000 gpd, a weekend design capacity of 250,000 gpd, and an average daily flow of 170,000 (Table 6-1, page 6-2), whereas the average daily flow identified in the NPDES Permit documentation is 120,000 gpd and the weekend flow is 180,000 gpd. The average daily flow identified in the Feasibility Study is approximately 41 percent higher than in the NPDES Permit documentation. These issues need to be clarified in the DTEIR.

The NPDES Permit documentation states that storm water runoff from the wastewater treatment plant area will be collected and directed back to the plant. However, no information is provided regarding the volume of storm water anticipated to be collected and treated at the plant or the plant's capacity to treat this additional storm water during average and peak events. This issue needs to be clarified in the DTEIR.

The discussion of wastewater impacts should include an assessment of the Project's consistency with the "Water Quality Control Plan for the Sacramento and San Joaquin River Basin, Fourth Edition" (Basin Plan). The Basin Plan describes state policies including the consolidation of wastewater collection and treatment facilities in order to implement sound water quality management programs. The intent of this policy is to make consolidation of wastewater collection and treatment facilities the rule rather than the exception. The Project's proposal to construct a stand-alone treatment facility seems to clearly conflict with this policy direction.

#### **L. Biological Resources**

A detailed assessment of the project's effects on biological resources needs to be included in the DTEIR including a description of the local habitat and the wildlife species supported by that habitat. The DTEIR should describe both the direct and indirect effects of roadway and other infrastructure improvements on biological resources including the potential take of threatened and endangered species (e.g., California red-legged frog). The regulatory permitting requirements associated with implementing the infrastructure improvements should be described in detail (e.g., Section 7 or Section 10 of the Endangered Species Act, Section 404 of the Clean Water Act) and the party responsible for securing any permits should be identified.

The local area is known to include populations of the federally-threatened plant species Ione Manzanita, including populations along Buena Vista Road just north of the Casino site, as well as a number of other listed plant species. A detailed assessment of the impacts associated

with roadway and other infrastructure improvements on sensitive plant species should be included in the DTEIR. Due to the limited distribution of Ione Manzanita, the lack of viable replacement habitat and the difficulty in transplanting this species, a detailed mitigation plan must be included in the DTEIR to ensure that the last remaining stands of this species are not extirpated from Amador County.

The effects of wastewater discharges from the site on sensitive aquatic resources downstream of the site should be evaluated including the effects of changes in hydrologic regimes and any adverse effects on wetland/riparian vegetation.

The adverse effects on wildlife resources associated with substantial increases in night lighting and noise should be described.

#### **M. Noise**

The project will generate significant noise during construction and operations, especially associated with the proposed 24-hour operations of the facility. Due to the rural character of the surrounding area, the noise generated by this facility would dramatically alter the local noise environment. The DTEIR should include a detailed analysis of the noise impacts associated with construction and operation of the facility on the rural residents of Jackson Valley with a detailed analysis of increased traffic noise experienced by residents along roads accessing the site. Feasible mitigation measures should be identified to minimize operational and traffic noise impacts for local residents.

#### **N. Geology and Soils**

The Project is proposed to be constructed on relatively steep slopes, which would require extensive areas of cut and fill to accommodate the building footprints and perimeter roadways. Due to the proximity of the Project's structures and roadways to adjacent properties, there is a real potential for geologic instability that could cause geotechnical hazards on parcels to the east and west. For example, directly along the western site boundary, the Master Site Plan (Figure 4 in the NOP) identifies a roadway. However, in some areas the elevation of this roadway is between 30 and 35 feet below the elevation of the adjacent parcel. Some grading of the adjacent property would seem unavoidable to accommodate this elevation difference. However, no grading of this adjacent site is identified in the NOP's project description.

Due to the steep slopes that would be constructed with project development, a detailed geotechnical analysis conducted by a qualified geotechnical engineer should be conducted to determine if any geotechnical hazards, such as landsliding, would be anticipated on the adjacent parcels. The geotechnical analysis should include a detailed mitigation strategy for minimizing potential geologic hazards associated with site development.

The DTEIR should also include a detailed discussion of the Project's erosion and sedimentation impacts in offsite receiving waters. Mitigation measures should be identified that ensure that the quality of downstream receiving waters is not degraded.

#### **O. Agricultural Resources**

The construction of off-reservation improvements, including roadway expansions, has the potential to adversely affect existing agricultural operations and may result in the loss of agricultural land. The DTEIR should include a detailed assessment of the Project's impacts on agricultural resources including the quantification of any agricultural land removed to accommodate offsite improvements. Also, the potential conflicts between agricultural operations and visitors to the facility should be described.

#### **P. Cultural Resources**

The Jackson Valley area is known to include a wide variety of sensitive cultural resources including the historic structures within the Buena Vista Saloon area that could be substantially degraded with the implementation of roadway and other infrastructure improvements. A detailed analysis of the impacts on sensitive cultural resources associated with offsite improvements needs to be included in the DTEIR. This analysis should be based on a detailed baseline assessment of the region's sensitive cultural resources.

Section 106 of the National Historic Preservation Act (NHPA) requires federal agencies to take into account the effects of their undertakings on historic properties. Section 106 offers the State Historic Preservation Officer (SHPO) and the Advisory Council on Historic Properties an opportunity to comment on such undertakings. The Council's implementing regulations, "Protection of Historic Properties" can be found in 36 CFR Part 800. The goal of the Section 106 review process is to offer a measure of protection to sites, which are determined eligible for listing on the National Register of Historic Places. The criteria for determining National Register eligibility are found in 36 CFR Part 60. Recent amendments to the Act (1986, 1992, and 2001), including revisions to the implementing regulations have strengthened the provisions for Native American consultation and participation in the Section 106 review process.

The Section 106 process requires consultation with the agencies or officials listed in 36 CFR 800.2 and with any Indian Tribe that attaches religious and cultural significance to the property. The Ione Band of Miwok Indians (Ione Band) specifically states in their June 22, 2005 comment letter on the Tribe's prior DTEIR that the project property is considered the most important cultural site to the Miwok people and that they have a direct cultural affiliation with the significant cultural and historic resources on the property. These resources are well documented by anthropological reports and are recorded in the state sacred lands database and in

the California Historic Resources Information System. Therefore, the DTEIR must include evidence that consultation has occurred with the Ione Band, as required by Section 106.

The NOP provides no information regarding the location of a Native American cemetery on the site and the effects of project implementation on Native American cultural items and human remains. There is no reference whatsoever regarding the presence of Native American remains on the site, although the Ione Band has stated in the record their concerns regarding the Project's effects on their ancestral burial grounds.

The Native American Graves Protection and Repatriation Act (NAGPRA) (25 U.S.C. 3001) states that the intentional excavation of Native American cultural items is permitted only if the objects are excavated or removed following the requirements of the Archaeological Resources Protection Act (16 U.S.C. 470) and its implementing regulations, and after consultation with Indian tribes (43 CFR Section 10). Because approval of the proposed project has the potential to result in disturbance of Native American cultural items and human remains, consultation must occur with the Native American Tribe directly affiliated with the property (Ione Band) and this consultation should be documented in the DTEIR.

The Section 106 process also requires the consideration of the requirements of other statutes, as applicable, such as the National Environmental Policy Act of 1969 (NEPA) and the American Indian Religious Freedom Act (25 U.S.C. 1996). The applicability of these laws to the Project should be described in the DTEIR.

The Native American Heritage Commission submitted a comment letter on the previous Notice of Preparation released by the Tribe, directing the Buena Vista Rancheria to consult with the Ione Band as the most likely descendants of the remains buried in the on-site cemetery. However, according to the Ione Band (June 22, 2005 DTEIR comment letter), no effort has been made by the Buena Vista Rancheria to consult with the Ione Band regarding significant cultural resource impacts on the site.

### **III. Additional Financial Impact**

#### **A. Property Tax Revenues**

The Assessor's Office notes that this project will require a specialized appraisal of the completed property and possibly the retention of an appraisal firm. The DTEIR should include funding not only for the appraisal but also the cost to defend and explain the value before the Board of Equalization.

In addition, the Assessor's Office has determined that the mineral rights on this parcel are not owned by the Tribe. They are included in a holding of mineral rights on 280 acres

designated as APN 012-100-015-000. The DTEIR should describe the existing minerals rights and how if at all they impact the Project.

#### **B. Staff time**

The increased workload on many County departments as direct and indirect results of this development have already been highlighted, however, there will undoubtedly be other workload impacts that are less noticeable but nonetheless impact County operations and costs. For example, County Counsel, County Administration, Planning, Personnel, Assessor, and Recorder are all departments that will experience increased workload as a result of this proposed project. Staff time has already been expended analyzing the previous NOP, DTEIR and Final Tribal Environmental Impact Report (FDTEIR), engaging in negotiations, and over time addressing inquiries regarding casino related issues (noise, lights, traffic, trespass by visitors, etc.). The added time and workload for these activities should be projected, quantified and specific mitigation included within the DTEIR.

#### **IV. Alternatives**

The County believes the Tribe can achieve its Tribal goals with a substantially reduced scale project. For example, the DTEIR should analyze a facility that includes less than 350 machines. In this scenario the Tribe gains not only revenue from these machines but also possibly significant State Revenue Sharing Trust Fund (RSTF) monies. The County understands this to be an extremely small Tribe in terms of membership numbers thus a smaller scale facility may meet or exceed tribal goals. The DTEIR should quantify the potential revenue from this smaller scale option and include RSTF revenues in the analysis. This much smaller facility should also require significantly reduced mitigation which should also be quantified. The specific expectations for net income from this alternative, including the reduced mitigation costs, should then be correlated to the Tribe's goals. The analysis of these and other alternatives should discuss whether or not these smaller projects meet the needs of the Tribe and the reasons for any conclusions drawn.

The County is also concerned that service of alcoholic beverages will exacerbate the impacts of the proposed project on public safety and increase demands on law enforcement and emergency services personnel. The DTEIR should analyze as an alternative a facility without the service of alcoholic beverages.

#### **V. Conclusion**

As evidenced above, this Project will not only significant impact the community's quality of life but also produce numerous economic and environmental impacts. The County looks to the DTEIR to both analyze the effects of the Project and describe what actions will be taken to

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mitigate and protect the quality of life, character of the environment and financial stability of Amador County. The County is deeply concerned that without adequate mitigation it falls upon the general population of the County to subsidize costs attributable to this Project, even where directly linked to the proposed casino. The County looks forward to a comprehensive DTEIR that addresses the issues noted above.

Thank you for your consideration of this information. The County appreciates and looks forward to the opportunity to discuss these issues with the Buena Vista Rancheria of Me-Wuk Indians of California.

Sincerely,



Patrick Blacklock  
County Administrative Officer

c: The Honorable Arnold Schwarzenegger, Governor, State of California  
The Honorable Dianne Feinstein, Senator  
The Honorable Barbara Boxer, Senator  
The Honorable Dan Lungren, Congressman  
The Honorable Dave Cox, Senator  
The Honorable Alan Nakanishi, Assemblyman  
Members, Amador County Board of Supervisors  
Ms. Andrea Hoch, Legal Affairs Secretary  
Mr. Dennis Whittlesey, Attorney at Law  
Ms. Cathy Christian, Attorney at Law  
Mr. Jim Parrinello, Attorney at Law  
Mr. Arnold Samuel, Attorney at Law  
Mr. Craig Allison, Attorney at Law  
Mr. James Mattesich, Attorney at Law  
Mr. John Hahn, Amador County Counsel  
Mr. David French, ENS Resources, Inc.  
Mr. Wes Lujan, Advocation, Inc.  
All Amador County Departments  
All Cooperating Agencies